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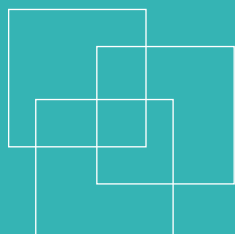
The ILO MNE Declaration:

What's in it for Workers?



Your guide to the MNE Declaration 2017

ACTRAV
Bureau for
Workers' Activities



The ILO MNE Declaration: What's in it for Workers?

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The ILO MNE Declaration: What's in it for Workers?

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An introduction to this guide

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) was negotiated and adopted by governments, employers and workers in 1977. It is the only ILO instrument that provides direct guidance on how companies can contribute to the realization of decent work for all and highlights the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue.

In March 2017, the MNE Declaration was substantially amended. The changes respond to increased international investment and trade and the growth of global supply chains. Moreover, the revision addresses issues related to social security, forced labour, transition from the informal to the formal economy, wages, due diligence processes, grievance mechanisms and access to remedy for victims of business-related human rights violations.

Following the update of the Declaration, ACTRAV has decided to update its guidance document “The ILO MNE Declaration: What’s in it for Workers?”. The update strives to provide a forward-looking view on approaches and pledges how workers and trade unions can successfully use the MNE Declaration in practice, particularly in respect to its new elements. To this end, the revision adopted a participatory approach to get into an exchange how unions plan to make use of the new elements in the MNE Declaration. Input from different workers’ organizations enriched the revised Guide.

ACTRAV’s guidance document to the MNE Declaration is designed to help workers and unions to advocate for the implementation and utilisation of the policies and principles contained within the MNE Declaration.

I would like to thank in particular Felix Hadwiger who wrote this Guide, Esther Busser who coordinated the input of national and global trade unions, Githa Roelans and the MULTI team as well as Anna Biondi and the ACTRAV colleagues, in particular Tandiwe Gross, who provided substantial inputs and advice.

Maria Helena André
Director Bureau for Workers’ Activities (ACTRAV)

The MNE Declaration: What's in it for Workers?

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Frequently Asked Questions

What is the MNE Declaration and to whom does it apply?

The **Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration)** was adopted by the ILO Governing Body in 1977 and substantially amended in 2017.¹

The aim of the MNE Declaration was and remains to encourage the positive contribution that multinational enterprises can make to economic and social progress and decent work for all as well as to clarify their responsibility to avoid and address the negative impact of their operations. It constitutes an authoritative and universally applicable set of expectations concerning the behavior of all national and multinational enterprises (MNEs).

The MNE Declaration is a summary of how the principles contained in the ILO Conventions and Recommendations apply to the operations of enterprises. It clarifies that although ILO standards are intended to apply to governments, the principles underlying these instruments apply to business as well. Enterprises have the responsibility to respect human rights within their own operations and within their global supply chains.

The MNE Declaration also defines the roles and responsibilities of governments in achieving inclusive growth and decent work for all. Therefore, it provides a framework that trade unions can use when discussing economic and social issues with governments.

All of this makes the MNE Declaration a powerful tool for trade unions to use. It has moral authority and provides a comprehensive checklist of the standards that governments should strive to provide and enterprises are expected to uphold throughout their operations.

What's in it for workers?

Although the MNE Declaration is “non-binding”, it is universally applicable to all member states of the ILO and all enterprises. This means that it is not necessary for a company to “sign” the Declaration before it can be used.

The Declaration establishes key elements of responsible business conduct that are expected from companies to fulfil their responsibility to respect the rights of workers under national and international law. These rights exist independently from the Declaration, which provides tools for their implementation.

¹ The Governing Body of the ILO has earlier amended the MNE Declaration in 2000 and 2006 with less substantial revisions.

What is new in the 2017 Update?

For its 40th anniversary, the MNE Declaration has been updated substantially in the light of a fundamentally changed global economy. Over the last decades, the importance of the “supply chain model”² has increased drastically. Highlights of the 2017 update include:

- The recognition that multinational enterprises often operate through business relationships with other enterprises, i.e. **global supply chains**.
- The incorporation of the **UN Guiding Principles on Business and Human Rights** (UNGP) into the MNE Declaration, with Paragraph 10 confirming that the UNGP apply to all states and to all enterprises and that enterprises should carry out due diligence to ensure the respect for internationally recognized human rights³ throughout their operations and supply chains.
- In particular, Paragraph 10 e. specifies that while carrying out **due diligence**, business enterprises should take account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue. The new text in Paragraph 10 has to be read in the light of the entire UNGP.
- Clearer definitions of the roles of governments (judicial, administrative and legislative means) and multinational enterprises (individual as well as joint mechanisms and social dialogue including collective bargaining) concerning grievance mechanisms and access to **effective remedy** for workers.
- **New references and text** regarding: decent work for all, the role of labour inspections and administration, the responsibility of host countries to promote good social practice among MNEs, the transition to the formal economy, social security, lifelong learning, guidance on wages, benefits and conditions of work, equal remuneration for work of equal value and the elimination of forced or compulsory labour.
- New **operational tools** to work towards the implementation of the MNE Declaration, including a regional followup mechanism, tripartite appointed national focal points, ILO technical assistance at the country-level, company-union dialogue, and an interpretation procedure of the principles of the MNE Declaration. These operational tools are now consolidated in Annex 2 of the revised MNE Declaration.

2 Global supply chains became a key business model of today's global economy. Often contractual and subcontractual arrangements in global supply chains are used to deny workers the benefits that would derive from a clear employment relationship.

3 These are defined in the UNGP and in Paragraph 10 d. of the MNE Declaration as consisting at a minimum of the rights expressed in the international Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work. “At a minimum” means that in addition to those rights, any international labour standards relating to the due diligence topic in question have to be taken into account (e.g. working hours, maternity protection, labour migration).

What is the importance of the MNE Declaration in the context of other international initiatives?

The role and responsibility of enterprises with regard to human rights – including human rights at work – has been recently addressed by various international instruments and initiatives such as the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights and the UN Global Compact. However, the MNE Declaration is the only authoritative, global instrument in the field of business and human rights that was elaborated and adopted in a tripartite way: by governments and representatives of workers' and employers' organisations at the ILO, as the UN specialised agency established to set and supervise international labour standards.

The MNE Declaration, therefore, provides an authoritative set of expectations of responsible business conduct that is universally applicable. It is also the only international instrument in the field of business and human rights deriving directly from provisions of international labour standards.

Other international and regional organizations recognise the ILO as the competent agency to establish and monitor labour standards and refer to the MNE Declaration and the Declaration on Fundamental Principles and Rights at Work for guidance.⁴

What's in it for workers?

International instruments adopted within the United Nations, the Organization for Economic Cooperation and Development (OECD) and others refer to the MNE Declaration for guidance on labour rights and industrial relations.

Trade unions can use the MNE Declaration as a tool to engage in social dialogue on responsible business conduct processes including due diligence. While the Declaration is a tool for engagement, international labour standards are the basis for understanding the expected responsible business conduct with regard to the world of work.

⁴ Other recently adopted guidance includes: the [ILO Declaration on Social Justice for a Fair Globalization \(2008\)](#), the [Global Jobs Pact \(2009\)](#), the [ILC Conclusions concerning the promotion of sustainable enterprises \(2007\)](#), the [ILC Conclusions concerning decent work in global supply chains \(2016\)](#), as well as the goals and targets of the [2030 Agenda for Sustainable Development \(2015\)](#). The [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" \(2011\)](#), the [OECD Guidelines for Multinational Enterprises \(2011\)](#) as well as the related [OECD Due Diligence Guidances](#) provide guidance on areas such as due diligence, access to remedy and grievance mechanisms which are also addressed in the MNE Declaration.

Is the MNE Declaration relevant to Global Framework Agreements?

What's in it for workers?

GFAs are negotiated between global union federations and multinational companies. The agreements refer to the ILO's Fundamental Conventions at a minimum and regulate labour standards and industrial relations worldwide within these companies.

Yes, an increasing number of Global Framework Agreements (GFAs) refer to the MNE Declaration for guidance and MNEs affirm in the agreements their commitment to the principles of the Declaration.⁵

GFAs are relevant to the implementation of the principles contained in the MNE Declaration. The agreements refer to ILO Conventions and Recommendations (usually starting with ILO's Fundamental Conventions) and can strengthen ongoing labour relations by providing a source of information on risks of adverse impacts.

Looking to the future, companies and trade unions will be able to agree in GFAs to refer disputes over the application of the agreements to the company-union dialogue provided for by the ILO in the MNE Declaration. The ILO would then assist the bargaining partners to find a mutual solution.

⁵ GFAs negotiated by global union federations with the following companies include a reference to the MNE Declaration: Acconia-BWI, Dragados-BWI, Enel-IndustriALL/PSI, FCC Construcción-BWI, Ferrovial-BWI, Ford-IndustriALL, Gamesa-IndustriALL, GDF Suez-BWI/PSI, H&M-IndustriALL, Lafarge-BWI/IndustriALL, OHL-BWI, Petrobras-ICEM (now IndustriALL), Royal BAM-BWI, Sacyr-BWI, Salini-Impregilo-BWI, Staedtler-BWI, Tchibo-IndustriALL.

How trade unions can use the MNE Declaration: Possible scenarios

The following scenarios describe ways in which trade unions can potentially use the MNE Declaration. They are based on real-life situations that trade unions may encounter.

Scenario 1

National focal points: How to establish them?

***Scenario:** A national trade union is concerned that the special incentives the government is offering to attract investment, for example, through restrictive laws in Export Processing Zones (EPZs), could threaten workers' freedom of association and the right to organize and bargain collectively.*

How the MNE Declaration can be used: This is a very serious concern and according to the MNE Declaration, an inclusive and meaningful dialogue on this issue has to involve governments, employers and workers' representatives. While the ILO should support the establishment of national focal points (NFPs), in particular via the tripartite Committees established under ILO Convention No. 144, it is important that trade unions themselves request national governments and employers' organizations to support the establishment of NFPs.

What's in it for workers?

OECD countries may raise the issue of duplicating mechanisms: in this case, trade unions could request tripartite mechanisms that build synergies between OECD National Contact Points (NCPs) and NFPs; or request that OECD NCPs are fully tripartite and include an active role of the Ministry of Labour.

Unions should also examine the feasibility of building on already existing tripartite bodies in the country in which a specific working group or commission could be set up as the NFP to promote the MNE Declaration, e.g. in tripartite social dialogue institutions or socio-economic councils. The different possibilities could be discussed with the ILO and unions may want to use the Bureau for Workers' Activities (ACTRAV) as the first entry point in the process of establishing a NFP.

Subsequently, national trade unions can use the NFPs for engaging in a tripartite dialogue about the issues at stake. They can use, for example, Paragraph 52 of the MNE Declaration, which establishes that "where governments of host countries offer special incentives to attract foreign investment, these incentives should not include

any limitation of the workers' freedom of association or the right to organize and bargain collectively." The early engagement of tripartite bodies with companies as a matter of prevention of disputes is also a key component of the virtuous approach established by the MNE Declaration.

Scenario 2

Company-union dialogue: Responsible business conduct in practice

***Scenario:** A climate of mistrust between a well-known multinational enterprise and workers' representatives is causing tensions and disagreements. One of the disagreements is on the application of the GFA that the company negotiated with a global union federation. At a supplier company, workers are allegedly not allowed to join a trade union, which violates the GFA and leaves workers without recourse to the assistance and protection that trade unions can provide. All involved parties agree that a solution is needed to end the current tensions.*

What's in it for workers?

The company-union dialogue is not limited to companies that are signatories to a GFA. The Office of the ILO can provide neutral ground for trade unions and any company to engage in meaningful dialogue on the application of the principles of the MNE Declaration. However, the company-union dialogue has to be based on consensus of the parties to start the dialogue process (see the section "Tools for union action in the MNE Declaration").

How the MNE Declaration can be used: The global union federation and the MNE should first agree in the GFA on a commitment to adhere to the principles of the MNE Declaration as well as on the possibility to turn to the ILO for assistance in case of disputes. ACTRAV can be the first entry point for unions to start the company-union dialogue at the ILO. After the request of the global union federation, the ILO can invite the MNE to voluntarily agree to take advantage of the facilities of the ILO to meet and discuss the issues of mutual concern. It will be important to create a joint link between global level dialogue and regional dialogue involving representatives from the company or suppliers and union representatives in countries where the specific problems arose.

The issues will most probably be solved via direct social dialogue, but the provisions of the company-union dialogue also foresee the possibility for the two parties to select a mediator from a list of qualified facilitators with the help of the ILO. Moreover, the trade union and the MNE can determine together further participants in the company-union dialogue. The trade union can also ask the ILO for technical and expert advice to inform the company-union dialogue. Ideally, with the assistance of the ILO, the MNE and the trade union can find consensus on a joint strategy to ensure the rights of freedom of association and collective bargaining at subsidiaries, suppliers and subcontractors.

Scenario 3

Due diligence: A tool against union-busting and for workers' involvement

***Scenario:** Managers in a multinational enterprise are developing a due diligence process to ensure at a minimum respect for the internationally recognised human rights in the company's own operations, its global supply chains and other business relationships. They decide to require their direct suppliers to respect these rights and to engage a company to conduct social audits at direct suppliers of the MNE. This due diligence process follows an exclusively managerial approach and does not include workers and trade unions*

How the MNE Declaration can be used: Paragraph 10 e. of the MNE Declaration clarifies that the due diligence process should take account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue as an ongoing process. This means that a company's due diligence process has to include workers' organizations.

Avoiding and addressing potential and actual human rights risks in the work-related environment (labour rights) is a dynamic and continuous process that cannot be achieved by social audits alone but only through ongoing sustainable labour relations. Trade unions organizing workers in the MNE as well as in supplier factories are clearly potentially affected groups and very relevant stakeholders when it comes to actual or potential adverse impacts on labour related human rights. Based on this, they and their global union federations can demand to be involved in the due diligence process.⁶

Due diligence must include active participation and meaningful consultation of trade unions in the task of MNEs to identify and assess any actual or potential adverse human rights impacts in which the companies may be involved either through their own activities or as a result of their business relationships.

What's in it for workers?

The MNE Declaration, the UNGP (in particular Principles 17-22) and the OECD Guidelines for Multinational Enterprises (in particular Chapters 2-4) are the three international instruments defining what is expected from companies to fulfil their responsibility to respect human rights. Among these, the MNE Declaration is the authoritative instrument when it comes to labour rights.

⁶ The MNE Declaration clarifies that due diligence on labour rights risks must be an ongoing process with social dialogue to identify, prevent, mitigate and account for actual and potential labour rights violations (Paragraph 10 e). Paragraph 10 c. establishes (in line with the UNGP) that companies, wherever they operate, are required to (i) avoid causing or contributing to adverse impacts through their own activities, and address such impacts when they occur; and (ii) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts. These two categories are important, because if a company (i.e. an MNE purchasing the end product) has caused or contributed to a violation of labour rights (adverse impact) it has to cease or prevent its contribution, use its leverage to mitigate the impact and provide for or cooperate in remediation (UNGP 22). If the MNE is just "directly linked" to the adverse impact without having caused or contributed to it, it "only" needs to use its leverage to influence the entity (e.g. the supplier) causing the violation.

This means that if the MNE uses social audits in addition to social dialogue as a due diligence tool, the auditor should consult the trade union as part of the auditing process, and share the audit results with the union as well as with the respective global union federation when requested. Trade unions should also monitor how the outcomes of the meaningful consultations are being integrated and applied in the due diligence process.

Since due diligence is also the responsibility of the MNE sourcing from the supplier, unions can request the MNE to use its leverage in case the supplier refuses to recognize the union as a negotiating partner. They can also demand the MNE to ensure it does not contribute to violations of labour rights⁷ by the supplier (for example union busting) through its own actions such as purchasing practices.

Scenario 4

Combating precarious work: Using the MNE Declaration⁸

***Scenario:** A direct supplier for a well-known MNE employs hundreds of workers at a garment factory. The factory utilizes a substantial number of contract workers, who receive reduced pay, benefits and protections as compared to permanent workers, and cannot effectively exercise their rights to freedom of association and equal treatment for work of equal value.*

How the MNE Declaration can be used: According to Paragraph 10d. of the MNE Declaration, enterprises should carry out due diligence to identify and address actual and potential human rights impacts. Keeping contract workers in a situation of continuous precarity alongside permanent workers doing the same work can be a violation of the human right to equal treatment under the ICESCR.⁹ This is supported by Paragraph 33 of the MNE Declaration which specifies further that “multinational enterprises as well as national enterprises, through active employment planning, should endeavour to provide stable employment for workers employed by each enterprise (...). In view of the flexibility which multinational enterprises may have, they should strive to assume a leading role in promoting security of employment (...).”

7 Defined at a minimum as the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work and the rights expressed in the International Bill of Human Rights.

8 This scenario is based on the argumentation by Peter Rossman of the IUF, see Rossman, Peter (2013): Meeting the challenge of precarious work: A workers' agenda. In: International Journal of Labour Research. Vol. 5 Issue 1.

9 The International Covenant on Economic, Social and Cultural Rights (ICESCR), which is part of the International Bill of Human Rights, establishes, that all workers have the right “to the enjoyment of just and favourable conditions of work” (Article 7). Article 7 a (i) specifies the right to “[f]air wages and equal remuneration for work of equal value without distinction of any kind (...)”. The ICESCR also provides that the rights it proclaims shall be exercised without discrimination (Article 2 (2)). However, mainstream legal literature understands discrimination under the ICESCR as discrimination relating to personal characteristics; e.g. gender, religion, race. Nevertheless, from the workers' perspective it can (and should) be argued that discrimination can also relate to the nature of the employment relationship, e.g. contract or agency work violating the right to equal remuneration for work of equal value.

Therefore, the responsibility of companies should include the responsibility to identify, prevent and mitigate the potential or actual violation of human rights violations arising from the use of nonpermanent and/or indirect employment contracts, which clearly present a number of human rights risks including but not limited to the violation of the ICESCR.

The use of non-permanent and/or indirect employment is a universal employment and human rights issue present everywhere there is waged work: it presents a risk of human rights violations in companies' own operations and in their business relationships (e.g. suppliers). Hence trade unions can use the MNE Declaration and the international human rights framework regardless of whether there is a supply chain component or not.¹⁰

Extensive reliance on precarious workers such as contract workers can also violate ILO Conventions No. 87 and 98, in which case the appropriate remedy is to make those workers permanent so that they can effectively exercise their rights to freedom of association and collective bargaining.¹¹

What's in it for workers?

Trade unions can emphasize that compliance with internationally recognized human rights responsibilities requires MNEs to work towards the reduction of precarious employment in its own operations and global supply chains as part of its "human rights due diligence".

10 In the particular scenario presented above, trade unions organizing in this factory, and their respective global union federation can and should request from the MNE to investigate whether it "contributes" to the use of precarious employment relationships (e.g. through highly fluctuating orders and other purchasing practices) or whether it is only "directly linked" through its business relationship with the supplier. According to the UNGP, if the MNE "contributes" it should stop the contribution and support remedy to the extent of its contribution; if it is only "directly linked", it should nevertheless seek to prevent and mitigate the adverse impact of its actions. Trade unions can also request the MNE to use its leverage on the supplier to mitigate the situation as part of its due diligence obligations. Moreover, a failure or refusal to work towards the reduction of precarious employment in its own operations and global supply chains can mean that the company is violating its due diligence responsibility and could make it liable to a complaint under the OECD Guidelines for Multinational Enterprises.

11 The ILO Digest on Freedom of Association is an important source of jurisprudence and summarizes the decisions and principles of the Committee on Freedom of Association (CFA). In addition, ACTRAV compiled a guide with CFA cases that lead to positive results for unions. [ACTRAV \(2013\): MNEs and FoA – Cases of the ILO Committee on Freedom of Association.](#)

Your guide to the MNE Declaration

Aim and Scope (Paragraphs 1-7)

What's in it for workers?

The new reference to global supply chains (implied in the formulation “relationships with other companies”) in the MNE Declaration is particularly important.

The first section of the MNE Declaration sets the stage for the principles that governments, MNEs, employers’ and workers’ organizations are asked to commit to. Although their respect is voluntary, these principles set the benchmark of expected conduct for companies.

A wide application of the text is imperative. As Paragraph 6 explains, “the Declaration does not require a precise legal definition of multinational enterprises” but applies to all enterprises.

Moreover, the 2017 update includes the recognition that “multinational companies often operate through relationships with other companies as part of their overall production process and, as such, can contribute to further the aim of the Declaration” (i.e. global supply chains).

This is also clarified in Paragraph 10 c. which requires that enterprises should seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

The MNE Declaration calls on governments to further its aims by appropriate laws and policies, including in the fields of labour administration and public labour inspection.

General policies (Paragraphs 8-12)

The MNE Declaration contains a set of recommended general policies aimed at achieving sustainable development and respect for human rights at the workplace. It calls in particular upon multinational enterprises, governments, employers’ and workers’ organizations to respect international standards concerning human and labour rights, including the ILO’s Fundamental Principles and Rights at Work.

Paragraph 10 integrates the UN Guiding Principles on Business and Human Rights in the MNE Declaration and transposes key elements into the world of work. It clarifies that “relevant stakeholders” in due diligence processes include trade unions.

The identification of human rights risks and the tracking of the effectiveness of responses are a dynamic and continuous process that cannot be achieved via ad-hoc consultations but only through sound and ongoing labour relations.

Governments are called upon to ratify and comply with international labour standards, starting with the ILO's fundamental standards, and, regardless of ratification, apply to the greatest extent possible the principles embodied therein.

What's in it for workers?

The MNE Declaration clarifies that due diligence processes on human rights should include workers and their organizations (Paragraph 10).

Tools for Action: Realising the potential of the MNE Declaration

The "Tools for Action: Realising the potential of the MNE Declaration" provide a check list to each section in the Declaration allowing unions to quickly assess the actions of MNEs and governments.

If companies and governments do not adhere to the principles in the MNE Declaration then trade unions and workers can use the operational tools provided in the MNE Declaration to require enterprises to take responsibility for the impacts of their actions. These are in particular the tripartite appointed national focus points and the company-union dialogue (see the section "Tools for union action in the MNE Declaration").

Trade unions can also use the respective reference in the MNE Declaration possibly in combination with other means such as the ILO supervisory bodies, in particular the Committee on Freedom of Association or other mechanisms to push for change.

Moreover, trade unions and workers can use the MNE Declaration and its authority as a reference point in discussions and disputes with governments and enterprises as well as in public campaigns.



Tools for Action: Realising the potential of the MNE Declaration

	yes	no	Reference
Has the Government ratified the fundamental labour standards including their protocols? ¹²	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 9
Do national laws comply with the fundamental labour standards including their protocols? ¹³	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 9
Does the government (home or host country for an MNE) promote good social practice for MNEs?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 12
Are home and host governments prepared to have consultations with each other?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 12
Does the enterprise consult with governments and workers' organizations to ensure its operations are aligned with national policies, development priorities and the social aims and structures of the country?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 11
Has the enterprise implemented due diligence processes that include workers and their organizations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 10
Does the enterprise contribute to the realization of the fundamental principles and rights at work?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 9
Does the enterprise give due consideration to local practices?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 9

12 [P029 - Protocol of 2014 to the Forced Labour Convention](#) is part of the fundamental instruments and governments should ratify it. National laws must comply with the protocol.

13 See the footnote above.

Employment (Paragraphs 13-36)

Employment promotion (Paragraphs 13-21)

Multinational enterprises are expected to:

- Increase employment opportunities and employment security, taking into account employment policies by consulting with local governments, and employers' and workers' organizations before and during operations.
- Give priority to the employment, occupational development, promotion and advancement of nationals of the host country at all levels.
- Take into account the importance of using technologies that generate employment directly and indirectly.
- Pursue, wherever practicable, the conclusion of contracts with national enterprises for the manufacture of parts and equipment, and the use of local raw materials. However, such arrangements should not be used to avoid the responsibilities embodied in the principles of the MNE Declaration.

Governments should pursue active policies to promote employment aimed at ensuring that there is decent work for all who are available for and seeking work. Moreover, governments should develop and integrate policies to facilitate the transition to the formal economy.

What's in it for workers?

The MNE Declaration emphasizes that the creation of jobs and employment security are key responsibilities for business (Paragraphs 16 and 33).

The responsibility of companies for stable employment rarely appears in other instruments, so it is a key argument that trade unions can use in negotiations with enterprises and governments.

This responsibility of companies for stable employment can also be used as an area in which companies need to work on as part of their required due diligence to prevent and mitigate adverse human rights impacts (see the scenario "Combating precarious work: Using the MNE Declaration").



Tools for Action: Realising the potential of the MNE Declaration

	yes	no	Reference
Does the government pursue active workplace policies to promote employment and decent work for all who are available and seeking it?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 13
Does the government implement an integrated policy framework to facilitate the transition to the formal economy?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 21
Does the enterprise endeavour to increase employment opportunities and standards?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 16
Does the enterprise endeavour to increase employment stability? If the enterprise is a subsidiary, licensee, franchisee or supplier to an MNE, does the MNE work with the enterprise to promote employment stability by reducing precarious relationships?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 16; 33; 10
Does the enterprise include an assessment and mitigation of the human rights risk of precarious employment in its due diligence process?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 16; 33; 10
Does the enterprise give priority to the employment, occupational development, promotion and advancement of nationals of the host country?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 18
Does the enterprise use technologies that generate employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 19
Does the enterprise build linkages with local enterprises sourcing local inputs, local processing and local manufacturing?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 20

Some relevant ILO standards to this section:¹⁴

- Employment Policy Convention (No. 122), and Recommendation (No. 122), 1964
With a view to stimulating economic growth and development, raising levels of living, meeting man-power requirements and overcoming unemployment and underemployment, each Member should declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.
- Employment Promotion and Protection against Unemployment Convention (No. 168) and Recommendation (No. 176), 1988
The main aim of Convention No. 168 is twofold: the protection of unemployed persons through the provision of benefits in the form of periodical payments and through the promotion of employment.

Social Security (Paragraph 22)

Governments should establish and maintain social protection floors as a fundamental element of their national social security systems and progressively ensure higher levels of social security to as many people as possible.

Multinational and other enterprises need to fairly and scrupulously contribute to public social security systems helping to stimulate further their development, including through employer-sponsored programmes.

 **Tools for Action: Realising the potential of the MNE Declaration**

	yes	no	Reference
Does the government establish and maintain social protection floors within a strategy to progressively ensure higher levels of social security?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 22
Does the enterprise complement public social security systems, including through own employer-sponsored programmes?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 22

¹⁴ Further relevant ILO standards to this section: Employment Policy (Supplementary Provisions) Recommendation, 1984 (No.169); Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189); Promotion of Cooperatives Recommendation, 2002 (No. 193).

Some relevant ILO standards to this section:¹⁵

- Social Security (Minimum Standards) Convention, 1952 (No. 102)
The Convention aims at ensuring a minimum level of protection in the following nine branches of social security: a) medical care; b) sickness benefit; c) unemployment benefit; d) old-age benefit; e) employment injury benefit; f) family benefit; g) maternity benefit; h) invalidity benefit; i) survivors' benefit.
- Social Protection Floors Recommendation, 2012 (No. 202)
The Recommendation provides guidance to Members to establish and maintain, as applicable, social protection floors as a fundamental element of their national social security systems; and implement social protection floors within strategies for the extension of social security that progressively ensure higher levels of social security to as many people as possible.

Elimination of forced or compulsory labour (Paragraphs 23-25)

To contribute to the elimination of forced or compulsory labour governments should take effective measures, such as compensation and rehabilitation and sanction the perpetrators of forced or compulsory labour. The MNE Declaration recommends the adoption of a national policy and plan of action, in consultation with employers' and workers' organizations.

Furthermore, governments should provide guidance and support to employers and enterprises to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced and compulsory labour in their operations or in products, services or operations to which they may be directly linked.

Lastly, the MNE Declaration calls upon multinational as well as national enterprises to take immediate and effective measures within their own competence to prevent forced or compulsory labour.

¹⁵ Further relevant ILO standards to this section: Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121); Medical Care and Sickness Benefits Convention (No. 130) and Recommendation (No. 134), 1969



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	yes	no	Reference
Has the government taken effective measures to prevent forced labour and to provide victims with appropriate remedies?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 23
Has the government a national policy and plan of action to combat forced labour and provides guidance and support to employers?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 23; 24
Has the enterprise taken effective measures to eliminate forced or compulsory labour in its own operations and in its business relationships, e.g. global supply chains?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 25; 10

Some relevant ILO standards to this section:

- Forced Labour Convention, 1930 (No. 29) and its Protocol of 2014; and Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35)
The Convention's object and purpose is to suppress the use of forced labour in all its forms irrespective of the nature of the work or the sector of activity in which it may be performed. The Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The Protocol and its supporting Recommendation are the first ILO instruments to include the need for both public and private enterprises to undertake due diligence to prevent and respond to the risks of forced and compulsory labour (see Art. 2 (e) in the Protocol).
- Abolition of Forced Labour Convention, 1957 (No. 105)
The Convention prohibits certain forms of forced labour, for example as a punishment for strikes and for holding certain political views.
- Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)
This Recommendation supports the Protocol on Forced Labour (2014) by aiming to advance prevention, protection and compensation measures, as well as to intensify efforts to eliminate all forms of forced labour, including trafficking in persons.

Effective abolition of child labour: minimum age and worst forms (Paragraphs 26-27)

To secure the effective abolition of child labour, multinational and national enterprises are called upon to respect the minimum age for admission to work or employment and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour.

To this end, the MNE Declaration recommends that governments develop a national policy in consultation with employers' and workers' organizations designed to ensure the effective abolition of child labour.

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	yes	no	Reference
Does the government take steps to prohibit and eliminate child labour and to progressively raise the minimum age of admission to work or employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 26
Does the enterprise respect the minimum age for admission to work or employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 27
Is the enterprise committed to eliminating the worst forms of child labour?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 27
Does the enterprise investigate the existence of child labour in its global supply chain?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 27; 10

Some relevant ILO standards to this section:

- Minimum Age Convention (No. 138) and Recommendation (No. 146), 1973
The Convention requires ratifying states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work.
- Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), 1999
By ratifying Convention No. 182, a country commits itself to taking immediate action to prohibit and eliminate the worst forms of child labour.

Equality of opportunity and treatment (Paragraphs 28-31)

The general principle of equality of opportunity and treatment should apply throughout an enterprise's own operations and business relationships. Qualifications, skills and experience should be the basis for recruitment, placement, training and advancement of staff at all levels.

Governments should pursue policies designed to promote equality of opportunity and treatment in employment with a view to eliminating any discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin. They should also avoid requiring enterprises to discriminate on any of the abovementioned grounds and provide, where appropriate, ongoing guidance on the avoidance of such discrimination in employment.

Governments should promote equal remuneration for men and women workers for work of equal value.

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	yes	no	Reference
Does the government pursue policies designed to promote equality of opportunity and the elimination of discrimination?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 28
Does the government avoid requirements for enterprises that discriminate on any grounds?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 31
Does the government promote equal remuneration for men and women for work of equal value?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 29
Does the government or the company provide ongoing assistance and guidance on how to avoid discrimination in employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 31
Is qualification, skills and experience the basis for recruitment, placement, training and advancement of staff in the enterprise?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 30

Some relevant ILO standards to this section:¹⁶

- Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951
The Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951 apply to all workers in all economic sectors, private or public. These instruments set out principles for national policy on how to promote and secure equal remuneration for men and women workers for work of equal value.
- Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958
The Convention requires states to enable legislation which prohibits all discrimination and exclusion on any basis including of race or colour, sex, religion, political opinion, national or social origin in employment and repeal legislation that is not based on equal opportunities.

Security of employment (Paragraphs 32-36)

The issue of security and stability of employment is one area where the MNE Declaration stands out from private CSR codes and should be stressed by unions combatting precarious work.

¹⁶ Further relevant ILO standards to this section: Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981; HIV and AIDS Recommendation, 2010 (No. 200).

What's in it for workers: Unilver-IUF

In a fight for permanent employment contracts at a Unilever factory in Pakistan, the global union federation IUF used a number of instruments including a reference to the MNE Declaration. After a successful campaign, comprehensive agreements were reached with the company. Hundreds of casual workers at the Khanewal and Rahim Yar Khan factories received stable and permanent employment contracts.

See for more details: Peter Rossman (2013): Meeting the challenge of precarious work: A workers' agenda. In: International Journal of Labour Research. Vol. 5 Issue 1

Multinational and national enterprises should make efforts to provide stable employment for their employees through:

- active employment planning;
- observation of freely negotiated obligations concerning employment stability and social security;
- and avoiding arbitrary dismissal procedures.

Multinational enterprises are further asked to provide reasonable notice of changes in their operations, which would have major employment effects, and consider ways to mitigate adverse effects to the greatest possible extent in cooperation with local government authorities and workers' organizations.

Governments should study the employment impact of multinationals in different sectors of operation; take suitable measures to deal with the employment and labour market impacts of the operations of multinational enterprises; and provide, in collaboration with multinational and national enterprises, some form of income protection upon termination of employment.

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	yes	no	Reference
Are workers protected against arbitrary dismissals?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 35
Does the government take steps to deal with the employment and labour market impact of MNE operations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 32
Does the government in collaboration with MNEs and national enterprises provide income protection upon termination of employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 36
Does the enterprise engage in active workforce planning?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 33
Does the enterprise work towards stable employment relationships in its supply chain?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 33; 10
Does the enterprise (e.g. at subsidiaries) work towards providing stable employment relationships and does it promote security of employment?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 33; 10
Does the enterprise avoid arbitrary dismissals?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 35
Does the enterprise give reasonable notice to trade unions of possible changes in their operations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 34
Does the enterprise give consideration to measures to mitigate the adverse effects of changes in their operations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 34

Some relevant ILO standards to this section:

- Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982

Workers shall not be terminated unless it is for a valid reason connected with the capacity or conduct based on the operational requirements of the undertaking establishment or service. For example, union membership or participation in union activities outside working hours are not a valid reason to terminate the employment.

Training (Paragraphs 37-40)

This area for action identifies ways to leverage skills training in order to promote employability.

Multinational enterprises are expected to:

- Cooperate with local governments and employers' and workers' organizations in providing their employees in the host country, at all levels, with relevant training that meets the needs of the enterprise as well as the development policies of the country.
- Participate, along with national enterprises, in local programs to encourage skill formation, lifelong learning and development as well as vocational guidance.
- Contribute to the development of local human resources by making available resource people to help conduct training and affording opportunities to broaden the experience of local management in suitable fields such as industrial relations.
- When operating in developing countries participate, along with national enterprises, in programmes, including special funds, encouraged by host governments and supported by employers' and workers' organizations.

Governments are asked to develop, in collaboration with interested parties, national policies for vocational training and guidance, which in turn provide a framework within which multinationals should pursue recommended training policies.



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	yes	no	Reference
Does the government –in conjunction with unions and employers' organizations– develop policies for vocational training and guidance?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 37
Does the enterprise provide training for all levels of employees?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 38
Does the enterprise provide training linked to the development needs of the country?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 38
Does the enterprise participate in programs designed to encourage skill formation and development?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 39
Does the enterprise afford opportunities for local management to broaden their experience?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 40

Some relevant ILO standards to this section:

- Human Resources Development Convention, 1975 (No. 142)
Each State which ratifies the Convention has to adopt and develop policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.
- Human Resources Development Recommendation, 2004 (No. 195)
The Recommendation contains guidance on how to formulate, apply and review national human resources development, education, training and lifelong learning policies which are consistent with economic, fiscal and social policies, as part of an approach based on social dialogue.

Conditions of work and life (Paragraphs 41-46)

Wages, benefits and conditions of work (Paragraphs 41-42)

The MNE Declaration states that MNEs should offer wages, benefits and conditions of work not less favorable than those offered by local employers which are similar in size and resources in host countries.

Where comparable employers do not exist, MNEs should provide the best possible wages, benefits and conditions of work. The elements to be taken into consideration should include:

- The needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups.
- Economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

Where the employer provides workers with basic needs such as housing, medical care or food, these services should be of a good standard.

Governments should endeavour that lower income groups and less developed areas benefit as much as possible from the activities of multinational enterprises.

The 2017 update included the ILO Convention No. 169 on Indigenous People in the Annex I of the MNE Declaration. This can lead to new opportunities in ensuring inclusive and sustainable growth for all and trade unions might want to use the Convention for further guidance.

What's in it for workers?

In 2017, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) has been ratified by 22 countries, including mostly countries in Latin America.

Tools for Action: Realising the potential of the MNE Declaration

	yes	no	Reference
Has the government adopted measures to ensure lower income groups and less developed areas benefit from the activities of MNEs?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 42
Does the enterprise offer wages, benefits and conditions not less favourable than those offered by local employers similar in size and resources?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 41
Where comparable employers do not exist does the enterprise provide the best possible wages, benefits and conditions of employment at least adequate to satisfy the basic needs of workers and their families?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 41
Are basic needs provided by the enterprise, such as housing, medical care or food, of a good standard?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 41

Some relevant ILO standards to this section:¹⁷

- Reduction of Hours of Work Recommendation, 1962 (No. 116)
Each State should promote and, where possible, ensure the application of the principle of the progressive reduction of normal hours of work with a view to attaining the 40-hour week, without any reduction in the wages of workers.
- Indigenous and Tribal Peoples Convention, 1989 (No. 169)
States which ratify the Convention have to develop coordinated and systematic action to protect the rights of tribal peoples and to guarantee respect for their integrity.

¹⁷ Further relevant ILO standards to this section: Workers' Housing Recommendation, 1961 (No. 115); Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173) and Recommendation (No. 180), 1992.

Occupational safety and health (Paragraphs 43-46)

Governments should ensure that both multinational and national enterprises provide adequate safety and health standards and contribute to a preventative safety and health culture progressively achieving a safe and healthy working environment. This would include steps to combat workplace violence against women and men and attention to building safety. Furthermore, compensation should be provided to workers who have been victims of occupational accidents or diseases.

Multinational enterprises are expected to:

- Maintain the highest standards of safety and health, bearing in mind their relevant experience from operations in other countries.
- Incorporate, where appropriate, matters relating to safety and health in agreements with workers' representatives and organizations.

Since this is one area in which multinationals can provide a substantial contribution to improve local practices, the MNE Declaration further expects them to:

- Make publicly available information on the safety and health standards relevant to their own local operations and business relationships, which they observe in other countries.
- Make known to local governments, enterprises and workers any special hazards and related protective measures associated with new products and processes.
- Cooperate in the work of international organizations on safety and health issues.
- Cooperate fully with the competent safety and health authorities, the representatives of the workers and their organizations, and established safety and health organizations, in accordance with national practice.

For governments, the MNE Declaration recommends applying international labour standards and ILO codes of practice and guidelines in order to ensure that both multinational and national enterprises provide adequate safety and health standards for their employees.

 **Tools for Action: Realising the potential of the MNE Declaration**

	yes	no	Reference
Does the government take steps to apply international labour standards to all enterprises so that adequate safety standards are secured?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 43
Does the enterprise maintain the highest standards of safety and health at work?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 44
Does the enterprise examine the causes of industrial safety and health hazards and effect necessary improvements?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 44
Does the enterprise make known to government and trade unions any special hazards and related protective measures associated with new products or processes?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 44
Does the enterprise provide information to workers' representatives on good practice observed in other countries?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 44
Does the enterprise cooperate fully with competent health and safety authorities, representatives of workers and their organizations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 46

Some relevant ILO standards to this section:¹⁸

- Occupational Safety and Health Convention, 1981 (No. 155) and Protocol of 2002; and Occupational Safety and Health Recommendation, 1981 (No. 164)
Each State which ratifies the Convention has to, in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy to prevent accidents and injury to health by minimizing hazards, so far as is reasonably practicable.
- Asbestos Convention (No. 162) and Recommendation (No. 172), 1986
The Convention applies to all activities involving exposure of workers to asbestos in the course of work.

¹⁸ Further relevant ILO standards to this section: Radiation Protection Recommendation, 1960 (No. 114); Guarding of Machinery Recommendation, 1963 (No. 118); Benzene Recommendation, 1971 (No. 144); Occupational Cancer Recommendation, 1974 (No. 147); Working Environment (Air Pollution, Noise and Vibration) Convention (No. 148) and Recommendation (No. 156), 1977; Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985; Safety and Health in Construction Convention (No. 167) and Recommendation (No. 175), 1988; Chemicals Convention (No. 170) and Recommendation (No. 177), 1990; Prevention of Major Industrial Accidents Convention (No. 174) and Recommendation (No. 181), 1993; Safety and Health in Mines Convention (No. 176) and Recommendation (No. 183), 1995; Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192), 2001; List of Occupational Diseases Recommendation, 2002 (No. 194).

- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)

States shall promote continuous improvement of occupational safety and health (OSH) to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme.

Industrial relations (Paragraphs 47-68)

Freedom of association and the right to organize (Paragraphs 48-54)

Governments, multinational and national enterprises are expected to:

- Recognize workers' rights to establish and join organizations of their own choosing without previous authorization.
- Protect workers against acts of anti-union discrimination.
- Allow workers' representatives to consult among themselves, provided that the functioning of the operations of the enterprise are not thereby prejudiced.

Multinational enterprises are encouraged to support representative employers' organizations, although they often tend to act independently.

Governments are called upon to:

- Permit multinational enterprises or the workers in their employment to affiliate with international organizations of employers and workers of their own choosing.
- Permit the entry of representatives of employers' and workers' organizations from other countries at the invitation of the local or national organizations concerned for the purpose of consultation on matters of mutual concern.
- Ensure that special incentives to attract foreign investment do not include any limitation of the workers' freedom of association or the right to organize and bargain collectively, including in EPZs.

What's in it for workers?

The right of workers' freedom of association and collective bargaining cannot be restricted; this includes Export Processing Zones (EPZs).¹⁹

¹⁹ This includes all industrial zones with special incentives to attract foreign investors regardless of the name; e.g. Qualifying Industrial Zones (QIZ) or Special Economic Zones (SEZ).

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	yes	no	Reference
Does the government permit all workers of any enterprises to establish, join or affiliate with trade unions of their choice?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 48
Does the government permit representatives of trade unions entry to the country for the purpose of consultation?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 54
Does the government ensure that any special incentives to attract foreign investment do not include any limitation on worker's rights to freedom of association, the right to collectively bargain or the right to organise?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 52
Does the enterprise allow workers to form and join trade unions of their choosing, and does the MNE use its leverage to ensure this right along its global supply chain?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 48; 10
Does the enterprise refrain from imposing any penalties or taking any discriminatory actions against workers because of their membership of a union?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 48
Does the enterprise allow worker's representatives to consult amongst themselves?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 53

Some relevant ILO standards to this section:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
The Convention outlines the rights of all workers and employers to “join organizations of their own choosing without previous authorisation.” Rights are also extended to the organizations themselves to draw up rules and constitutions, vote for officers, and organize administrative functions without interference from public authorities. Ratifying states must ensure with “all necessary and appropriate measures that workers and employers may exercise freely the right to organise.”
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
The Convention covers, first, the rights of union members to organise independently, without interference by employers. Second, it requires the positive implementation of the rights to collective bargaining, and that each member state's law promotes it. It also provides for anti-union discrimination.
- Workers' Representatives Convention, 1971 (No. 135)
Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Collective bargaining (Paragraphs 55-62)

To ensure the effective recognition of the right to collective bargaining, the MNE Declaration establishes that:

- Workers employed by multinational enterprises should have the right to have representative organizations of their own choosing recognized for the purpose of collective bargaining.
- Voluntary negotiations between employers or employers' organizations and workers' organizations should be promoted and collective bargaining agreements should include provisions for the settlement of disputes arising over their interpretation and application.

Multinational enterprises are expected to:

- Provide workers' representatives with such facilities as may be necessary to assist in the development of effective collective agreements.
- Enable duly authorized representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorized to take decisions on the matters under negotiation.
- Not threaten to transfer the whole or part of an operating unit from the country concerned in order to influence unfairly those negotiations or to hinder the exercise of the right to organize.
- Provide workers' representatives with information required for meaningful negotiations.
- Respond constructively to requests by governments for relevant information on their operations.

Governments are called upon to supply to the representatives of workers' organizations, on request, information on the industries in which multinationals operate, which would help in laying down objective criteria in the collective bargaining process.



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	yes	no	Reference
Does the government supply information to trade unions to help lay down objective criteria in the collective bargaining process?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 62
Does the enterprise accept the right of workers to bargain collectively and provide the facilities and information required for meaningful negotiations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 55; 57
If the enterprise supplies to an MNE, does the MNE use its leverage over the supplier to support the realization of this right?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraphs 55; 57; 10
Does the enterprise recognise worker representatives chosen for collective bargaining?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 58
Do collective bargaining agreements include provisions for the settlement of disputes?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 60
Does the enterprise respect that it is not allowed to make any threats to transfer the whole or part of the operating unit in order to influence negotiations or hinder the right to organize?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 59
Does the enterprise respond to requests for relevant information about their operations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 62
Does the enterprise provide workers' representatives with information required for meaningful negotiations?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 61

Some relevant ILO standards to this section:²⁰

- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
The Convention covers the rights of union members to organise independently, without interference by employers and requires the implementation of the rights to collective bargaining, and that each member state's law promotes it.
- Collective Bargaining Convention (No. 154) and Recommendation (No. 163), 1981
The aim of the Convention is to promote collective bargaining that is free and voluntary, undertaken by parties that represent free and informed organizations.

Consultation (Paragraph 63)

Multinational and national enterprises are expected to:

- Have systems devised by mutual agreement between employers and workers and their representatives for regular consultation on matters of mutual concern.
- Such consultation should not be a substitute for collective bargaining.



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	yes	no	Reference
Does the enterprise have systems in place that result in regular consultation with workers and their representatives?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 63

Some relevant ILO standards to this section:

- Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94)
Appropriate steps should be taken to promote consultation and cooperation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery.

²⁰ Further relevant ILO standards to this section: Communications within the Undertaking Recommendation, 1967 (No. 129); Workers' Representatives Convention, 1971 (No. 135).

Access to remedy and examination of grievances (Paragraphs 64-66)

As part of their duty to protect against business-related human rights abuses, governments should take appropriate steps to ensure through judicial, legislative or other means, such as non-judicial mechanisms, that when such abuses occur any affected worker or group of workers have access to effective remedy.

What's in it for workers?

The MNE Declaration highlights the importance of social dialogue and collective bargaining as means of due diligence and access to remedy.

Multinational and national companies are expected to:

- Respect the right of workers to have all their grievances processed without suffering prejudice. This is particularly important in countries which do not abide by the ILO's fundamental standards.
- With regard to the supply chain, multinational enterprises should use their leverage to encourage their business partners to provide effective means of enabling remediation for abuses of human rights.

The MNE Declaration stresses that workers can act individually or jointly with other workers, i.e. trade unions, to submit grievances. In some multinational enterprises GFAs can provide effective grievance mechanisms for workers.

Tools for Action: Realising the potential of the MNE Declaration

	yes	no	Reference
Does the government take appropriate steps to ensure that workers have access to remedy?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 64
Can workers have grievances processed without suffering any prejudice?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 66
Does the enterprise use its leverage to encourage business partners to provide effective remediation?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 65

Some relevant ILO standards to this section:

- Examination of Grievances Recommendation, 1967 (No. 130)
The Convention provides that any worker who considers that (s)he has grounds for a grievance should have the right to submit such grievance and have it examined.

Settlement of industrial disputes (Paragraphs 67-68)

Governments should ensure that a voluntary conciliation and arbitration machinery, appropriate to national conditions, is made available free-of-charge to assist in the prevention and settlement of industrial disputes between employers and workers.

Multinational and national companies should seek to establish, jointly with the representatives and organizations of workers, voluntary conciliation machinery to assist in the prevention and settlement of industrial disputes.



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	yes	no	Reference
Does the government assist in the establishment of mechanisms to prevent and settle industrial disputes?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 67
Has the enterprise joined with trade unions to establish voluntary conciliation machinery to assist in the prevention and settlement of industrial disputes?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 68
Does the voluntary conciliation machinery include equal representation of employers and workers?	<input type="checkbox"/>	<input type="checkbox"/>	Paragraph 68

Some relevant ILO standards to this section:

- Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)
Voluntary conciliation machinery, appropriate to national conditions, should be made available to assist in the prevention and settlement of industrial disputes between employers and workers.

Tools for union action in the MNE Declaration

The ILO adopted different operational tools to support the implementation of the MNE Declaration by the different parties in all ILO member States.

Regional follow-up mechanism (Annex II, Point 1. a.)

The ILO Governing Body adopted the regional follow-up mechanism in March 2014. It comprises a regional report on the promotion and application of the MNE Declaration in the member states. Workers' organizations can participate in the regional follow-up via a questionnaire and voice their opinion about the application of the key elements contained in the MNE Declaration in their country. A special session during ILO Regional Meetings provides a tripartite dialogue platform to discuss further activities at the regional level. Trade unions have the possibility to demand the consideration of the principles of the MNE Declaration by regional and sub-regional policy actors.

Tripartite appointed national focal points (Annex II, Point 1. b.)

What's in it for workers?

All national focal points can progressively expand their outreach. Eventually they may go beyond promotional activities and become a venue for dispute resolution. In 2017, Portugal and Senegal have already established tripartite national focal points, several other countries are in the process of doing so.

The ILO calls on the national tripartite constituents – governments, employers and workers – to appoint national focal points on a tripartite basis to promote the use of the MNE Declaration. Governments, trade unions and employers are flexible in the institutional design of the tripartite national focal point. However, guidance can be taken from ILO Convention No. 144 on tripartite consultation.

The MNE Declaration gives guidance on the activities of the national focal points to actively promote the principles in the MNE Declaration (e.g. capacity-building events and dialogue platforms, facilitation of discussions between host and home countries). However, the work of the national focal points does not have to be limited to these suggestions.

National focal points with limited resources or capacity can progressively expand their outreach. Moreover, they can organize tripartite-plus dialogue platforms for the tripartite constituents and multinational enterprises that can build on past experiences, lessons learned and best practice.

The ILO provides technical assistance, information and guidance to the tripartite appointed focal points. Unions can also use the entry point of the Bureau for Workers' Activities (ACTRAV).

Technical assistance (Annex II, Point 1. c.)

The ILO is expected to provide country-level assistance to governments, employers' and workers' organizations on promoting and applying the principles of the MNE Declaration. For unions, this means that they can ask for technical support from ACTRAV and the specialists in the field to build further expertise on how to best use the MNE Declaration to advance workers' rights.

ILO Helpdesk for Business (Annex II, Point 1. c.)

The ILO has a service specifically focussed on helping managers or trade unions in enterprises to closer align the company's policies and practices in their own operations and business relationships with international labour standards – the ILO Helpdesk for Business on International Labour Standards. The promotion of the MNE Declaration can partly be done through the Helpdesk, which is functioning well as a first entry point.

The Helpdesk service responds to requests for advice regarding specific issues; provides examples of answers to frequently asked questions, and gives you access to a wide range of research, literature and publications as well as ILO training opportunities. The Helpdesk can also assist you to access ILO technical expertise if you require assistance in the implementation of labour standards or the MNE Declaration.

Company-union dialogue (Annex II, Point 2.)

What's in it for workers?

Trade unions should reach out to companies that are likely to be ready to use the ILO company-union dialogue, for example because they have a high reputational risk awareness or because they are partly state-owned.

It might also be a suitable venue for companies that are committed to respecting labour standards, but are in need of help and ILO expertise in a certain situation.

Companies and trade unions can agree in GFAs to refer disputes over the application of the agreements to the company-union dialogue.

The ILO Governing Body established a company-union dialogue facilitation under the MNE Declaration in March 2013. The Office of the ILO can provide neutral ground for trade unions and companies to engage in meaningful dialogue on the application of the principles of the MNE Declaration. Upon request and to facilitate dialogue the ILO Office will provide input during the company-union dialogue as a technical or expert adviser.

The company-union dialogue has to be based on the consensus of the parties to start the dialogue process. The procedure should be promoted through the ILO Helpdesk for Business, the secretariats of the Employers' and Workers' groups and through the national focal points or similar tools and processes in ILO member States and has the potential to give real life to the section on industrial relations in the MNE Declaration.

Interpretation procedure (Annex II, Point 3.)

The interpretation procedure for the examination of disputes concerning the application of the MNE Declaration by means of interpretation of its provisions was adopted by the ILO Governing Body in March 1986. The purpose of the procedure is to interpret the provisions of the MNE Declaration to resolve disagreements on their meaning, arising from an actual situation.

With regard to the 2017 update of the MNE Declaration trade unions can use the interpretation procedure to clarify the exact meaning of all provisions, including the new ones, in the Declaration in practical terms, using actual situations encountered in operations of multinational enterprises.

Trade unions can request the Office for interpretation through the national Confederations in their countries or international organizations of workers.

Resources

Where you can go to get further assistance?

ACTRAV

E-mail: actrav@ilo.org

Fax: +41.22.799.6570

Write: ACTRAV

International Labour Office
4, route des Morillons
1211 Geneva 22, Switzerland

Search: www.ilo.org/actrav

ILO Helpdesk for Business

E-mail: assistance@ilo.org

Phone: +41.22.799.6264

Fax: +41.22.799.6354

Write: The Helpdesk Manager

International Labour Office
4, route des Morillons
1211 Geneva 22, Switzerland

Search: <http://www.ilo.org/business>

International Training Centre of the ILO

E-Learning Module: *Business and decent work – An introduction to the MNE Declaration*

The self-guided E-learning module provides an introduction to the MNE Declaration. The module includes an overview of the principles of the MNE Declaration and real cases of how it can be put into practice and address a range of labour and employment issues in different contexts.

www.ilo.org/mnelearning

Free Massive Open Online Course on Decent Work in Global Supply Chains

This free online course by the Global Labour University/ACTRAV provides an overview on the most important international instruments and strategies that can be used for achieving decent work in global supply chains, including the MNE Declaration.

<http://www.global-labour-university.org/394.html>

International Labour Standards Department (NORMES)

NORMLEX – Database on International Labour Standards and national legislation

<http://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:1:0::NO::>



www.ilo.org/mnedeclearation

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