

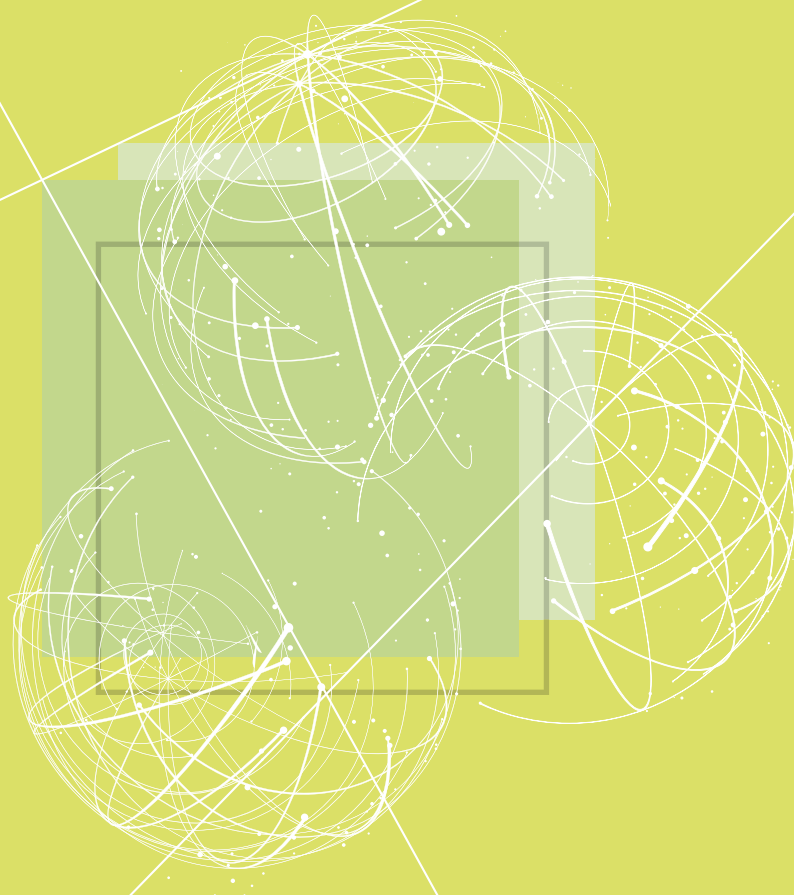


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Report VI

Social dialogue and tripartism



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Report VI

Social dialogue and tripartism

A recurrent discussion on the strategic objective of social dialogue and tripartism, under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008

Sixth item on the agenda

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Abbreviations

AICESIS	International Association of Economic and Social Councils and Similar Institutions
ASEAN	Association of Southeast Asian Nations
CEACR	Committee of Experts on the Application of Conventions and Recommendations
DWCP	Decent Work Country Programme
EPZ	export processing zone
ESCs	economic and social councils
EU	European Union
EVAL	Evaluation Office
IFA	international framework agreement
IFC	International Finance Corporation
ILO	International Labour Organization
IMF	International Monetary Fund
ITC-ILO	International Training Centre of the ILO
ITUC	International Trade Union Confederation
MERCOSUR	Southern Common Market
MNE	multinational enterprise
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Co-operation and Development
OSH	occupational safety and health
SADC	Southern African Development Community
SDG	Sustainable Development Goal
SME	small and medium-sized enterprise
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UEMOA	West African Economic and Monetary Union
WTO	World Trade Organization

Introduction

1. As a follow-up to the resolution on Advancing Social Justice through Decent Work, adopted by the International Labour Conference at its 105th Session (2016), the Governing Body, at its 328th Session (November 2016), reviewed proposals relating to the modalities of recurrent discussions¹ and adopted a new cycle and sequence for such discussions, starting in 2018 with the strategic objective of social dialogue and tripartism.²
2. The present report, which is the first of this new cycle, reviews, in Chapter 1, some global trends and challenges shaping social dialogue. In Chapter 2, it considers actions taken by member States and the constituents more broadly in respect of social dialogue and identifies good practices, gaps and needs. Then, in Chapter 3, it identifies action taken by the International Labour Organization (ILO) in line with the plan of action on social dialogue for 2014–17.³ The report concludes with Chapter 4, which provides a synthesis of the key observations that emerge from the previous chapters. Chapter 4 also includes suggested points for discussion by the Conference Committee. Its aim is to facilitate discussion and the adoption of conclusions on the way forward in strengthening action on social dialogue.
3. The report does not include detailed definitional aspects associated with the actors and institutions of social dialogue; nor does it expand on the links between social dialogue and international labour standards – these were analysed in the report of the recurrent discussion on social dialogue at the 102nd Session (2013) of the Conference.⁴ Instead, it looks at seminal developments since 2013, notably changes in the world of work and the impact of these changes on social dialogue at all levels, partly with a view to informing the discussions concerning the future of work at the centenary session of the International Labour Conference, in 2019.⁵ It also looks at the role of social dialogue and tripartism in the context of the 2030 Agenda for Sustainable Development (2030 Agenda) and the Sustainable Development Goals (SDGs).
4. The report is based on technical Office-wide contributions from headquarters and the field. It draws on a large body of ILO technical reports, desk reviews, published

¹ ILO: *Matters arising out of the work of the 105th Session of the International Labour Conference: Follow-up to the resolution on Advancing Social Justice through Decent Work: Proposals relating to the modalities of recurrent discussions*, Governing Body, 328th Session, Geneva, Oct.–Nov. 2016, GB.328/INS/5/2.

² ILO: *Minutes of the 328th Session of the Governing Body of the International Labour Office*, Governing Body, 328th Session, Geneva, Oct.–Nov. 2016, GB.328/PV, para. 102.

³ ILO: *Follow-up to the discussion on social dialogue at the 102nd Session of the International Labour Conference (2013): Plan of action*, Governing Body, 319th Session, Geneva, Mar. 2016, GB.319/POL/3(Rev.1).

⁴ ILO: *Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization*, Report VI, International Labour Conference, 102nd Session, Geneva, 2013.

⁵ ILO: *Matters arising out of the work of the 105th Session of the International Labour Conference: Follow-up to the resolution on Advancing Social Justice through Decent Work: Proposals relating to the modalities of recurrent discussions*, op. cit., para. 18.

research, policy papers and Governing Body reports produced since 2013. It also analyses research and publications produced by other international, regional and national bodies, by specialized agencies and by academic and research institutions.

5. As a complement to the present report, and in order to enhance organizational learning in accordance with the recommendations and suggestions endorsed by the Governing Body at its 316th Session (2012),⁶ the ILO's Evaluation Office (EVAL) has prepared a report on the findings of a synthesis review of ILO social dialogue interventions from 2013 to 2016.⁷

⁶ ILO: *Minutes of the 316th Session of the Governing Body of the International Labour Office*, Governing Body, 316th Session, Geneva, Nov. 2012, GB.316/PV, para. 671.

⁷ ILO: *Social dialogue interventions: What works and why? Lessons learned from a synthesis review 2013–2016* (Geneva, 2017).

Chapter 1

Social dialogue: Setting the scene

6. Social dialogue includes all types of negotiation, consultation and exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to economic and social policy. Social dialogue is both a means to achieve social and economic progress and an end in itself, as it gives people a voice and a stake in their societies and workplaces. Social dialogue is central to the functioning of the ILO itself and is embedded in practically all of the ILO Conventions and Recommendations and in the Decent Work Agenda. Many provisions of the Conventions and Recommendations explicitly require consultations with the social partners.

Table 1.1. Working definitions

Concept	Definition
Tripartism	Tripartism is defined in the <i>ILO Thesaurus</i> as “the interaction of government, employers and workers (through their representatives) as equal and independent partners to seek solutions to issues of common concern”. It refers to institutions, mechanisms and processes for consultation, negotiation and joint decision-making, depending on arrangements agreed between the parties involved. These arrangements may be ad hoc or institutionalized. Peak-level social dialogue involving governments and nationwide organizations of employers and workers can contribute to the formulation and adoption of social, economic and labour policies and can be applied to any decision-making that affects the workplace or the interests of employers and workers.
Bipartite social dialogue	Bipartite social dialogue involves two parties – employers and/or employers’ organizations, and workers’ organizations – that agree to exchange information, consult each other or negotiate together. It is often practised through collective bargaining or workplace cooperation.
Collective bargaining	Collective bargaining is defined in the Collective Bargaining Convention, 1981 (No. 154), as “all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations, on the other, for: (a) determining working conditions and terms of employment; and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers’ organisation or workers’ organisations.”
Workplace cooperation	Workplace cooperation is understood to mean, as set out in the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), “consultation and co-operation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery, or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment.”

7. Social dialogue is regarded as a problem-solving mechanism and as a means to achieve social equity, economic efficiency and democratic participation. It is important for protecting labour rights, facilitating wage determination, improving working conditions and promoting sustainable enterprises.

8. Nevertheless, a number of challenges are prompting social dialogue's key actors – labour administrations, workers' and employers' organizations,¹ and the ILO – to consider ways to adapt social dialogue and enhance its relevance in the evolving world of work, taking advantage of any possibilities offered in today's globalized economy and rapidly changing environment. Among the most significant challenges are:

- widening income inequality and a declining wage share in many countries' gross domestic product (in part related to the erosion of collective bargaining in some countries);²
- the changing nature of work and employment relationships (including those stemming from technological innovation, digitization and automation);
- the weakening of labour market institutions;³
- low levels of formal-job creation and income security,⁴ a growing incidence of informal employment (which may be accelerated by technological and demographic changes) and an associated risk of lack of protection⁵ (factors that can hinder the capacity of the workers concerned, in particular vulnerable categories of workers, to organize effectively);⁶
- pressures to address economic crises through the reduction of public spending, constraining the ability of social partners to influence the design and implementation of labour reforms, in particular pension reforms;
- doubts about the effectiveness of the outcomes of social dialogue, which lead some academics to see social pacts, for example, at best as just a way to blunt the sharpest edges of globalization and market-driven policies.⁷

9. Over the past decades, the world of work has been experiencing profound changes. The ILO has identified a number of mega-drivers of change, four of which will particularly affect social dialogue and industrial relations. First, current technological revolutions such as increasing automation and digitization, which some consider to be a fourth industrial revolution, are having a profound and transformative impact on the world of work. They

¹ The terms "trade unions" and "workers' organizations" are used interchangeably in this report.

² See ILO: *Global Wage Report 2014/15: Wages and income inequality* (Geneva, 2014); L. Mishel, E. Gould and J. Bivens: "Wage stagnation in nine charts", *Economic Policy Institute*, 6 Jan. 2015, p. 11; D. Vaughan-Whitehead (ed.): *Europe's disappearing middle class? Evidence from the world of work* (Geneva, ILO, 2016).

³ See J. Berg: "Labour market institutions: The building blocks of just societies", in J. Berg (ed.) *Labour markets, institutions and inequality: Building just societies in the 21st century* (Geneva, ILO and Edward Elgar, 2015), pp. 1–38.

⁴ See ILO: *World employment and social outlook: The changing nature of jobs* (Geneva, 2015), p. 118.

⁵ See ILO: *Non-standard employment around the world: Understanding challenges, shaping prospects* (Geneva, 2016), pp. 208–215.

⁶ Vulnerable categories of workers include: migrant workers, workers with disabilities, ethnic minorities, tribal and indigenous peoples, rural and agricultural workers, domestic workers, workers in export processing zones, workers in the informal economy and workers in non-standard forms of employment.

⁷ For example, see L. Baccaro and J. Galindo: *Are social pacts still viable in today's world of work?* (Geneva, ILO, forthcoming); and J. Freyssinet: *Le dialogue social: nouveaux enjeux, nouveaux défis* [Social dialogue: new issues, new challenges] (Geneva, ILO, 2017).

are progressively changing not just the number of jobs, but the very way in which work is organized and undertaken. On-demand or gig economy types of work, for instance, neither take the form of traditional dependent employment, nor occur in typical workplaces. The emergence of these types of work has blurred the contours of the employment relationship, on the basis of which social dialogue and labour–management cooperation have historically been built and operated, raising fundamental questions as to how to ensure that social dialogue’s actors and institutions remain relevant to, and representative of, their constituents.

10. Second, demography-related challenges, migration movements and a refugee crisis due to wars, climate change, poverty and unemployment in sending countries are reinforcing a duality: as the population in the global North ages, much of the population in the global South (though not China) is staying young, challenging labour markets to absorb workers; and while the economic case for migration has seemingly never been stronger owing to the win-wins it can generate, the obstacles have never been larger.

11. Third, given climate change, moving towards a low-carbon future requires costs and benefits to be measured in terms of job destruction or creation, and to be managed carefully and in a participatory way – and so fairly distributed. Yet the capacities of labour administrations and social partners in this respect lag behind actual needs in most parts of the world.

12. Finally, while globalization has doubtlessly had positive socio-economic effects and has contributed to eradicating poverty in many parts of the world, at the same time it has become a lightning rod for popular disillusionment in countries or among groups of populations affected by long-term economic stagnation or stop-start growth, by high unemployment, by the primacy of financial targets over macroeconomic and employment targets, by the falling shares of national incomes going to workers, and by a shrinking welfare state. This disillusionment is unleashing an unprecedented backlash, which threatens not only free-market concepts (the basis of globalization), but also some of the basic values of the democratic process. As the rise of income inequality is increasingly being recognized as a major issue to be addressed, including by strong proponents of the free market (such as the international financial institutions),⁸ rays of hope appear for a global consensus on the need for more social dialogue to share the benefits of growth beyond the top of the income scale.

13. Beyond these mega-drivers of change, there is increasing concern over the effectiveness of social dialogue: in spite of the existence of formal tripartite or bipartite procedures, there is a parallel decline in the use of forms of social dialogue that produce binding commitments, such as collective bargaining and processes that lead to the conclusion of social pacts. Industrial relations institutions face numerous challenges in addressing work-related issues, although there are signs of institutional innovation.⁹

14. These challenges are compounded by the movements towards economic integration that bring about new forms of international production. Actors – public and private, international and national – have either independently or cooperatively built different

⁸ See IMF: *Income polarization in the United States*, in IMF Working Paper (June, 2016); and IMF: *Fiscal Monitor: Tackling Inequality* (Washington, DC, Oct. 2017).

⁹ See S. Hayter: “Introduction: What future for industrial relations?” in *International Labour Review* (2015, Vol. 154), pp. 1–4; and R. Sen, and C. H. Lee. “Workers and social movements of the developing world: Time to rethink the scope of industrial relations?” in *International Labour Review* (2015, Vol. 154, No. 1, Apr.), pp. 37–45.

elements of cross-border governance, and many have recognized in social dialogue a key tool for achieving their objectives.

15. Social dialogue is increasingly called upon to anticipate and manage these changes. Whether it will do so successfully will depend on how well it can adapt itself to the new economic, social and political realities, while avoiding one-size-fits-all approaches.

16. Social dialogue has continued to expand across borders via a multitude of public inter-State initiatives aimed at promoting fundamental labour rights and other international labour standards in economic and trade integration endeavours, as with the European Union (EU) and other economic blocs and preferential trading agreements. Furthermore, public-private initiatives and voluntary initiatives between multinational enterprises (MNEs) and global unions have also created space for social dialogue.

17. A key development since 2013 has been the global consensus, finalized in September 2015, on the need for international cooperation as a follow-up to the Millennium Development Goals, as contained in the 2030 Agenda and the 17 SDGs. The need for participatory governance, including social dialogue, as a major means for implementing the SDGs is now squarely on the political agenda. There are also indications that the SDGs can contribute to revitalizing social dialogue at the national level, given that social dialogue is an integral part of the 2030 Agenda – particularly Goal 8, which aims to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. The ILO is the custodian of indicator 8.8.2, which measures the increase in national compliance with labour rights (freedom of association and collective bargaining) based on ILO textual sources and national legislation. Goal 16, on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels, also aims to promote the rule of law at the national and international levels and ensure equal access to justice for all (target 16.3); develop effective, accountable and transparent institutions at all levels (target 16.6); and ensure responsive, inclusive, participatory and representative decision-making at all levels (target 16.7).

18. The ILO's Future of Work Initiative (established in October 2013) and the Global Commission on the Future of Work (formed in August 2017) are set to strengthen the capacity of social dialogue's actors and institutions beyond the Organization's centenary in 2019. The Commission is expected to undertake an in-depth examination of the future of work and provide an analytical basis for delivering social justice in the twenty-first century.

19. It is in the context of these changing realities that the next chapter is grounded.

Chapter 2

Social dialogue in a changing world

20. This chapter reviews key global trends and the challenges faced by the constituents in respect of social dialogue. It describes how the constituents' needs and priorities are evolving in a changing world of work – especially since the recurrent discussion on social dialogue at the 102nd Session (2013) of the International Labour Conference – and identifies gaps and good practices.

2.1. Priorities and strategies of the key social dialogue actors in an evolving world of work

2.1.1. Labour administrations

21. Social dialogue and tripartism are essential for good governance: they play a key role in efforts to prepare, implement and evaluate national social and labour policies, to overcome the challenges linked to the evolving world of work, and to achieve the SDGs.

22. To be effective, good governance must be supported by a coordinated national system of labour administration – a specialized branch of public administration defined in the Labour Administration Convention, 1978 (No. 150), and the Labour Administration Recommendation, 1978 (No. 158).¹ Such systems now, however, operate in an environment quite different from that of 40 years ago when these instruments were adopted: the role of government is evolving; technologies are reshaping the management, operation and structure of public (including labour) administration systems; and some previously state-run services are increasingly outsourced.

23. The report for the 2013 recurrent discussion on social dialogue provided an analysis of the state of labour administrations which, several years later, remains largely valid.² The main challenges are lack of funding, low efficiency and serious gaps in governance. Some areas of work, such as the informal economy and domestic work, still fall largely outside the scope of labour administrations.

24. Ministries of labour in many industrialized countries have substantial funding, but in developing countries these ministries often receive less than 1 per cent of the state

¹ For the purposes of these instruments, “the term **system of labour administration** covers all public administration bodies responsible for and/or engaged in labour administration--whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration -- and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.”

² ILO: *Social dialogue: Recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization*, Report VI, International Labour Conference, 102nd Session, Geneva, 2013, paras 44–54.

budget – too little for maintaining even basic administrative functions.³ Low funding, with the associated shortages of staff and technical equipment, also affects the capacities of ministries to provide social partners with support or to promote tripartite and bipartite social dialogue, including with respect to data on employment, labour productivity and wages, and mechanisms for resolving labour disputes.

25. Fiscal consolidation since the global economic crisis that began a decade ago is still affecting many public administrations, requiring them to do more with less and ultimately causing labour policies to suffer owing to a loss of analytical capacity. There are, however, some cases where there has been a sharp increase in the use of information and communications technology in labour administrations. In Ireland and Spain, for example, online resources have been developed that enable managers of small and medium-sized enterprises (SMEs) to evaluate occupational safety and health (OSH) risks.

2.1.2. Employers' organizations

26. In representing employers' and business interests in social dialogue arrangements at varying levels – national, sectoral and enterprise – employers' and other business organizations⁴ have for some time been guided by two considerations: the value of maintaining social dialogue at the national level, and that of managing industrial relations closer to the enterprise level. Many of the following examples reflect these considerations.

27. Employers' organizations have always been concerned with key issues of labour market regulation and performance, but the changing world of work has made regulatory reform and innovation critical to enabling businesses to stay competitive. Broader business environment issues, including taxation, infrastructure, access to credit and the fight against corruption, increasingly appear on these organizations' policy agendas, given the increasing integration of the labour and product market interests of member companies or the notable expansion of the organizations' functions (or a mix of the two). Growing alliances between employers' associations and chambers of commerce or industry associations have also contributed to more comprehensive coverage and coordination of the wider business agenda, as has happened, for example, in India and Zambia.⁵

28. One of the most important priorities of employers' organizations is the development of regulatory frameworks and labour law reforms to enable businesses to provide incentives to invest and create jobs. The focus varies from creating basic conditions to support a market economy (Myanmar, for example) to more advanced efforts to make employment and industrial relations systems more attuned to changing production and work requirements (India and Viet Nam).

29. In Western Europe, employers' organizations are giving priority to decentralizing collective bargaining in order to respond to the increased competitive needs of their members to adapt their own structures to remain cost-effective and to provide new (increasingly Internet-based) services. In Eastern Europe, priorities are regulatory reform and addressing the exodus of skilled workers and the skills shortage. In southern Europe, the main challenges are to re-establish functioning social dialogue and to provide services that help members to regain competitiveness. In Central Asia, employers' organizations

³ J. Heyes and L. Rychly: *Labour administration in uncertain times: Policy, practice and institutions* (Geneva, ILO, 2013).

⁴ The term "employers' organizations" is used in this report to mean both employers' organizations and other business organizations.

⁵ See "Business advocacy plan unveiled", in *The Zambia Daily Mail Limited*, 12 Sep. 2014; and ILO: *Creating private sector alliance in Zambia: Case study* (Geneva, forthcoming).

are still struggling to assert their independence and role as a social partner. Policy priorities for employers in Asia and the Pacific reflect strategies to leverage the region's strong economic growth of the last few decades by creating conditions to promote free trade and the mobility of skills, and to encourage productivity, technology and innovation.

30. In Africa and in the Americas, as in developing countries in Asia, one of the biggest challenges is the large informal economy. Meanwhile, a permanent feature in all regions (to varying degrees) is what could be called the skills conundrum, encompassing the brain drain, the education–labour market mismatch, the effectiveness of education and training institutions, migration policies and the impact of technology.

31. There is no evidence that the trend towards mergers among employers' and economic organizations described in the report for the 2013 recurrent discussion on social dialogue (paragraph 58) has endured since 2013, and no significant mergers are planned. The most notable trend reported by field specialists from the ILO's Bureau for Employers' Activities (ACT/EMP) is that employers' organizations are increasing their efforts to expand locally and reach out to SMEs. The expansion of mandates and functions to include wider business issues is becoming more prevalent, as in Indonesia and Myanmar.⁶ Based on academic sources and ILO surveys, the membership levels of employers' organizations seem to have remained stable. There have been no significant changes in regional arrangements representing employers' and business interests.

32. There are wide regional differences in the representation of employers' and business interests in social dialogue arrangements. In Asia, social dialogue exists in most countries to varying degrees of quality and frequency. Employers' organizations generally recognize its value and often participate in tripartite forums, but often question the effectiveness of such forums and, particularly, their effect on policy. Many favour shifting dialogue to the enterprise level, where possible, given the expected productivity and sustainability gains. In some parts of Central Asia and Eastern Europe, employers tend to see social dialogue as a largely vocal commitment, evolving out of the absence of a tradition of bottom-up dialogue and out of an environment where employers' representatives have been strongly influenced or directly appointed by governments. Where social dialogue exists, outcomes are rarely enforced, and the agreements are of a declarative nature.

33. Some Western European employers' organizations have challenged the usefulness of centralized tripartite social dialogue in a crisis context and have withdrawn or significantly limited their participation (Ireland and Spain, for example). The decentralization of collective bargaining has been accompanied by a change in the direct involvement of employers' organizations in collective bargaining, which has been diminishing in countries such as Bulgaria, Slovakia and Slovenia.⁷

34. In Central and Eastern Europe, employers' organizations are keen to participate in social dialogue at the national level, seeing it as one of the few avenues to influence legislation and policy. There are greater difficulties at the regional and local levels, where in most countries employers' organizations are poorly represented.

35. In most countries in the northern African subregion, employers' organizations participate in tripartite or bipartite social dialogue at the national level. Company-level dialogue and bargaining depend on the existence of a trade union. In southern Africa, national social dialogue structures exist, although quality varies. Employers' organizations

⁶ See, for example: <http://apindo.or.id/en/fta/indonesia-korea-cepa/latar-belakang>.

⁷ See J. Visser: "What happened to collective bargaining during the great recession?", in *IZA Journal of Labour Policy* (2016, Vol. 5, No. 9, May).

have participated in well-resourced structures that seem to work well, such as the National Economic Development and Labour Council in South Africa.

36. In almost all Andean countries, social dialogue exists at the national and sectoral levels but it is weak and often ineffective, with exceptions perhaps in Ecuador, Peru and Colombia. Employers' organizations prioritize negotiations at the company level. In the rest of Latin America, they are reportedly involved in relatively well-functioning tripartite dialogue structures (Chile, Colombia, Costa Rica and Paraguay).

37. Employers' organizations are also active in the tripartite boards of social security systems (for pension funds, health insurance, unemployment benefits, wage guarantee funds, and so on) in most countries. They participate in supervising these funds' operations alongside representatives of government and workers.

2.1.3. Workers' organizations

38. The pressures on workers' organizations identified in the report for the 2013 recurrent discussion on social dialogue and in the report for the 2017 recurrent discussion on fundamental principles and rights at work ⁸ have persisted or even intensified since 2013. These include: serious violations of freedom of association and limits to workers' effective access to trade union rights; a tendency towards negotiating working conditions at the enterprise level where unions might not be present; informality and rising unemployment in some countries, especially among young people; the fall of the labour share of national income; and the decoupling of wages from rising productivity. Trade unions increasingly face a situation where they have to coordinate among themselves, organize and represent hard-to-organize and precarious workers, and maintain their bargaining power.

39. The union movement also regards the certain impact of digitalization and the expansion of gig jobs with concern, urging governments and employers' organizations to examine how they are adapting to these trends, including through adequate regulation and collective bargaining. The fragmentation of workplaces as a result of technological developments and new business models tends to dilute the traditional employment relationship in which the employer and the employee were both physically present in the same workplace. In this changing landscape of workplaces across the world, unions are called upon to reconsider how to organize and represent workers. ⁹

40. Yet some promising developments have been recorded since 2013. Largely owing to trade union action, the ILO has registered three new ratifications of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); three new ratifications of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and six new ratifications of the Labour Relations (Public Service) Convention, 1978 (No. 151). While ratifications are not enough in themselves, the reforms undertaken by a few countries are welcome, not least because they open collective bargaining mechanisms to some categories of self-employed workers (Ireland) or facilitate the capacity of unions to bargain collectively in sectors employing a high proportion of workers in non-standard forms of employment (box 2.1). In multiple countries and

⁸ ILO: *Fundamental principles and rights at work: From challenges to opportunities: A recurrent discussion on the strategic objective of fundamental principles and rights at work, under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report VI, International Labour Conference, 106th Session, Geneva, 2017, p. 6, paras 14–17.

⁹ ILO: *Synthesis Report of the National Dialogues on the Future of Work* (Geneva, 2017), pp. 61–64.

territories, trade unions have, since 2013, formulated and proposed amendments to draft labour codes, bringing them into line with international labour standards.¹⁰

Box 2.1

Examples of good practices in organizing and representing workers in non-standard forms of employment

The world of work has seen continuous evolution, including the growth of diverse forms of employment and contractual arrangements in labour markets across the world. Non-standard forms of employment have always existed and may serve specific purposes such as for use in seasonal industries, to replace temporarily absent workers, or to offer options for balancing work and private life. Non-standard forms of employment have assisted business adaptability and growth, as well as increasing labour market participation. They include, among others, fixed-term contracts and other forms of temporary work, temporary agency work and other contractual arrangements involving multiple parties, dependent self-employment and part-time work.

However, the expansion of non-standard forms of employment means that more people may not be covered by labour legislation. Overall numbers are hard to come by, but the average use of temporary employees in registered private sector firms in 150 countries is 11 per cent. Casual work, which is the engagement of workers on an occasional and intermittent basis, for a specific number of hours, days or weeks, in return for a wage dictated by the terms of a daily or periodic work agreement, is a prominent feature of labour markets in developing countries: in India, nearly two-thirds of wage employment is casual.

Unions globally continue to organize new groups of workers, increase the coverage of collective agreements and create new services for their members, for example in the informal economy (the Plurinational State of Bolivia, Colombia, the Dominican Republic, Ecuador, Guatemala and the Republic of Moldova); domestic work (Botswana and the United Republic of Tanzania); tourism and garments (Bangladesh); construction (Jordan); and in export processing zones (EPZs) (Ethiopia and the United Republic of Tanzania). For female workers, unions have promoted the greater participation of women, as seen in several Latin American countries.

One of the key priorities for unions is to negotiate the regularization of employment (examples of successful negotiations include agreements reached in Colombia and India), or to agree a time limit after which a worker is no longer considered as temporary and becomes a “standard” employee (successful agreements along these lines have been concluded in Canada, New Zealand, the Philippines and South Africa). Other strategies may include establishing limits on the duration of temporary contracts (Belgium, France, South Africa and Sweden). In some cases (Colombia, Germany, South Africa), social partners have negotiated limits on the proportion of the workforce that may be temporary or subcontracted, and negotiated labour clauses that require subcontractors to apply the same terms of employment. Social partners have also successfully negotiated issues related to the scheduling of hours and guaranteeing a minimum number of hours in Canada, Ireland and New Zealand.

Ireland recently adopted the Competition (Amendment) Act 2017, which restored collective bargaining rights to freelance workers in the arts, culture and media sectors, including voice-over actors and session musicians working on a self-employed or contract-for-services basis. From 2004, the original Competition Act had prohibited collective bargaining for these groups.

Source: ILO: *Conclusions of the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 16–19 Feb. 2015); ILO: *Non-standard employment around the world: Understanding challenges, shaping prospects* (Geneva, 2016).

¹⁰ Such as Azerbaijan, Chile, Colombia, Egypt, Georgia, India, Iraq, Lesotho, Mali, the Republic of Moldova, Mongolia, Nepal, the Occupied Palestinian Territory, the Philippines, Thailand, Swaziland and Zambia.

41. Workers' organizations have enhanced social dialogue on a range of topics, from traditional socio-economic issues such as working conditions and employment to formalizing the informal economy, labour migration and sustainable development. Unions have been active in establishing tripartite employment councils or similar institutions.¹¹

42. The international trade union movement has further expanded its transnational organizing and advocacy activity in respect of key socio-economic issues, including migration. Although organizing unions at the regional or cross-border levels is still difficult, public inter-state initiatives – for instance in the context of regional integration arrangements, intergovernmental groupings and public or private cross-border initiatives – have provided opportunities for channelling workers' views, again with varying degrees of impact. Since the establishment of a mechanism for dialogue in 2002, high-level meetings between trade unions – under the leadership of the International Trade Union Confederation (ITUC) and global unions – and the Washington, DC-based international financial institutions have been held every two years.

2.2. Labour law reforms and dispute prevention and resolution

2.2.1. Labour law reforms: global trends and selected examples by region

43. Since 2013, ILO member States have reconsidered aspects of their laws with the aim of reshaping industrial relations settings, often consulting with the social partners.

44. Success has been varied. In developing countries, reforms have generally improved frameworks. In some industrialized countries, however, reforms have gone the other way, restricting both the scope of social dialogue and collective bargaining at the national and sectoral levels and the likelihood of legally extending collective agreements sector-wide, while emphasizing social dialogue at the enterprise level. This pattern was observed in countries with structural adjustment and fiscal consolidation policies, including countries with otherwise strong traditions of national and sectoral bargaining.

45. In Africa, notably in South Africa, labour law reforms have underscored the importance of ensuring tripartite consultations.¹² In the Americas, Chile, Panama, Saint Lucia, and Trinidad and Tobago have taken steps to advance their labour laws, in some cases further to tripartite consultations. In Asia and the Pacific, Guangdong Province, China (2014), India (2014), Kiribati (2015), the Lao People's Democratic Republic (2014), Pakistan (Balochistan Province, 2015) and Samoa (2013) have improved their legal frameworks.

46. In the Arab States region, some countries have established laws that limit the rights to freedom of association and collective bargaining. A lack of recognition of these fundamental rights remains a major challenge to the development of social dialogue and tripartism.¹³ However, Iraq (with a new labour law adopted in 2015 and endorsement of the ratification of Convention No. 87 by Parliament in 2017) and Oman (with regulating procedures for trade union formation and registration in the private sector adopted in 2014)

¹¹ In, for example, Ghana, Morocco, South Africa, the United Republic of Tanzania and Tunisia.

¹² E. Webster, K. Joynt and A. Metcalfe: *Repositioning peak-level social dialogue in South Africa: NEDLAC into the future* (Johannesburg, National Economic Development and Labour Council, 2013).

¹³ Only three countries in the region have ratified Convention No. 87 (Kuwait, Syrian Arab Republic and Yemen), while six have ratified Convention No. 98 (Iraq, Jordan, Kuwait, Lebanon, Syrian Arab Republic and Yemen).

provide good examples of progress. The Occupied Palestinian Territory faces major gaps in its legal and institutional framework, in spite of the establishment of a Tripartite National Team for Labour Law Reform in 2015 with ILO support. In late 2016, the Palestinian Authority identified labour law reform as a priority in its National Policy Agenda for 2017–22.

47. In Europe and Central Asia, some EU Member States have modified legislation aimed at decentralizing collective bargaining from the industry to the company level. In Greece in 2014, with ILO facilitation, a high-level tripartite meeting led to a consensus on several aspects of the labour law reforms proposed as part of the bailout agreement with the troika of creditors (the European Commission, the European Central Bank and the International Monetary Fund (IMF)). In the Central and Eastern European subregion, the development of social dialogue has been hampered by continuing high unemployment and the decline or stagnation of wages and social benefits after the global economic crisis, although Albania provides a positive counterexample. The development, with ILO support, of a labour legislation database for the subregion (CEElex), which covers 13 countries and became operational in 2017, has contributed to informing technical advisory services and support in the subregion, notably in the Republic of Moldova, Serbia and Ukraine.

2.2.2. Dispute prevention and resolution

48. Individual or collective disputes¹⁴ over working conditions, wages and the non-observance of labour laws can occur in a work relationship. Mechanisms to prevent and resolve conflict and disputes are therefore necessary to promote sound industrial relations. Effective social dialogue is both a product of, and a prerequisite for, sustainable labour dispute settlement systems.

49. Recent research by the Office shows that member States face myriad challenges to establishing and maintaining fair, effective and sustainable individual dispute resolution systems.¹⁵ Legal frameworks may be unclear or inconsistent. Multiple mechanisms may create jurisdictional uncertainty and overlap. And those who are not in an employment relationship, or whose employment status is unclear, may be excluded.

50. Access to such mechanisms can be constrained by procedural complexity, institutional disconnects or lengthy procedures. Effectiveness is weakened where there is insufficient adherence to, or enforcement of, outcomes. Limited geographical coverage is a common challenge in resource-scarce jurisdictions. Some countries have responded by streamlining institutions; establishing procedural connections or institutional coordination; or introducing adjudication, alternative dispute resolution and enforcement functions. There is also a growing emphasis on information, advice and education services. Some countries have introduced or improved case management systems.

51. Voluntary prevention and settlement of disputes helps secure workers' rights, while contributing to business productivity and reducing the burden on publicly-funded mechanisms. Collective voice mechanisms are more likely to facilitate access to voluntary dispute settlement mechanisms that are informal and cost-effective. Thus, workers who

¹⁴ An individual dispute is a disagreement between a single worker and his or her employer, usually over existing rights. It can also include situations in which a number of workers disagree with their employer over the same issue, but where each worker acts as an individual. A collective dispute is a disagreement between a group of workers usually, but not necessarily, represented by a trade union, and an employer or group of employers over existing rights or future interests (see International Training Centre of the ILO: *Labour dispute systems: Guidelines for improved performance* (Turin, 2013), p. 18.)

¹⁵ See M. Ebisui, S. Cooney and C. Fenwick (eds): *Resolving individual labour disputes: A comparative overview* (Geneva, ILO, 2016).

are freely able to form and join trade unions are more likely to have access to effective and rapid mechanisms to prevent and settle labour disputes.

52. Many countries have put greater emphasis on the conciliation and mediation of disputes, including within judicial procedures. This enables the early and informal resolution of disputes, thus increasing access and efficiency. While arbitration is available in some jurisdictions, its use is uncommon. Private arbitration provided for in employment contracts is rarely used, but not unknown. Specialized labour courts or tribunals, within either judicial or administrative structures, can ensure expertise. They are also less formal, less costly and more accessible than the general courts.

53. Trade unions, public institutions and private actors may offer free legal aid and representation. States are increasingly adopting proactive and targeted approaches to reach out to and empower those in need of these services, particularly workers in vulnerable situations.

54. Ensuring quality processes and outcomes remains a challenge. A lack of impartiality, of adequate resources and of independence is common. Tripartite or multi-stakeholder frameworks to oversee institutions and processes depend on stakeholders' capacity, independence and legitimacy, but quality may be impaired if dispute resolution practitioners, including the social partners, have limited capacity, knowledge or skills.

2.3. Peak-level tripartite social dialogue

55. Social dialogue at the national level – in other words, at the peak level – takes a variety of forms, mechanisms and names, including tripartite labour councils, national councils for social dialogue and economic and social councils (ESCs) and similar institutions. It can be institutionalized, with an overall or thematic scope (such as specialized wage-setting bodies), or may take place on ad hoc basis, such as when dialogue among tripartite partners is needed in the face of economic shocks. Peak-level social dialogue can lead to the conclusion of a social pact or tripartite agreement.

56. Beyond helping to generate consensus and negotiated proposals for economic, social and labour policies, peak-level social dialogue mechanisms can also help to ensure smooth transitions at key moments, for instance, at the end of authoritarian regimes, in the transition from centrally planned to market economies, during major technological shifts such as digitization, and when attending to the needs of certain regions and territories (box 2.2).

Box 2.2 **Renewed interest in local social dialogue**

A trend is emerging in many countries towards institutionalizing or strengthening social dialogue at the local level, which involves local public authorities, employers' and workers' organizations, and other stakeholders.¹ This trend is the result of factors linked to globalization and the changing organization of production systems, the decentralization of industrial relations systems, and the strengthening of local economic development policies by bodies such as the Organisation for Economic Co-operation and Development (OECD) and the World Bank.

A renewed interest in local social dialogue as a factor for building social cohesion has been particularly evident in Central and Eastern Europe. In Western Europe, pressure on national level social dialogue during the global economic crisis accelerated this trend in several countries. In Latin America, several countries, including Argentina, Brazil and Mexico, have recently expressed an interest in it. In China, too, the tripartite

state council of Shanghai issued an opinion in 2015 to promote tripartism and enhance harmonious employment relations.²

¹ See ILO: *What future for decent work in Europe and Central Asia: Opportunities and challenges*, Report of the Director-General, Tenth European Regional Meeting, Istanbul, Turkey, 2–5 Oct. 2017 (Geneva, 2017).

² See: *Improving employees' rights in China*, Shibolet and Co., at <http://www.shibolet.com/china-employment-relations/>.

2.3.1. Key data

57. Of the ILO's 187 member States, 161 (85 per cent) have national social dialogue institutions, not counting the mechanisms of social dialogue that focus on specific subjects.¹⁶

58. The number of social dialogue institutions and mechanisms has historically been lifted by the promotion and ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).¹⁷ As of July 2017, the Convention had been ratified by 139 countries – six since 2013, namely Comoros, Morocco, Panama, the Russian Federation, Tajikistan and Tunisia – or cumulatively, some 75 per cent of ILO member States.¹⁸ The region of Europe and Central Asia has the highest number of ratifications (88 per cent), followed by the Americas (86 per cent), Africa (74 per cent), Asia and the Pacific (55 per cent) and the Middle East (40 per cent).

59. Among the 48 member States that have not yet ratified Convention No. 144, 25 have initiated the process of ratification or have declared interest in doing so, in particular through their requests for ILO technical assistance.

60. To put the above data in context, it should be noted that, as has been the case in Germany, the absence of a formal structure for national tripartite social dialogue does not necessarily mean the absence of tripartite consultation and cooperation processes between governments and the social partners. Conversely, the existence of such structures does not always mean that they are fully operational, nor that the proper modalities and prerequisites are in place. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) considers incompatible with Convention No. 144, and with social dialogue more generally, practices such as the exclusion of the most representative employers' and workers' organizations, the lack of political will to give full effect to the Convention, and tripartite consultations held at unreasonably short notice or after decisions are taken.

2.3.2. Challenges and opportunities by region

Europe and Central Asia

61. The report for the 2013 recurrent discussion on social dialogue noted the fact that, after positive experiences with national tripartite social dialogue in the early stages of the global economic crisis, the European countries dealing with a sovereign debt emergency turned to non-negotiable austerity policies, short-circuiting social dialogue. In the most

¹⁶ ILO: *Towards the universal ratification of Convention No. 144 on Tripartite Consultation by the ILO centenary in 2019* (Geneva, 2017).

¹⁷ As stated in the report of the recurrent discussion on social dialogue at the 102nd Session (2013) of the Conference (para. 24): "Social dialogue is embedded in practically all ILO Conventions and Recommendations and in the Decent Work Agenda. Such instruments cannot become fully operational without effective social dialogue, as many provisions in the Conventions explicitly require consultations with the social partners to ensure their implementation."

¹⁸ Europe and Central Asia is also the only region in which all ILO member States have ratified all eight of the fundamental Conventions, and has a high ratification rate of the four governance Conventions – roughly 84 per cent.

severe cases, where access to social dialogue was cut, the unions either appealed to the courts (Latvia, Romania and the United Kingdom) or submitted comments to the ILO supervisory bodies concerning violations of ratified Conventions (Greece and Romania). A few EU Member States hit by the crisis pursued social dialogue (Finland and France, for example).

62. The ILO identified 2013 as the year when the global economic crisis finally subsided, although since then unemployment has remained high in Greece and Spain. Of the eight EU countries that received international financial assistance after 2010, only Greece has still to graduate from a lending programme (the third economic adjustment programme for Greece runs until mid-2018).¹⁹

63. Since the global economic crisis, four different scenarios for social dialogue have arisen among EU countries. In the first, social dialogue has even been strengthened, as is the case, for example, in France, Germany, the Netherlands, Slovakia and Sweden. The second is one of discontinuity, as seen mainly in Hungary, Ireland, Italy, Romania, Spain and, to a lesser extent, Greece. In the third, social dialogue weakened during the crisis, but still delivered policy outcomes and has been revived in the post-crisis period, as in Belgium, Lithuania, Portugal and Slovenia. Finland stands alone in the fourth scenario, in which continuity of social dialogue during the crisis was followed by discontinuity in its aftermath, with a change of government in 2015.

64. Other patterns, too, stand out. First, there has been a more prominent role for peak-level bipartite social dialogue (with or without tripartism) in, for instance, Belgium, France, Ireland, Slovakia, Slovenia and Spain. Second, greater focus has been placed on the process of social dialogue, rather than simply the signing of a social pact or agreement, as observed in France, Germany and Slovakia, among others. In Germany, ad hoc, non-formalized social dialogue has been very effective in providing responses to the challenges posed by the economic context and in designing balanced reforms limiting the growth of inequalities (for example, through the negotiation of reduced working time to avoid layoffs during the global economic crisis).²⁰ Third, in cases where tripartite social dialogue has been discontinued, one way of restoring trust between the social partners and government has been to sign narrow agreements on specific issues, as has happened in Greece²¹ and Spain. Finally, new social dialogue institutions have been created in Lithuania, Poland and Slovakia, and in the State of Brandenburg in eastern Germany.²²

65. In Central and Eastern Europe, tripartite partners have frequently reached a stalemate in national social dialogue processes, which has led them to request ILO technical advice to corroborate and sometimes to validate their positions. Since 2013, national social dialogue institutions have been reinforced in the former Yugoslav Republic of Macedonia, Montenegro and Serbia. In Montenegro and Serbia, technical secretariats have been established. In Georgia, a tripartite social partnership commission was established by law

¹⁹ See O. Molina and I. Guardiancich: “Comparative overview: National trajectories and good practices in social dialogue”, in I. Guardiancich and O. Molina (eds): *Talking through the crisis: Social dialogue and industrial relations trends in selected EU countries* (Geneva, ILO, 2017), pp. 1–57.

²⁰ See D. Vaughan-Whitehead (ed.): “Curbing inequalities in Europe: How can social dialogue and industrial relations help to close the gap?”, in D. Vaughan-Whitehead: *Inequalities and the world of work: What role for industrial relations and social dialogue?* (Geneva, ILO and Edward Elgar, 2017).

²¹ For example, a memorandum of understanding on tackling work in the informal economy was signed between the Greek authorities and the European Commission in 2015. See ILO: “Transition to formality: The critical role of social dialogue” in *Dialogue in brief*, Issue No. 1, Mar. 2017.

²² For information about the new labour market councils in Poland, see Eurofound: *Poland: New tripartite bodies begin operations* (Dublin, Eurofound, 2015).

in 2013. In Azerbaijan, the joint efforts of the ILO and the tripartite constituents since 2013 to institutionalize a national tripartite social dialogue mechanism led to the creation of a national tripartite commission on economic and social affairs in September 2016. In Tajikistan and Uzbekistan, trade unions have modernized their education systems and taken part in tripartite activities facilitated by the ILO. The social partners in Uzbekistan concluded a tripartite general socio-economic agreement for 2014–16.²³

The Americas

66. In Latin America, institutions in too many countries are not meeting regularly and agreements, if any, are not being properly implemented. Significant social conflict and high levels of distrust of government, public institutions and between sectors are characteristic of several countries of the region.²⁴ The practice of social dialogue for the prevention or reduction of social conflict is not always well institutionalized. In addition, workers' and employers' organizations have repeatedly stated that acts of violence against their members have weakened industrial relations systems. Latin America and the Caribbean is the region with the most complaints before the ILO Committee on Freedom of Association.

67. Still, progress has been made in several Latin American countries: for example, in Costa Rica, the Procedural Labour Act was adopted in 2016, providing for fast-track proceedings in cases of anti-union discrimination. In Chile, a 2017 law modernizing the industrial relations system provides for the establishment of a tripartite superior labour council. In Mexico, the National Productivity Commission, which was set up in 2013, has identified national strategies for raising productivity in eight sectors.

68. National tripartite consultations in several countries have led to the adoption of social pacts that address policy issues such as the environment (Costa Rica), informality (also Costa Rica) and working conditions (Nicaragua). In the Dominican Republic, the National Employment Commission – a tripartite body enabling inter-institutional coordination under the leadership of the Ministry of Labour – approved a National Employment Plan, launched in October 2014. In Nicaragua, a tripartite agreement on labour and production stability in EPZs was concluded in 2013. In force since January 2014, it emphasizes the importance of social dialogue and of training workers.

Africa

69. In 2015, the Nobel Peace Prize was awarded to Tunisia's National Dialogue Quartet, which consists of tripartite constituents among others, "for its decisive contribution to the building of a pluralistic democracy in Tunisia in the wake of the Jasmine Revolution of 2011".²⁵ One of the outcomes of national social dialogue in Tunisia has been the signing of a social contract in 2013, which has helped prevent a serious political and social crisis, which could have escalated into civil war after the revolution. As provided by the social contract, a law on the establishment of the National Council for Social Dialogue was adopted in 2017 by the Assembly of the Representatives of the People. Another outcome of national social dialogue was the brokerage of a new Constitution, adopted in January 2014, which guarantees fundamental workers' rights.

²³ See ILO: *What future for decent work in Europe and Central Asia: Opportunities and challenges*, Report of the Director-General, Tenth European Regional Meeting, Istanbul, Turkey, 2–5 Oct. 2017 (Geneva, 2017); and ILO: *Decent Work Country Programme of the Republic of Uzbekistan for 2014-2016* (Geneva, 2017).

²⁴ ILO: *2016 Labour Overview: Latin America and the Caribbean* (Lima, 2016), p. 63.

²⁵ ILO: *ILO Director-General welcomes Nobel Peace Prize for Tunisian National Dialogue Quartet* (Geneva, 2015).

70. Since 2013, several countries have created tripartite social dialogue bodies, including Burkina Faso and Cameroon. As of 2015, such mechanisms had been set up in nearly 40 African countries.²⁶ Several social pacts have been signed as means to enhance stability and peace. In Benin, a National Council for Social Dialogue was established in 2016. The Governments of Senegal and Togo increased the budgets of their national institutions for tripartite social dialogue in 2016. Institutions were strengthened in Côte d'Ivoire (2015) and Guinea (2016). In May 2017, the national institutions for tripartite social dialogue of 11 countries adopted a declaration on strengthening the role and impact of national social dialogue institutions (the Abidjan Declaration).

71. Challenges persist, however, often tied to the lack of resources and capacity of actors, weak administrative support and a lack of political will for implementing agreements. For instance, the Tripartite Labour Advisory Council of Malawi, owing to a lack of financial resources, did not meet at all between 2009 and August 2016 (a meeting was held in September 2016 with support from the ILO). Swaziland and Zimbabwe have faced institutional and legislative challenges in fulfilling their mandate. In some other countries, national tripartite social dialogue institutions have been considered ineffective and so have been dismantled (Mauritius, 2015) or are under such threat. Benin saw proposals – though not approved – to amend its Constitution that included dismantling its Economic and Social Council. The Governments of Botswana and Zambia were said to be bypassing social dialogue when the social partners disagreed with some of the legislative amendments they proposed in 2016 and 2015, respectively. In South Africa, although the National Economic Development and Labour Council has played a key role in amending and adopting several acts since 2013, the process has at times been criticized.²⁷

72. In many countries in francophone Africa, tripartite institutions struggled to foresee and resolve labour conflicts affecting public administrations and services in the period 2015–17. However, when they were granted a clear mandate and resources, these institutions helped the government and social partners to address external shocks. Chad's National Commission for Social Dialogue brokered an agreement in 2017 between the Government and public sector unions that helped to end a three-month strike in public services and to mitigate the impact of the oil-price crisis. The tasks of the High Council for Labour Relations in Senegal and the High Council for Social Dialogue in Burkina Faso – the national institutions for tripartite social dialogue in those countries – were strengthened in 2014 and 2017, respectively, to include preventing and settling major labour disputes and enhancing peace and stability.

73. Pacts for economic and social development were signed by the tripartite partners in Benin in 2016, Cabo Verde in 2017 and Senegal in 2014.

Asia and the Pacific

74. The Asia and the Pacific region lags behind on ratifying key social dialogue-related ILO Conventions, including the eight fundamental Conventions (notably Conventions Nos 87 and 98) and the four governance Conventions. With a substantial proportion of the workforce in the region's developing countries being informally employed, workers face legal and practical barriers to organizing themselves.

75. Since 2013, further progress has been made in establishing legal and institutional frameworks in some countries. In China, tripartite constituents have adopted policy

²⁶ ILO: *Towards inclusive and sustainable development in Africa through decent work*, Report of the Director-General, 13th African Regional Meeting, Addis Ababa, Ethiopia, 30 Nov.–3 Dec. 2015 (Geneva, 2015).

²⁷ See E. Webster, K. Joynt and A. Metcalfe, *op. cit.*

documents aimed at promoting and strengthening collective bargaining, especially at the sectoral level, with greater focus on the qualitative aspects of collective agreements. In Guangdong Province, a landmark regulation on collective contracts for enterprises, in force since January 2015, includes the right of workers to bargain collectively and the obligation of employers to engage in good faith; procedures to promote workers' representation; and provisions for resolving disputes in collective bargaining. In Bangladesh, the National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Garment Sector was adopted in the aftermath of the Rana Plaza disaster of April 2013. In the Republic of Korea, there are new prospects for the ratification of the freedom of association and collective bargaining Conventions. New government policies are expected to restore trust and improve social dialogue and industrial relations environment. In Japan, deep disagreements among the tripartite partners have prevented a consensus from being reached in the Labour Policy Council on a draft bill to equalize pay between permanent and temporary staff, and to better regulate working time.

76. Efforts to strengthen workers' representation and establish conditions for sound social dialogue have been noted in, for example, Myanmar, where following a complaint to the ILO and a Commission of Inquiry, the Government amended the relevant legislation and formally recognized unions. Hundreds of unions have since been formed. Several unions have agreed on how they will represent the country at upcoming sessions of the International Labour Conference.²⁸

77. Tripartite wage bodies and legal frameworks for them have been established in Viet Nam (2012) and Myanmar (2013). Notable progress has been made in strengthening tripartite wage-setting mechanisms in Cambodia, Malaysia and Singapore (see also section on "Wages").

78. In the Arab States in Asia, the expansion of social dialogue has been slow. Where it exists, it has not been fully institutionalized or sustained.²⁹ The few existing social dialogue institutions, for example in Jordan and Lebanon, play a limited role in the governance of the labour market. In some other countries, the basic conditions for social dialogue are still absent.

79. Yet there are examples of progress. In Oman, a tripartite committee to review labour legislation was established in 2014 and meets every quarter. In Iraq, extensive tripartite discussions on the new labour law took place before it was adopted in 2015. In the Occupied Palestinian Territory, after three years of ILO-supported deliberations and assistance to the tripartite national committee on social security, the first social security law for private sector workers was adopted in 2016.³⁰ In late 2017, Lebanon's Council of Ministers reactivated its Economic and Social Council and appointed 71 new members, 15 years after the expiry of the old members' mandate.

2.3.3. Challenges and opportunities by cluster

Employment policy

80. Ratified by 111 ILO member States as of July 2017, the Employment Policy Convention, 1964 (No. 122), is one of the four governance Conventions. It calls for social

²⁸ ILO: *Building an inclusive future with decent work: Towards sustainable development in Asia and the Pacific*, Report of the Director-General, 16th Asia and the Pacific Regional Meeting, Bali, Indonesia, 6–9 Dec. 2016 (Geneva, 2016), p. 36.

²⁹ ILO: *Rethinking economic growth: Towards productive and inclusive Arab societies* (Beirut, 2012).

³⁰ ILO: *The situation of workers of the occupied Arab territories*, Report of the Director-General, Appendix, International Labour Conference, 106th Session, Geneva, 2017.

dialogue as a key component in developing and implementing an active national employment policy to promote full, productive and freely chosen employment.

81. The social partners have not only participated in debates leading to the design of employment and labour market policies; they have also been consulted on these policies' implementation and monitoring. In some countries, they formally sit within the institutional frameworks for policy coordination, as in Argentina, Brazil, China, Germany and the Republic of Korea, where the agencies implementing these policies are tripartite; or in the Netherlands and Singapore, where tripartism is key for addressing broader socio-economic issues.

82. Since 2013, some countries (including the Dominican Republic, the Islamic Republic of Iran, Panama, the Philippines, Poland and Tajikistan) have created mechanisms specifically for social dialogue on social and economic policies. Others have engaged in inclusive consultations on such policies at the national level (including Barbados, Ireland, the Republic of Moldova and Mozambique), or at the local level (China, Colombia, Morocco and Serbia). In other cases, measures have involved a range of stakeholders, including minorities and vulnerable groups (Cambodia, Ecuador and Papua New Guinea). Aware of the information and legitimacy gains generated by broad-based consultations, ministries of labour in at least 16 countries and territories have, since 2013, opted for steering or technical committees encompassing other ministries and government agencies as well as social partners.

83. From 2013 to June 2017, 33 national youth policies or national action plans on youth employment were adopted in Europe. In a fair number of cases, youth and civil society bodies and employers' and workers' organizations were involved in the adoption process. Also, social partners were involved in the process of adopting the national Youth Guarantee implementation plans in, for instance, Bulgaria, Cyprus and Germany. In some other countries, however, social dialogue in the context of the Youth Guarantee was seen as a formality and tended to be cursory.

Skills

84. Article 5 of the Human Resources Development Convention, 1975 (No. 142) – ratified by 68 ILO member States by July 2017 – calls for consultations with social partners in developing vocational training programmes. Hungary and the Netherlands provide examples of an inclusive approach in that regard. Since 2013, social partners have taken part in formulating guidelines, a policy and a framework in, respectively, Malawi, Sudan and the United Republic of Tanzania. The social partners have continued to participate in national tripartite technical and vocational education boards and in training bodies charged with developing policies and programmes – and have continued to supervise the implementation of such policies and programmes – in, for example Bangladesh, Costa Rica and the United Republic of Tanzania.

Wages

85. In line with the ILO Conventions and Recommendations on minimum wages, employers' and workers' organizations have, since 2013, continued to take part in policy processes in several countries in all regions to establish and adjust minimum wages. A relatively robust form of tripartism is reflected in the minimum wage-fixing systems of, for example, Malaysia, Singapore and Viet Nam. In 2016, Sri Lanka took its first steps towards establishing such a mechanism, with ILO support.

86. In Cabo Verde, tripartism played a role in the introduction of the country's first minimum wage in January 2014. In South Africa, tripartism has been fundamental for the planned introduction of a new wage policy in 2018, which includes collective bargaining

and a nationwide minimum wage policy. In Uruguay, tripartism has led to the extension of minimum wages to domestic workers in April 2016. This was preceded by the ratification, in June 2012, of the Domestic Workers Convention, 2011 (No. 189), which was in itself a significant achievement of tripartite dialogue in the country.

87. In Mexico, tripartism has played a fundamental role in the development of a process to use the minimum wage as a tool against working poverty and to reduce the growth in income inequality of the past two decades. After a lengthy process of dialogue and negotiations that started in 2012 between the members of the tripartite national minimum wage commission, the minimum wage in Mexico has increased in real terms by about 7 per cent since 2012, in contrast to the lack of growth since the late 1990s.

Labour inspection and OSH

88. The Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), call for social dialogue to promote labour inspection policies enforcing labour laws and minimizing workplace risks. Both Conventions are key tools for implementing Goal 8 of the SDGs. Since 2013, subcommittees of national tripartite labour councils, OSH councils and ad hoc policy-specific sessions of other bodies have increasingly served as platforms for sharing information on technical, policy and legal matters. In many European countries, specialized tripartite structures on labour inspection have ensured such information sharing. Collaboration between labour inspectorates and social partners is also achieved through ad hoc tripartite agreements on OSH matters, as in Bangladesh, Portugal and Slovakia.

89. Tripartite cooperation is frequent at the sectoral level to provide guidance to labour inspectorates on addressing industry-specific issues. Collaboration between labour inspectors, workers, employers and their organizations also took the form of direct collaboration with workplace safety committees. In Morocco, for instance, since 2014, enterprises with at least 50 workers have been required to organize bipartite OSH committees and share reports on work-related accidents and diseases with the labour inspectorate. Similar regulations have been established in Hong Kong Special Administrative Region, China.

Social security and pension reform

90. Social protection is an essential component of national strategies to achieve inclusive growth and sustainable development with equitable social outcomes. Effective social dialogue is key to developing social protection strategies and systems, including social protection floors. While several social security Conventions, such as the Social Security (Minimum Standards) Convention, 1952 (No. 102), call for tripartite participation in the boards of social security programmes, the Social Protection Floors Recommendation, 2012 (No. 202), requires the participation of the social partners in the development of social protection floors, including national social security extension strategies. New legislation or proposals on social protection floors have accordingly been developed through tripartite mechanisms in Cameroon, Indonesia, Lesotho, Mozambique, Nepal, Oman, Peru, Thailand and Timor-Leste.

91. From 2010 to 2016, 979 social protection reforms were announced in 155 countries.³¹ In 2014–17, the social partners were involved, for example, in revising the retirement age in India, the United Kingdom and the United States; extending universal health coverage in Argentina; extending unemployment insurance and tax waivers to

³¹ ILO: *Social Protection Monitor*, 2017.

protect low-income workers in Kenya and South Africa; and amending legislation to protect workers over the age of 60 in Singapore. In some other countries, reforms were introduced by governments with little or no consultation with social partners. Such reforms have been driven mainly by austerity measures and have largely failed to address gaps in pension provision and coverage.

Gender

92. Social dialogue is a vehicle for promoting gender equality and non-discrimination in the world of work. The data collected, although patchy at the global scale, confirm the poor representation of women in national social dialogue institutions – usually less than 20 per cent – which is an obstacle to promoting gender equality. Still, there are some encouraging developments: in an increasing number of African and European countries, for example, the representation of women in national social dialogue institutions has reached about 20–30 per cent.³² Some countries have taken legal measures since 2013: Algeria and Chile passed laws in 2016 that at least one third of members in such institutions should be women. In 2015, the High Council for Labour Relations of Senegal set up a permanent subcommittee on gender equality and in Viet Nam a code of conduct on sexual harassment in the workplace was adopted through a national tripartite agreement.

The informal economy

93. In Costa Rica (where 44.7 per cent of workers are informal), the Government and social partners signed a tripartite agreement in 2016 that paved the way for the establishment in March 2017 of a tripartite committee on formalizing workers and economic units. Greece has very high levels of informal work for a European country, equivalent to an estimated 25 per cent of gross domestic product. After a participatory process and with input from an ILO diagnostic report, in October 2016 a tripartite consensus was reached to adopt policy recommendations combining incentives and enforcement measures to combat informality. In Senegal, where some 97 per cent of jobs are informal, the High Council for Labour Relations devoted its sixth plenary session to the transition to formality. Joint diagnoses of the key challenges to formalization were carried out and agreements on policy responses or roadmaps were reached in Burkina Faso, Ghana, Mexico and the former Yugoslav Republic of Macedonia with tripartite engagement. The constituents also developed strategies to enhance workplace compliance with labour laws and regulations to create safe and productive work environments, which included labour law reforms (Ukraine and the Occupied Palestinian Territory); the adoption of national OSH policies and profiles (Samoa); and the strengthening of labour inspection and administration (Bangladesh and Colombia).

94. For domestic work – a largely informal activity – the Domestic Workers Convention, 2011 (No. 189), calls on member States to protect the right of domestic workers to freedom of association and collective bargaining, and provides for consultations with organizations of employers and workers in implementing the Convention. The Plurinational State of Bolivia, for example, has accordingly written a model contract for domestic workers.

The rural economy

95. Nearly 80 per cent of the world's working poor are based in the rural economy. One of the main challenges to addressing decent work deficits stems from the lack of social dialogue. Employers' and workers' organizations tend to be fragmented and have low levels of membership in rural areas. Difficulties in law and practice, aggravated by poverty and informality, reflect the remoteness of rural communities and the range of categories

³² A. Muller: *National social dialogue institutions: A global overview* (Geneva, ILO, forthcoming).

of workers, who are mainly self-employed, seasonal, casual and migrant workers.³³ These organizations need to be strong and independent in order to participate in social dialogue and policy-making. It is also important to empower rural women and address rural women's under-representation among social partners, as well as promote gender equality through collective bargaining. Some countries are already taking these steps, including the Czech Republic, Slovenia, Mexico³⁴ and Morocco.³⁵

Migrant workers

96. All regions are witnessing an increase in labour migration: in certain migration corridors, such as between Asia and the Arab States and within South-East Asia, for instance, the number of international migrants, the large majority of whom are migrant workers, has tripled since 1990.³⁶ The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Migration for Employment Recommendation (Revised), 1949 (No. 86), and the Migrant Workers Recommendation, 1975 (No. 151), require member States to involve the social partners in providing services for migrant workers and consultations on international labour migration.³⁷ International migration policies were developed through tripartite consultations in some countries (including Bangladesh, Chile and South Africa). Yet a 2016 survey of migration and mobility professionals covering over 210 global organizations across all regions and representing a wide range of industries found that a mere 17 per cent of respondent organizations reported that they had been able to influence national migration policies.³⁸ The CEACR has noted that some workers' and employers' organizations were barely or not at all consulted on labour migration or were not part of national commissions dealing with it.³⁹ In addition, such organizations are rarely invited to negotiations on bilateral and multilateral labour agreements.

97. A key challenge includes the regular absence of ministries of labour in international migration debates and any tripartite social dialogue tradition among ministries of the interior, foreign affairs and immigration. Furthermore, the current political debate on migration is often based on misconceptions, which makes it harder to make the case for well-governed labour migration.

98. In response to the Syrian refugee crisis, Jordan, Lebanon and Turkey have made tremendous efforts and some European countries have adjusted their policies to accommodate more refugees. For example, the Danish Government and social partners concluded an agreement in 2016 on the flexible integration of refugees in the labour market. In Germany, social partners were involved in developing the Integration Act in 2016 to accelerate refugees' integration into the labour market. In Norway, a tripartite

³³ ILO: "Promoting social dialogue in the rural economy", *Decent work in the rural economy policy guidance note* (Geneva, 2015).

³⁴ See ILO: *Giving a voice to rural workers: General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), International Labour Conference, 104th Session, Geneva, 2015.

³⁵ See ITUC: *Nearly 1,000 agriculture workers in Morocco celebrate first bargaining pact*, 2015.

³⁶ ILO: *Addressing governance challenges in a changing labour migration landscape*, Report IV, International Labour Conference, 106th Session, Geneva, 2017, para. 9.

³⁷ See ILO: *Promoting fair migration: General Survey concerning the migrant workers instruments*, Report III (Part 1B), International Labour Conference, 105th Session, Geneva, 2016, para. 618.

³⁸ A.T. Fragomen, Jr.: "The business case for migration: The GFMD business mechanism's position paper and recommendations for presentation at the Ninth GFMD Summit", Bangladesh, Dec. 2016, pp. 3–21, quoted in ILO: *Addressing governance challenges in a changing labour migration landscape*, op. cit., para. 59.

³⁹ ILO: *Promoting fair migration: General Survey concerning the migrant workers instruments*, op. cit., para. 136.

agreement was concluded in May 2016 on fast-tracking access to the labour market for refugees with in-demand skills. Beyond Europe, some 85,000 refugees from Haiti were admitted to Brazil between 2011 and 2016, after a tripartite consensus was reached within the national tripartite committee on delivering residence and work permits.

Automation and digital work

99. Automation and digitization are shaping the evolution of work and are further diversifying forms of employment around the world. These shifts can offer options for balancing work and private life (for example telework), assist in business adaptability and increase labour market participation (for example through the use of gig workers). However, they also increase the likelihood of reliance on non-standard forms of employment – in which workers more frequently lack protection in law or practice ⁴⁰ – and informal employment.

100. No formal social pacts appear to have been concluded in respect of automation and digitization. However, constituents have worked together to analyse the impacts of what has been called the fourth industrial revolution, in countries such as Australia, Denmark, Germany, Italy, the Russian Federation, Singapore and Spain. The European Trade Union Confederation adopted a resolution “Towards fair digital work” in June 2016. ⁴¹ Tripartite dialogues in over 113 countries have boosted policy dialogue at the national or subregional levels (such as in the Caribbean Community) in the context of the ILO’s Future of Work Initiative (box 2.3). Their effects on policy and regulation are yet to be seen.

Box 2.3

National dialogues on the future of work: A snapshot

The national dialogues on the future of work covered, inter alia, the role of social dialogue actors and institutions in the context of technological evolutions and changing business models. Proposals touching on the need for an overall adaptation of social dialogue to new realities shaping the world of work were made with regard to:

- the use of tripartite social dialogue for facilitating transitions and ensuring equitable distribution of costs and benefits and social welfare support (Cameroon, Italy, the Netherlands and Rwanda);
- launching tripartite social dialogue on the evolution of the employer–employee relationship with a view to adopting new, yet flexible, rules for protecting workers (Senegal and Panama);
- using collective bargaining to address the challenges of technology, digitization and new forms of organizing work and preventing fundamental principles and rights of work from being undermined or circumvented (Belgium, Germany, Kenya, Spain and Switzerland);
- enhancing the representation by the social partners of actors in the social economy (cooperatives), SMEs, and the informal economy (France);
- exploring new mechanisms (including the use of information technology and virtual communities) for organizing and representing the self-employed, independent contractors, and gig or platform economy workers by type of jobs or region (Japan).

Source: ILO: *Synthesis Report of the National Dialogues on the Future of Work* (Geneva, 2017), pp. 61–64.

Greening the economy

101. In some countries, the social partners are engaged in project steering committees that define work programmes and guide and monitor green job projects. A renewed effort has

⁴⁰ ILO: *Conclusions of the Meeting of Experts on Non-Standard Forms of Employment* (Geneva, 16–19 Feb. 2015), para. 2, p. 50.

⁴¹ See <https://www.etuc.org/documents/etuc-resolution-digitalisation-towards-fair-digital-work#.WmiIw610zct>.

been observed and the environmental and climate agenda has been getting more traction since the adoption of the Paris Agreement under the United Nations Framework Convention on Climate Change. The inclusion in the Paris Agreement of the reference to the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities, and the focus in the *ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all* on the importance of social dialogue, are notable. The social partners are not only recipients of development cooperation, but also partners in programme design. One example is the Green Jobs programme in Zambia, where the governance model includes engagement with many public, private and non-governmental partners as well as with the UN.⁴²

102. Similarly, the steering committee of the Just Transition project in the Philippines includes the social partners. Using the *ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all*, workers' organizations in the Philippines have proposed a comprehensive framework and proposals on a just transition in the context of the mine closure orders that were issued by the Department of Environment and Natural Resources in February 2017. One of the proposals includes the setting up of a mining industry tripartite council. Other examples feature green jobs assessments at the national and sectoral levels, which review the scope and investment needs for green sector development, potential for the creation and expansion of sustainable enterprises and value chains, and the skills needed for green jobs. Since 2013, the results of such assessments have fed into the formulation of national policies that support the creation of decent work and green jobs, as well as social dialogue, in the transition to the green economy in Mauritius, Mexico and Uruguay.⁴³

Cooperatives

103. Cooperatives are businesses owned and democratically controlled by their members. The Promotion of Cooperatives Recommendation, 2002 (No. 193), defines a cooperative as an “autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise”. Governments should provide a supportive policy and legal framework for the development and promotion of sustainable and democratic cooperatives.

104. The General Survey concerning the right of association and rural workers' organizations instruments notes that many member States reported that rural workers had organized themselves into cooperatives.⁴⁴ In China, for example, the Government reported 980,000 specialized farmers' cooperatives in the country at the end of 2013, with members from over 74 million households and an expanding number of industries covered.

105. With traditional standard employment relationships eroding, cooperatives are an alternative organizational form, used by workers' and employers' organizations. They contribute to the representativeness of workers, especially those working in the informal economy, and in areas where other organizational forms are limited. One option for self-employed and gig workers is the platform cooperative. There are, for example, a growing

⁴² For further information about the Zambia Green Jobs programme, see <http://www.zambiagreenjobs.org/>.

⁴³ See <http://www.ilo.org/global/topics/green-jobs/publications/assessments/lang--en/index.htm>.

⁴⁴ ILO: *Giving a voice to rural workers: General Survey concerning the right of association and rural workers' organizations instruments*, Report III (Part 1B), International Labour Conference, 104th Session, Geneva, 2015.

number of taxi driver cooperatives that use this method to eliminate the intermediation of ride-hailing companies, some of which withhold rights and benefits from their drivers.

2.4. Bipartite social dialogue

106. The promotion of inclusive, productive and sound industrial relations in the private and public sectors is key to achieving decent work. Bipartite social dialogue remains the most appropriate method for promoting such relations, through the negotiation of collective agreements by employers and their organizations with the workers' organizations, and through cooperation and consultation between managers and workers' representatives at the workplace, including for the efficient prevention and resolution of conflicts. These processes have changed significantly in recent years.

2.4.1. Collective bargaining

107. For millions of workers around the world, collective bargaining is important for determining wages and working conditions. There is nevertheless considerable variation among countries in the coverage and structure of collective bargaining and in its scope and content.

108. Collective bargaining has several functions, including a distributive function (sharing productivity gains), a protective function (ensuring adequate pay and establishing limits on daily and weekly working time, either as a result of the joint monitoring of legal entitlements or acquired rights), a voice function (participation in the industry or enterprise), and a labour peace function (resolving disputes and legitimizing joint rules).⁴⁵

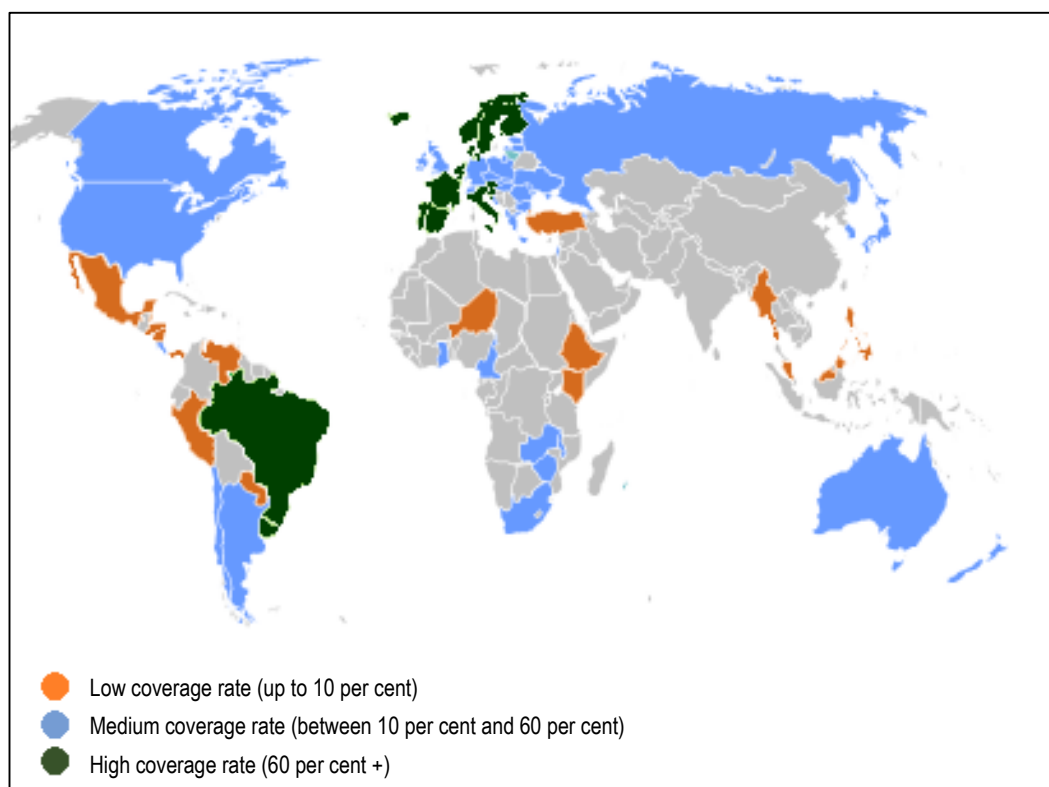
Coverage and structure

109. Collective bargaining coverage varies hugely among countries, regions and development contexts, ranging from 1 or 2 per cent in Malaysia, Panama and the Philippines to nearly 100 per cent in Austria, France and Belgium.⁴⁶ Figure 2.1 shows that collective bargaining coverage tends to be low in some regions (Asia, for example) and high in others (Western Europe). In countries with a high proportion of self-employed workers in the informal economy, rates of collective bargaining coverage may be misleading, as they may apply only to one category of workers representing a small proportion of overall workers. In Cameroon, for example, paid employment (formal and informal) accounted for only 24.6 per cent of total employment; own-account workers accounted for 68 per cent; and the remaining 7.4 per cent included contributing family workers and others in 2014. The collective bargaining coverage rate for Cameroon falls within a medium band of 58.6 per cent, although this represents a coverage rate for employees who account for less than a quarter of employment. Own-account workers, who account for almost two-thirds of employment, do not engage in collective bargaining.

⁴⁵ Visser, op. cit. (2016).

⁴⁶ Bargaining coverage is defined as the share of employees to whom a collective agreement applies. For collective bargaining coverage rates see the ILO's industrial relations database (IRData), available at www.ilo.org/ilostat.

Figure 2.1. Collective bargaining coverage rate for employees (paid employment, 2016 or latest available year)



Source: ILO: Industrial relations database (IRData).

110. Collective bargaining occurs at different levels, namely at the interprofessional (national or central), sectoral or industry, and enterprise levels. In some countries, it occurs at only one level and in others at multiple levels, with varying degrees of articulation between subjects and varying degrees of coordination by the social partners at the various levels.

111. Interprofessional agreements have, for many years, led to general developments in wages and working conditions in Belgium and Finland, for example. In France, interprofessional agreements have recently been introduced on personal training accounts and part-time work.

112. Some countries are characterized by multi-employer bargaining at the sectoral level (including Austria, Denmark, France, Germany, Italy, the Netherlands, Norway and Sweden). This is not only a developed-country phenomenon, as sectoral agreements have recently been signed in African countries such as Malawi (water and sanitation), Niger (transport), Rwanda (public sector), the United Republic of Tanzania (tea and tobacco), Tunisia (agriculture), Zambia (the agricultural and plantation sector) and Zimbabwe (meat processing, detergents and food processing). Sectoral bargaining is also characteristic of bargaining structures in Argentina, South Africa and Uruguay.

113. In other countries, including in North America (with the exception of some sectors in Canada), Central America and the Andean subregion, Asia and the Pacific and Central and Eastern Europe, collective bargaining takes place almost only at the enterprise level.⁴⁷

⁴⁷ See J. Visser, S. Hayter and R. Gammarano: “Trends in collective bargaining coverage: Stability, erosion or decline?”, in *Labour Relations and Collective Bargaining*, Issue Brief No. 1 (Geneva, ILO, Feb. 2017).

114. In a number of countries, including those with multi-employer bargaining, collective bargaining has been increasingly decentralized to the enterprise level (for example, Australia, Greece, Hungary, Ireland, New Zealand, Romania and the United Kingdom). This process started in the 1980s and gained momentum in the 1990s, and intensified after the start of the global economic crisis. In other countries, this trend has been the result of the devolution in sectoral agreements of the determination of some issues (such as pay supplements and working time) to additional firm-level bargaining (in, for example, Denmark, France, Germany, Italy, the Netherlands, Portugal and Spain).

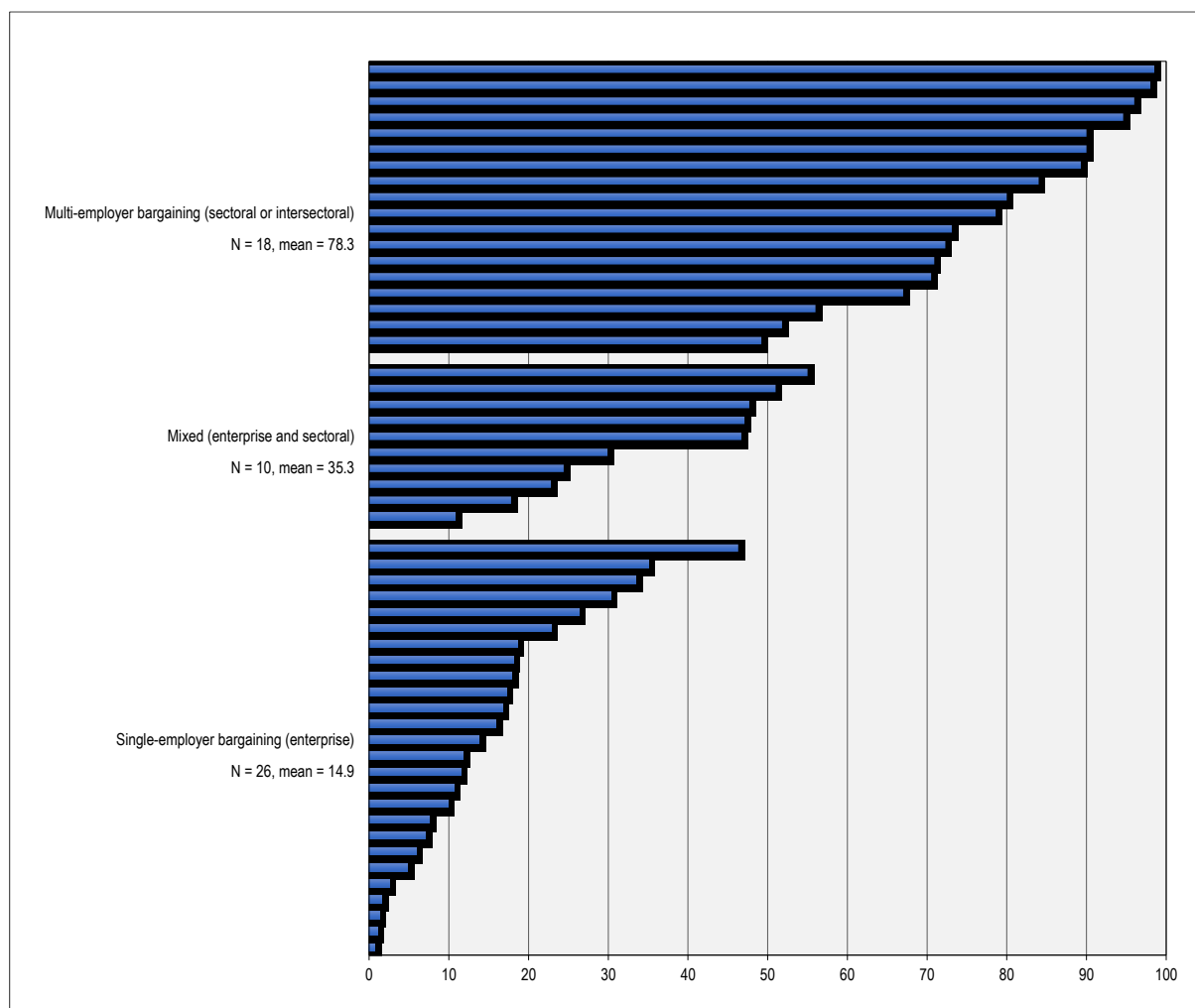
115. Bargaining at multiple levels can work in different ways: it can be coordinated between levels under the control of the same unions that negotiated the sectoral agreement; or uncoordinated, involving actors other than unions at the enterprise level, through general opening clauses that allow for specific clauses on wages and working time to be determined at the enterprise level (deviating upwards or downwards from sectoral standards) or derogations from sectoral standards that are only permitted (in law or a higher-level collective agreement) on the basis of a negotiated agreement at the enterprise level. After the global economic crisis, temporary opening clauses allowing derogations from minimum standards under specific circumstances such as economic difficulties became more common in some countries in Europe, and were also used in Uruguay⁴⁸ and South Africa.⁴⁹

116. The structure of bargaining – multi-employer or single enterprise – is closely linked to the coverage and inclusiveness of collective agreements in the sense of the proportion of employees covered by collective agreements and the inclusion of workers in non-standard forms of employment, migrant workers and paid informal employees. In countries for which data are available and which are characterized by multi-employer bargaining at the sectoral or intersectoral levels (the top panel in figure 2.2), the average collective bargaining coverage rate is 78.3 per cent (18 countries); for countries with mixed systems the coverage stands at 35.3 per cent (ten countries); and for countries where single-employer bargaining prevails, it is 14.9 per cent (26 countries).

⁴⁸ See Visser, op. cit. (2016); and G. Mazzuchi: *La negociación colectiva en el sector textil vestimenta en Uruguay* [Collective bargaining in the textiles and clothing sector in Uruguay] (Geneva, ILO, forthcoming).

⁴⁹ S. Godfrey: *Multi-Employer collective bargaining in South Africa* (Geneva, ILO, forthcoming).

Figure 2.2. Collective bargaining coverage rates by predominant bargaining level (per cent), 2016 or latest available year



Source: IRData.

117. Data on changes in bargaining coverage rates from 2012 to 2016 show that although coverage remained stable in some countries and increased in others (including Brazil, Chile and Costa Rica), the trend is still one of general decline. Given the relationship between collective bargaining and more equal wage distribution, there is growing concern over the contribution of declines in bargaining coverage to widening inequality in wages.⁵⁰

118. For some countries (including Japan, the United Kingdom and the United States), this decline is part of a longer term downward trend, mirroring in part the decline in the membership and bargaining power of trade unions, increased legal impediments to organizing as well as the increased use of opening clauses and changes in the membership categories (for instance, *ohne Tarifbindung* membership – membership without being bound by a collective agreement – in Germany). More recently, there has been a sharp decline in bargaining coverage in certain European countries that sought international financial assistance owing to the global economic crisis (Cyprus, Greece, Ireland, Latvia,

⁵⁰ S. Hayter: “Unions and collective bargaining”, in J. Berg (ed.): *Labour market institutions and inequality: Building just societies in the 21st century* (Geneva, ILO and Edward Elgar, 2015).

Portugal and Romania). The programmes accompanying the loan packages have often required changes in wage-setting institutions. This has included the introduction of changes to the collective bargaining framework that give priority to company-level agreements over sectoral and national agreements; provide for the recognition of other (non-union) workers' representatives at the enterprise level; limit the continuity of collective agreements beyond expiry; and either suspend or make it more difficult to apply extension provisions.⁵¹

119. Countries where collective bargaining coverage has remained stable, or has increased, are those which have used a range of policy measures to promote collective bargaining more generally, and bargaining coordination in particular. These include the conclusion of social pacts or national general agreements (as in Finland in 2016); the lowering of thresholds for the extension and introduction of public-interest considerations in policy decisions to extend a collective agreement, such as the proportion of non-standard and migrant workers in a particular sector (South Africa and Switzerland, both in 2017); measures to facilitate the application of collective agreements to posted workers (employees who are sent by their employer to carry out a service in another country on a temporary basis) (Norway in 2015); and the reform of legislation regulating collective bargaining procedures and trade unions, removing impediments to the establishment of a bargaining unit or the exercise of organizational rights (Chile in 2016).

120. Some countries make special provision for SMEs in bargaining arrangements. In South Africa, for example, sectoral bargaining councils cover SMEs and are required by labour law to ensure the adequate representation of SMEs on the bargaining council. Where collective agreements are applied or extended to cover SMEs, provisions sometimes exist, allowing SMEs to apply for exemption from all or part of the agreement.⁵²

Scope of collective agreements

121. The range of issues and topics covered in collective agreements has, since 2013, continued to expand in some enterprises, industries and countries, while remaining limited or shallow (or both) in others.

122. Wages remain the main topic in many countries. Where the threat to jobs from the global economic crisis had a moderating effect on wage bargaining, collective bargaining was used as a tool to avoid job losses. In Europe, collectively agreed wages started to recover from 2013, but do not yet fully compensate for the wage decline before and during the crisis.⁵³ The diminishing effect of collective bargaining on wages led countries such as Germany (2015) and South Africa (2017) to strengthen wage policies by combining the introduction of a national minimum wage with measures to promote and reinforce collective bargaining. In other countries, such as Cambodia, Indonesia and Viet Nam, collective agreements have done little more than replicate the minimum protection under law, either with or without a reference to a minimum wage. In such cases, collective bargaining has primarily a conflict management and compliance function rather than a wage-setting and distributive function.⁵⁴

⁵¹ Visser, Hayter and Gammarano, op. cit.

⁵² S. Hayter and J. Visser: *Inclusive labour protection: The application and extension of collective agreements* (Geneva, ILO, forthcoming).

⁵³ Eurofound: *Developments in collectively agreed pay 2016*.

⁵⁴ J. Besamusca and K. Tjden: "Comparing collective bargaining agreements for developing countries", in *International Journal of Manpower* (2015, Vol. 36, No. 1), pp. 86–102.

123. The importance of working-time issues varies within and among countries, regions and sectors. Examples of some innovative collective bargaining clauses include: the provision of a bonus to part-time employees who exceed their weekly working hours target by more than five hours in Switzerland; minimum hour guarantees and minimum advance-notice times for fast-food workers in New Zealand; and work-sharing arrangements in South Africa. In Mexico, changes to working hours were agreed for the winter months, given the changed school hours.

124. Issues of productivity, performance and quality have also been on the bargaining agenda as enterprises seek to secure productivity gains and as trade unions seek to maintain a link between productivity growth and wages. In Japan – a country with enterprise-level bargaining and strong coordination by unions – a neutral third-party institution, the Japan Productivity Centre, is trusted by the social partners as the agreed source for information on productivity. Until the early 1990s, wages kept pace with productivity growth, but in Japan’s “Lost Decade” (1992–2002) bonuses began to replace base wage increases as the key subject in wage negotiations, and wages have now fallen behind productivity growth.⁵⁵ In Brazil, legislation makes provision for participation in profits and results through collective bargaining. This is intended to provide incentives to increase productivity and to improve the distribution of gains. Around one fifth of collective agreements include employee profit-sharing, although the targets vary considerably from reducing absenteeism to physical production measures. Similar initiatives are also under way in the Philippines and South Africa.

Box 2.4

Sri Lanka: New productivity provisions in the collective agreement for plantation workers

A collective agreement for plantation workers in Sri Lanka applies to all regional plantation companies and is renegotiated every two to five years. The 2016 agreement introduced for the first time a productivity provision. It also introduced a commitment by the unions to support the improvement of productivity of the industry and at estate level inter alia by moving to a productivity-linked wage regime based on revenue share/out-grower models. In pursuance of this objective, parties agreed to meet and discuss the modalities of implementing the above during the course of the agreement.

Source: S. Ranaraja: *Multi-employer bargaining in the plantation sector in Sri Lanka* (ILO, 2017), unpublished.

125. Collective bargaining has also played an important role in improving wages, working conditions and terms of employment for workers in non-standard forms of employment. The increased incidence of non-standard forms of employment challenges the coverage and effectiveness of traditional industrial relations systems. The ILO supervisory bodies have welcomed the reforms undertaken so far by a few countries to open collective bargaining mechanisms to some categories of self-employed workers (Ireland) or to facilitate the capacity of unions to bargain collectively in sectors employing a high proportion of workers in non-standard forms of employment (South Africa).

126. An agreement in the Philippines stipulates that temporary or casual employees performing the same work as a regular employee for 156 days in any 12-month period shall be deemed to be a regular employee. The social partners have also used collective bargaining to secure parity in pay between workers with different types of contract (India, Mauritius and Norway) and to ensure adequate training in respect of OSH for all workers in the same workplace (Mauritius and Spain). In the Republic of Korea, a collective

⁵⁵ See T. Kato: *Productivity, wages and union in Japan* (Geneva, ILO, Conditions of Work and Employment Series No. 73, 2016).

agreement requires the employer to supervise in-company subcontractors in order to prevent occupational accidents and illness and to provide relevant education in accordance with the Occupational Health and Safety Act.

Box 2.5

Socially responsible management of subcontractors in Germany's steel industry

The outsourcing of work from firms bound by collective agreements to subcontractors that are often not organized is one of the reasons for the decline in collective bargaining coverage in Germany. In 2010, the metalworkers' union IG Metall in North Rhine-Westphalia and the steel industry employers' organization concluded a collective agreement on subcontractors that provided for equal pay for equal work for all temporary agency workers. In 2014, standards on the working and employment conditions of agency workers were agreed at ThyssenKrupp Steel AG Europe, one of the largest steel producers in Germany. The human resources director of ThyssenKrupp made the supervisory board aware of the particularly high accident rate of agency workers as well as the related liability and reputational risks. As a result, a new responsible subcontractor management unit was set up, and is responsible for implementing social standards in subcontractor companies through training and revised purchasing practices, and for the monitoring and enforcement of compliance. Accident figures have fallen sharply, and IG Metall has reinforced its efforts to organize outsourced companies, including by providing legal advice to agency workers.

Source: G. Bosch: "Social dialogue in Germany: Innovation or erosion?", in D. Vaughan-Whitehead (ed.): *Inequalities in the world of work: What role for industrial relations and social dialogue?* (Geneva, ILO and Edward Elgar, 2017).

127. Collective bargaining has been a useful tool for achieving gender equality, particularly in conjunction with other regulatory means such as legislation and measures at the company level. Women in negotiating teams have expanded the collective bargaining agenda to include issues that are particularly relevant to women, such as the gender pay gap, maternity protection, work–life balance and gender-based violence.⁵⁶

Public sector collective bargaining:

Selected developments

128. In the face of the eurozone and global economic crises, some European countries including Germany, Malta, the Netherlands, Norway and Sweden, did not freeze wages or diminish collective bargaining in the public sector. In others, since 2013, public sector collective bargaining institutions have partly recovered from the impact of the crises. Germany has continued its practice of extending wage increases as negotiated for public employees (*Angestellte*) to core civil servants (*Beamte*), a practice that Montenegro adopted for the first time in 2015. In Denmark, slow growth in pay picked up speed with a collective agreement signed in 2015. In Ireland, a 2015 nationwide Public Service Stability Agreement provided wage increases in 2016 for the first time since 2010. Collective agreements were also concluded in Croatia, Cyprus, Hungary, Serbia and Slovenia in 2016 and 2017. The Czech Republic and Montenegro established first-time branch agreements in 2015. In Italy (2015), Lithuania (2013), Portugal (2013, 2014 and 2015) and Romania (2014), the courts reversed wage reductions or bars on collective bargaining. In Greece, the Government discontinued civil mobilization orders in May 2015, after issuing four between 2011 and 2014 to stop strikes by government employees.

⁵⁶ J. Pillinger, V. Schmidt and N. Wintour: *Negotiating for gender equality* (Geneva, ILO, Labour Relations and Collective Bargaining, Issue Brief No. 4, 2015).

129. In the United States, where public sector collective bargaining is mainly at the state and local levels, the trend to change collective bargaining laws has continued. In 2016, the Supreme Court allowed local collective bargaining agreements in the public sector to require non-union members to pay a share of the costs of collective bargaining activities.⁵⁷ One study found that several aspects of collective agreements had a much smaller impact on wages than laws prohibiting union security agreements.⁵⁸

130. Several other countries have strengthened consultation and negotiation mechanisms in the public sector. Colombia issued a decree establishing public sector negotiations in May 2013, and signed collective agreements with government unions in 2013, 2015 and 2017. The Public Service Collective Bargaining Council of South Africa responded to a series of strikes in the public service with an initiative for joint studies, in partnership with the ILO, on outsourcing and the implementation of decent work. In 2016, the Australian Senate reviewed the Workplace Bargaining Policy 2015 with a view to facilitating the conclusion of collective agreements. Subsequently, the departments of human resources (2015), agriculture (2017) and defence (2017) and the Australian Tax Office (2017) reached collective agreements. Also in 2016, the Queensland State Government adopted legislation to strengthen bargaining in its public service. In Peru, the Constitutional Court ruled in 2015 that public servants should be allowed to negotiate wages. In Puerto Rico, however, the Government suspended negotiations of financial clauses in collective agreements in January 2017, under pressure from a financial control board appointed by the United States Government in response to the island's financial crisis.

2.4.2. Workplace cooperation

131. Workplace cooperation is a form of bipartite social dialogue at the level of the undertaking. It can assume many forms, including information sharing, consultation and, in some cases, more active forms of cooperation, such as co-determination or other types of joint decision-making.

132. As foreseen by the relevant international labour standards, workplace cooperation should be complementary to collective bargaining, with clear distinctions between the two.⁵⁹ In adopting the standards, the ILO was careful to ensure that communication, consultation and cooperation processes would not undermine freedom of association or collective bargaining, nor weaken the position of trade unions, including those in developing countries where trade unions are still weak and need strengthening.⁶⁰

133. Recent research confirms a positive relationship between information and consultation structures and a range of desirable outcomes for workers' well-being and enterprise performance, including improved OSH⁶¹ and greater productivity.⁶² An assessment of the ILO–International Finance Corporation (IFC) Better Work Programme

⁵⁷ *Friedrichs v. California Teachers Association*, 578 US (2016).

⁵⁸ B. Frandsen: *The effects of collective bargaining rights on public employee compensation: evidence from teachers, firefighters, and police* (Brigham Young University, 2014).

⁵⁹ Mainly, the Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Communication within the Undertaking Recommendation, 1967 (No. 129), the Workers' Representatives Convention, 1971 (No. 135) and the Workers' Representatives Recommendation, 1971 (No. 143).

⁶⁰ See ILO: *Record of Proceedings*, International Labour Conference, 54th Session, Geneva, 1970, No. 639.

⁶¹ D. Walters and E. Wadsworth: *Worker participation in the management of occupational safety and health: qualitative evidence from ESENER-2*, European Risk Observatory Overview report, European Agency for Safety and Health at Work (Luxembourg, Publications Office of the European Union, 2017).

⁶² S. Mueller: "Works councils and labour productivity: Looking beyond the mean", in *British Journal of Industrial Relations* (2015, Vol. 53, No. 2, June), pp. 308–325.

covering Haiti, Indonesia, Jordan, Nicaragua and Viet Nam has shown that a well-functioning factory-level committee (with gender balance and freely elected workers' representatives) can lead to a wide range of benefits (box 2.6).

Box 2.6

Assessing the impacts of the ILO-IFC Better Work Programme

The Better Work Programme, launched in August 2006, is a partnership of the ILO and the IFC to improve compliance with ILO fundamental principles, rights at work and national labour laws in garment-sector global supply chains, and to promote competitiveness in developing countries. Social dialogue – collective bargaining and workplace cooperation – is key in all programme components.

The results of a 2016 independent impact evaluation of Better Work factories based on more than 15,000 worker surveys and 2,000 manager surveys show that the programme is having a significant and measurable positive impact on compliance with core labour standards and national laws, on workers' self-reported well-being, on businesses' bottom line and on broader social and human development indicators. For example, in 2009–15, in the factories covered the gender pay gap decreased (by 17 per cent in Haiti), sexual harassment concerns declined (by 18 per cent in Jordan), and women's access to prenatal care increased (by 26 per cent in Haiti). Owing to the programme, factories have seen an increase in productivity (of up to 22 per cent) and profitability (up to 25 per cent).

Source: ILO and IFC: *Progress and potential: How Better Work is improving garment workers' lives and boosting factory competitiveness: A summary of an independent assessment of the Better Work Programme* (Geneva, 2016).

134. Effects are stronger when cooperation and consultation take place in a unionized context⁶³ and when workers' representatives can articulate an independent collective voice.⁶⁴ In non-unionized contexts, effects depend heavily on management commitment to, and material support for, the process.⁶⁵ This was also reflected in the Better Work assessment, which found that when there is a collective agreement in place, the workplace committee effects are even greater. Workplace cooperation seems to be most successful where workers and employers pursue an active process of interaction, avoiding a mere communication exercise.⁶⁶ Most laws, decrees and regulations supporting workplace cooperation are passed in a context of declining trade union density, a shift from sectoral to enterprise-level labour relations, and a desire to manage workplace conflict and increase firms' competitiveness.

135. While certain industrial relations systems allow workplace cooperation to be established voluntarily, many others regulate its formation. In Myanmar and Rwanda, for instance, and in many francophone African countries, workplace cooperation forums are mandatory, at times subject to a minimum number of workers in the enterprise. In others, they must be formed at the request or with the approval of workers (as in Serbia) or trade unions (Brazil and the United Republic of Tanzania). The relationship between trade unions and the forum is also frequently specified in law. In cases where workplace

⁶³ See P. Ellguth, H.D. Gerner and J. Stegmaier: "Wage effects of works councils and opening clauses: The German case", in *Economic and Industrial Democracy* (2014, Vol. 35, No. 1), pp. 95–113.

⁶⁴ See M. Hall et al.: "Trade union approaches towards the ICE regulations: Defensive realism or missed opportunity?", in *British Journal of Industrial Relations* (2015, Vol. 53, No. 2, June), pp. 350–375.

⁶⁵ See R. Markey and K. Townsend: "Contemporary trends in employee involvement and participation", in *Journal of Industrial Relations* (2013, Vol. 55, No. 4, Sep.), pp. 475–487.

⁶⁶ See C. McLaughlin: "The role of productivity coalitions in building a 'high road' competitive strategy: The case of Denmark and Ireland", in *European Journal of Industrial Relations* (2013, Vol. 19, No. 2, June), pp. 127–143.

cooperation forums coexist with unions, it is common either for the trade union to have the right to nominate some or all of the workers' representatives (as in Indonesia, Latvia and Myanmar) or for workers to stand for election to the workplace committee or works council on a union ticket (France, Germany and Rwanda).

Trends and developments

136. Some parts of Asia have seen important developments in workplace cooperation initiatives, with systems having recently been established (or adjusted) in Bangladesh and Myanmar. This has not been without difficulty, with severely limited implementation in Myanmar,⁶⁷ and problems identified by the ILO supervisory bodies in Bangladesh.⁶⁸ In the Philippines, a productivity improvement and incentives committee was established to develop an enterprise-level policy on productivity-based pay. However, management parties, who saw productivity as a purely management concern, have expressed reluctance to engage in social dialogue, as have unions, who view workplace cooperation structures as management schemes to supplant unionism and collective bargaining.⁶⁹ Similar criticisms have been made over workplace cooperation bodies competing with or undermining trade unions in the Republic of Korea⁷⁰ and Sri Lanka.⁷¹

137. In South Africa, where the framework for workplace forums has existed for over 20 years and is sanctioned by law, such forums have developed, but in only a few enterprises, and their use is limited.⁷² Many African countries, particularly in francophone Africa, have legislation mandating workplace cooperation forums in line with the model of workers' representatives in the French tradition. In Côte d'Ivoire for example, the law provides for workers' representatives. In Rwanda, the law provides for detailed election procedures, facilities to be afforded to representatives, and information that management is required to provide.

138. In Europe, all EU Member States are subject to a general framework for informing and consulting employees and the Council Directive on the establishment of a European Works Council. A recent review concludes, however, that European works councils have not lived up to their initial promise,⁷³ and that the focus has been on information sharing rather than more active cooperation.⁷⁴ Despite evidence linking well-functioning workplace cooperation structures and effective OSH management systems, a recent survey by the EU and the Occupational Safety and Health Administration of the United States

⁶⁷ See L. Ediger and C. Fletcher: *Labor disputes in Myanmar: From the workplace to the Arbitration Council: An overview of Myanmar's labor dispute resolution process in practice* (BSR, San Francisco, 2017).

⁶⁸ CEACR, observation, Convention No. 87 (Bangladesh, 2017); CEACR, observation, Convention No. 98 (Bangladesh, 2017).

⁶⁹ M. Serrano: "The (missing) link between wages and productivity in the Philippines: What role for collective bargaining in the new two-tier wage system?" (Geneva, ILO, Conditions of Work and Employment Series No. 59, 2016).

⁷⁰ See J.W. Kim: "Employment relations in non-unionized workplaces", in K.S. Bae (ed.): *Employment Relations in South Korea* (2017).

⁷¹ See S.H. Ranaraja: *Emerging trends in employee participation in Sri Lanka*, Working Paper No. 46 (ILO, 2013); CEACR, observation, Convention No. 98 (Sri Lanka, 2017).

⁷² S. Hayter, and N. Pons-Vignon: "Industrial relations and inclusive development in South Africa: A Dream deferred?", in S. Hayter, and C.H. Lee: *Industrial relations in emerging economies: The quest for inclusive development* (Geneva, ILO and Edward Elgar, forthcoming).

⁷³ See D. Hann, M. Hauptmeier and J. Waddington: "European Works Councils after two decades" in *European Journal of Industrial Relations* (2017, Vol. 23, No. 3), pp. 209–224.

⁷⁴ See N. Cullinane et al.: "Triggering employee voice under the European Information and Consultation Directive: A non-union case study", in *Economic and Industrial Democracy* (2017, Vol. 38, No. 4, June), pp. 629–655.

demonstrated a trend away from arrangements for worker participation on OSH, citing changes in the labour market, the lack of regulatory support, declining union presence, and the growth of SMEs as possible causes. Similar challenges were identified by social partners in the 2017 General Survey on the occupational safety and health instruments concerning the promotional framework, construction, mines and agriculture, including: regulatory carve-outs for SMEs or entire sectors; the absence, weakening or lack of enforcement of regulation; and specific implementation problems such as interference in election of workers' representatives.⁷⁵

139. In Argentina, employee delegates, internal committees and similar bodies may be established under law, to meet periodically with the employer or their representative and to submit the claims of workers on whose behalf they are acting on the authorization of the respective trade union. In Brazil, the Consolidated Labour Laws allow for a collective agreement to establish a joint committee for consultation and collaboration at the workplace level. The constitution of the committee, its tasks, the mode of operation, and details of any participation plan are left to the negotiating parties.

2.5. Cross-border social dialogue: Key developments

140. Practices of cross-border social dialogue are increasingly observed against a backdrop of new forms of international production; increasing trade integration and foreign direct investment; and a delegation of some aspects of States' economic and political sovereignty to regional integration bodies and to multilateral organizations.

141. Initiatives by international private actors (for example, trade unions, non-governmental organizations and MNEs) and public actors (such as States and multilateral organizations) to address the downsides of globalization through cross-border social dialogue were discussed in the report for the 2013 recurrent discussion on social dialogue (paragraphs 210–240).⁷⁶ From an ILO perspective, such initiatives are particularly welcome when, in line with their autonomy, the social partners jointly promote decent work and fundamental principles and rights at work for all workers, for instance within economic integration communities concerned by bilateral trade and investment agreements or involved in the global operations of MNEs.

142. Some new cross-border social dialogue initiatives adopted since 2013 are explained in the following three sections.

2.5.1. Cross-border social dialogue facilitated at the ILO

143. Tripartite social dialogue at the cross-border level is fundamental to the ILO's Constitution and operations. It plays a key role in statutory meetings of the International Labour Conference and the Governing Body and ILO meetings on specific regions, topics and sectors. Cross-border social dialogue is also a key component of many ILO programmes and development cooperation projects, including the Better Work Programme.⁷⁷ Social dialogue forms an integral part of the ILO Tripartite Declaration of

⁷⁵ ILO: *Working together to promote a safe and healthy working environment: General Survey on the occupational safety and health instruments concerning the promotional framework, construction, mines and agriculture*, Report III (Part 1B), International Labour Conference, 106th Session, Geneva, 2017.

⁷⁶ In addition, an expert meeting on cross-border social dialogue is scheduled for late 2018.

⁷⁷ See ILO: *International Framework Agreements and other forms of cross-border social dialogue in the food retail, garment and chemicals sectors: Good practices and lessons learned* (Geneva, ILO, forthcoming).

Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). The latest revision of this instrument strengthens the role of social dialogue and tripartism, places greater emphasis on Convention No. 144 and introduces operational tools that promote cross-border and national tripartite social dialogue. This is a welcome initiative because national social dialogue institutions such as ESCs and similar institutions (box 2.7) have not yet harnessed the full potential of the MNE Declaration.

Box 2.7
MNEs and peak-level social dialogue institutions

In 2015, the ILO conducted a survey of many governments and the social partners to collect feedback on the implementation of the MNE Declaration.¹ The outcomes generally confirmed the view that ESCs and similar institutions have not widely taken up issues related to MNE operations and global sourcing, and in particular have not fully leveraged inward investment.

Analysis of survey results identified possible reasons for this limited engagement, including:

- insufficient representation of MNEs in ESCs and similar institutions or national employers' organizations;
- limitations imposed by the mandates of some ESCs and similar institutions;
- lack of capacity to engage on broader issues owing to inadequate expertise and resources;
- a propensity or preference for bilateral discussions and negotiations between governments and MNEs, using non-social dialogue channels.²

Yet 72 per cent of survey respondents noted that the policy areas of their ESCs and similar institutions entailed discussion or consultation on how to “maximize the positive developmental impacts of global supply chains or value chains and/or MNEs in their countries”. This suggests that while ESCs and similar institutions may actually have mandates broad enough to engage on issues related to foreign direct investment and MNEs, their ability to do so is limited. Governments can strengthen the role of ESCs and similar institutions by consulting and involving them in processes for social and economic policy-making.

¹ The survey covered nine developing countries from Africa, four EU countries, four non-EU countries from the Balkans, four developing countries from Latin America, three large Asian countries, two developing countries in Asia and two countries from the Middle East.

² F. Pyke: *Multinational enterprises and inclusive development: Harnessing national social dialogue institutions to address the governance gap* (Geneva, ILO, 2017).

2.5.2. Bilateral and multilateral agreements and regional integration initiatives

144. In the past 20 years, bilateral and multilateral free trade agreements have proliferated, while some regional and subregional trade agreements are evolving into regional economic communities, with varying degrees of political and governance integration.⁷⁸

145. Since 2013, the inclusion of social dialogue in these agreements has increased, in recognition of the fact that trade and regional integration cannot be confined to commercial and economic matters alone, and that social issues represent an important component as well. This has been notably the case in the EU, while other regional groupings – such as the Association of Southeast Asian Nations (ASEAN), the Southern Common Market (MERCOSUR), the West African Economic and Monetary Union (UEMOA) and the Southern African Development Community (SADC) – are strengthening social dialogue

⁷⁸ The WTO defines regional trade agreements as reciprocal trade agreements between two or more partners. The WTO database includes regional trade blocs as well as bilateral (two-country) free trade agreements.

and social and labour policies by establishing or reinforcing a mix of national mechanisms and cross-border (supranational) tripartite structures.

Europe

146. The EU's internal experience in social dialogue is by far the deepest of any multilateral regional arrangement, with regular social dialogue institutions and the role of social partners embedded in the regulatory framework and the Treaty on the Functioning of the European Union. By October 2017, one cross-industry framework agreement on active ageing and an intergenerational approach and several joint declarations (such as on digitization and the future of Europe) had been reached. Within sectoral social dialogue committees, some 195 EU sectoral texts were produced (such as on posted workers in the construction sector and on the updated Maritime Labour Convention, 2006), bringing the total figure for such texts to over 600.

147. In response to the weakening of social dialogue and the widening of economic and social divergences caused by the global economic crisis, EU authorities have taken steps since 2013 to strengthen the social dimension of the Economic and Monetary Union. One new effort to enlarge space for social dialogue has been in the context of economic policy coordination across EU Member States – also known as the European Semester. While in some Member States, social partners have been involved in shaping or even contributing to implementing such coordination (including Belgium, Finland, Malta, the Netherlands and Sweden),⁷⁹ elsewhere their influence has been limited.⁸⁰

148. EU institutions and the European social partners agree that stronger involvement of employers' and workers' organizations is needed in both European and national processes. As a 2014 European Economic and Social Committee opinion stated:

The social partners must continue to increase their autonomy and their capacity for collective bargaining and the European institutions must take their joint declaration of October 2013 into account. It is the institutions' responsibility, and especially that of the Commission, to facilitate European-level social dialogue and help to translate its achievements into practice at interprofessional and sectoral levels.^{81, 82}

A joint statement entitled "A new start for social dialogue", signed in June 2016 by the EU social partners and the Presidency of the Council of the European Union and the European Commission, confirmed the shared commitment to improving the framework conditions for, and effectiveness and quality of, social dialogue at all levels, in spite of important drawbacks at the national level.⁸³

149. In November 2017, the European Pillar of Social Rights was signed by the European Parliament, the Council and the Commission; it contains 20 principles, principle 8 of which provides for and encourages consultations with the social partners on the design

⁷⁹ I. Guardiancich and O. Molina (eds): *Talking through the crisis: Social dialogue and industrial relations trends in selected EU countries*, op. cit.

⁸⁰ Eurofound: *Role of the social partners in the European Semester* (Luxembourg, Publications Office of the European Union, 2016), p. 2.

⁸¹ European Economic and Social Committee: *Opinion on the structure and organisation of social dialogue in the context of a genuine economic and monetary union (EMU)*, Opinion of the EESC (SOC/507), Brussels, 2014, para. 1.4.

⁸² In October 2013, the European social partners adopted ten principles to underpin their involvement in EU economic governance; see https://www.etuc.org/sites/www.etuc.org/files/other/files/layout_declaration_governance_21_10_13_clean_3.pdf.

⁸³ European Commission: *A new start for Social Dialogue* (Luxembourg, Publications Office of the European Union, 2017).

and implementation of economic, employment and social policies, including in the context of the transfer, restructuring and merger of undertakings and of collective redundancies.⁸⁴

Asia

150. Workers and employers in Asia are rarely represented in regional and subregional bodies, unlike other regional groupings, even though ASEAN, for example, is becoming more integrated with global flows of investment, trade and skilled workers.⁸⁵ A related key development was the First Joint Meeting of the ASEAN Confederation of Employers and ASEAN Trade Union Council, held in Bangkok in 2016.⁸⁶ As a priority for joint action, the Meeting identified a need for mutual recognition of the skills of medium- and low-skilled workers, social protection for migrant workers and ethical recruitment and protection of migrant workers throughout the migration cycle.⁸⁷ In August 2015, the ASEAN Trade Union Council, the South Asian Regional Trade Union and the Arab Trade Union Confederation signed a memorandum of understanding to promote joint action to create a safe and rights-based environment for migrant workers, including a number of key actions to strengthen their cooperation with each other in order to protect migrant workers, as well as a system for regular coordination, monitoring and periodic evaluation through a committee of six representatives. At a workshop held in Kathmandu in May 2016, member States of the South Asian Association for Regional Cooperation adopted a plan of action for cooperation on labour migration. Inputs were also received from representatives of workers' and employers' organizations.

Latin America

151. In 2015, the presidents of the States parties to MERCOSUR signed a revised Social and Labour Declaration, which included input from the social partners.⁸⁸ Section 2 calls on States parties to promote social dialogue and tripartism in formulating active policies of decent work, while section 20 focuses on social dialogue and tripartism, including the establishment of effective mechanisms for permanent consultations between the representatives of governments, employers and workers.⁸⁹

152. In 2017, the XX Inter-American Conference of Ministries of Labour of the Organization of American States convened labour authorities, workers' and employers' organizations and international organizations to discuss and build consensus on the future of work, the implementation of Goal 8 of the SDGs and gender equality and labour rights. The Declaration of Bridgetown 2017, adopted at the conference, recognized that social dialogue is the fundamental instrument for carrying out strategic and permanent partnerships as well as a basic mechanism for preventing and resolving labour issues.

North America

153. In March 2017, the United States Government notified its intention to renegotiate the North American Free Trade Agreement (NAFTA) in order to bring labour provisions

⁸⁴ European Commission: *European Pillar of Social Rights* (Luxembourg, Publications Office of the European Union, 2017).

⁸⁵ ILO: *Strengthening social dialogue for inclusive and sustainable growth*, background note for the Special Plenary Debate, 16th Asia and the Pacific Regional Meeting (Bali, Indonesia, Dec. 2016), para. 24.

⁸⁶ See ILO: *ASEAN TRIANGLE Project: First Joint Meeting of the ASEAN Confederation of Employers and the ASEAN Trade Union Council*, Conclusions and Recommendations, Bangkok, 8–9 Mar. 2016.

⁸⁷ See <http://aseantuc.org/2016/03/first-ace-atuc-dialogue-inks-joint-actions-to-protect-migrant-workers/>.

⁸⁸ I. Da Costa: *Cross-border social dialogue and industrial relations: Recent trends and issues*, unpublished.

⁸⁹ See <https://issuu.com/divulgacionmercosur/docs/sociolaboral-v2-final-ing>.

into line with the labour conditionality agreements attached to all United States trade agreements made since NAFTA was signed. Freedom of association cases make up the bulk of all NAFTA labour complaints for all three signatory countries – Canada, the United States and Mexico – and obstacles to union registration have always been the chief complaint in the NAFTA process. However, under the current dispute settlement arrangements, such cases have been subject only to ministerial consultations through NAFTA, with no recourse to arbitration or penalties.⁹⁰

Africa

154. Africa has the highest number of regional economic communities that aim at integration. Of the eight communities recognized by the African Union, several have attempted to add a social dimension to supplement the economic component, including UEMOA, the Economic Community of West African States, the SADC and the East African Community. For example, UEMOA has identified social dialogue as an important mechanism for promoting social peace and security and as a result the member States have been requested to take measures to strengthen social dialogue by reinforcing or establishing mechanisms and institutions for cooperation and consultation between public authorities and the social partners.

Free trade agreements

155. Labour-related clauses are increasingly included in bilateral free trade agreements. Labour provisions are particularly common in the free trade agreements recently signed by the United States, Canada and the EU. As of December 2015, 76 trade agreements with labour provisions were in place (covering 135 economies), nearly half of which were concluded after 2008. Over 80 per cent of agreements that came into force between 2013 and 2015 contained labour provisions.

156. On the positive side, an ILO study showed that most of the countries involved in free trade agreements as of December 2015 had set up permanent consultative structures with fixed participation and inclusive mechanisms involving civil society, including trade unions and the public (“stakeholders”) and at times drawing on ILO participation, such as the 2013 Trade Agreement between the European Union and Colombia and Peru.⁹¹ On the negative side, the study found that in practice, many of these consultative mechanisms had little impact and most stakeholders expressed little satisfaction with either transparency or government accountability to civil society and the public.

International investment agreements

157. According to the United Nations Conference on Trade and Development’s *World Investment Report*, by December 2016 the number of international investment agreements had increased to 3,324.⁹² A new generation is incorporating social issues and fostering responsible investment: of the 18 agreements signed in 2016, 12 referred to protecting labour rights.⁹³ The report also highlighted the MNE Declaration as a global standard with investment relevance.

⁹⁰ K.A. Nolan Garcia: “Labor rights under NAFTA: A potential renegotiation”, in *Forbes* (8 May 2017).

⁹¹ ILO: *Assessment of labour provisions in trade and investment arrangements*, Studies on Growth with Equity (Geneva, 2016).

⁹² UNCTAD: *World Investment Report 2017: Investment and the digital economy* (Geneva, 2017), p. xii.

⁹³ *ibid.*, p. 119.

2.5.3. Voluntary initiatives involving MNEs and global unions

Transnational company agreements

158. Among numerous voluntary initiatives by MNEs aimed at promoting firms' policies on corporate social responsibility, expressing commitments to international principles, monitoring supply chains and resolving workplace disputes, transnational company agreements – in particular, international framework agreements (IFAs) negotiated between MNEs and global union federations – are by far the most sophisticated cross-border social dialogue tools. IFAs typically contain pledges to respect the principles concerning fundamental rights, the subject of core ILO Conventions, and include union-management mechanisms to review implementation of the IFA. They also contain clauses aimed at facilitating the organization of workers and collective bargaining across the value chain of MNEs. Increasingly, IFAs refer to the MNE Declaration.

159. In 2016, the number of IFAs stood at 115,⁹⁴ admittedly a small share of the roughly 80,000 MNEs. The MNEs who have signed IFAs with global union federations are headquartered in 24 countries, predominantly in Europe (94) and above all in France, Germany and Spain,⁹⁵ while 21 non-European MNEs have signed an IFA.⁹⁶ To date, IFAs have been negotiated mainly in the producer-driven sectors – the metal, construction, food and service sectors – while only five have been negotiated in the garment and clothing sector, which is a buyer-driven sector.

160. Assessing the effectiveness of IFAs in reducing decent work deficits along MNE value chains is difficult owing to a general scarcity of data. A review of 29 case studies of IFAs signed by 2015 pointed to the overall limited impact of IFAs on suppliers and subcontractors because monitoring is problematic. Good practices exist, however, as reported by some field studies in, for example, the United Republic of Tanzania, Turkey and the United States.⁹⁷ IFAs predominantly cover companies' own operations, while coverage of suppliers and subcontractors is often based on firms' pre-existing code of conduct and monitoring system.

Multi-company industry dialogue and agreements

161. As a response to the 2013 Rana Plaza disaster in Bangladesh, multi-company bargaining led to the signing, in May 2013, of the Accord on Fire and Building Safety as a binding industry framework agreement for five years between IndustriALL, UNI Global Union and several MNEs with production facilities in that country.⁹⁸ Since then, there have been no workplace fatalities owing to fire, electrical or structural hazards at an Accord-covered factory with an active or completed action plan to remedy OSH gaps. Yet by April 2017, the majority of factories were behind schedule on their action plans, pointing to the need for greater efforts. By October 2017, almost 50 brands using 1,173 ready-made garment factories had committed to signing a new, three-year Accord with

⁹⁴ F. Hadwiger: "Contracting international employee participation: Global framework agreements," PhD Thesis (forthcoming), p. 43.

⁹⁵ *ibid.*

⁹⁶ In Australia (one), Brazil (four), Canada (one), Indonesia (two), Japan (three), New Zealand (one), Qatar (one), Russian Federation (one), South Africa (three) and the United States (four).

⁹⁷ F. Hadwiger: "Global framework agreements achieving decent work in global supply chains", background paper (Geneva, ILO, 2015), pp. 45–46.

⁹⁸ ILO: *Decent work in global supply chains*, Report IV, International Labour Conference, 105th Session, Geneva, 2016, paras 164–166.

IndustriALL and UNI Global Union.⁹⁹ While the first Accord covered ready-made garment facilities, the revised agreement make possible the inclusion of suppliers producing home textiles, yarn, cloth and related products.¹⁰⁰

⁹⁹ IndustriALL: “Leading fashion brands join with unions to sign new Bangladesh Accord on Fire and Building Safety” (29 June 2017).

¹⁰⁰ IndustriALL: “Global unions urge more brands to sign new Bangladesh Accord” (9 Oct. 2017).

Chapter 3

ILO action on social dialogue: Responding to constituents' diverse realities and needs

3.1. Background

162. This chapter presents the ILO's action to assist constituents in overcoming the challenges and in realizing the opportunities of social dialogue and tripartism at all levels, in line with the plan of action on social dialogue for 2014–17, through selected examples. It draws on the reports on ILO programme implementation produced since 2013 and on the 2017 report by the ILO's Evaluation Office (EVAL) on the findings of a synthesis review of ILO social dialogue interventions from 2013 to 2016.¹

3.2. Support for the key social dialogue actors

163. A major focus of the ILO is developing the capacities of its constituents in all aspects of social dialogue. This includes raising awareness of the benefits of social dialogue as a governance tool, building the institutional capacity of the constituents to participate effectively in social dialogue and policy-making, providing necessary training courses, and developing the structures available for bargaining collectively and complying with labour law. Such capacity building is at the core of many Decent Work Country Programmes (DWCPs) and development cooperation projects – the main tools of ILO service delivery at the country level.

3.2.1. Labour administrations

164. One of the aims of ILO policy advice, technical services and capacity building since 2013 has been to enhance the effectiveness and efficiency of public administrations, for example by introducing new management methods, enhancing performance measurement or improving policy evaluation. The Office has also maintained and built links to schools of public administration and other academic institutions. Since 2013, three interregional workshops on labour administration have brought together labour practitioners, scholars and ILO specialists. The outcomes of those workshops have been used to underpin policy advice and advocacy in global, regional and national forums and to disseminate knowledge.

165. In the period 2013–17, specific assistance was provided to a number of countries and territories based on a thorough assessment of the capacity of their labour administration. This was followed by agreements with the relevant governments to implement the recommendations of the assessments (usually incorporating the views of employers' and workers' organizations as well) through the formulation of action plans. In the same period,

¹ ILO: *Social dialogue interventions: What works and why? Lessons learned from a synthesis review 2013–2016* (Geneva, 2017).

comprehensive assessments were designed and implemented in Botswana, Greece, Lesotho, Malawi, Mauritania, the Occupied Palestinian Territory, Oman, Saudi Arabia, South Africa and Uganda, and a comprehensive study on labour administration was conducted in Japan.

166. In 2016–17, tripartite constituents in several countries and territories received ILO support in developing national strategies to enhance workplace compliance and to create safe and productive work environments, including through labour law reforms (Guyana, the Occupied Palestinian Territory and Ukraine); the adoption of national OSH policies or profiles (Grenada and Samoa); and the strengthening of labour inspection and administration (Bangladesh and Colombia).

3.2.2. Employers' organizations

167. Strong and representative employers' organizations that are the voice of business in policy dialogue are essential for effective social dialogue. The ILO's Bureau for Employers' Activities (ACT/EMP) has played a leading role in strengthening the technical and institutional capacity of employers' organizations to enable them to engage in social dialogue and influence policies, on the basis of their needs and policy priorities.

168. Since 2012, the ILO's analytical and policy development tool, the Enabling Environment for Sustainable Enterprises (ESEE) methodology, has increasingly been used by employers' organizations to assess the business environment and develop national business agendas or proposals.² As a result of ESEE assessments, employers' organizations have adopted business agendas to engage with government, and sometimes trade unions, on measures to promote growth and employment. The ESEE methodology has been applied in more than 40 countries across all regions. According to a recent review, it has led to positive changes, including more robust policy dialogue with local governments and trade unions and new or revised laws in a number of countries.³

169. The Office continued in 2014 and 2015 to assist employers' organizations in developing and deploying tools to help member companies to address employment and industrial relations issues in countries including India, Morocco, Nepal, the Philippines and the former Yugoslav Republic of Macedonia.

170. The Office has provided technical advice, research and communication capacity support to employers' organizations involved in labour law reform, including in Jordan, the Occupied Palestinian Territory, Malawi and Sri Lanka. Viet Nam's Chamber of Commerce and Industry is engaged in a wide-ranging labour law reform process, the catalyst for which has been labour law provisions in trade agreements stipulating key changes of national law in areas of core labour standards. With support from the ILO, employers' organizations have established a task force on promoting sustainable and responsible business in the Sialkot sports goods manufacturing sector in Pakistan, and a task force on promoting socially responsible labour practices in the electronics sector in Viet Nam, to promote decent work in these sectors through improved social dialogue involving brands and buyers. Employers' organizations are making efforts to help their members to comply with labour legislation and regulations. Many employers' organizations, with the support of the ILO, have developed and launched services, tools and resources to promote better understanding and application of legal requirements for business, including individual and collective employment relations. These have included

² See <http://www.ilo.org/empent/units/boosting-employment-through-small-enterprise-development/eese/lang-en/index.htm>.

³ ILO: *Review of the ESEE programme* (Geneva, forthcoming, 2018).

a new training service and employers' guide in the Lao People's Democratic Republic, an advocacy strategy on the review of the labour code in Saint Kitts and Nevis, and a compendium of labour laws of member States of the SADC.

171. Wage policy is another area where employers' organizations have sought ILO support to build their analytical capacity to engage in dialogue and influence policy, including in Cambodia, China, Jordan and Sri Lanka.

172. Employers' organizations have placed a high priority on social dialogue with government, workers' organizations and other stakeholders with respect to skills policy. The ILO has supported employers' organizations in collecting and analysing data on skills needs at the national and sectoral levels, including with respect to the development of a skills policy framework in Oman and the Philippines.

173. In partnership with the International Organisation of Employers (IOE) and the International Training Centre of the ILO (ITC-ILO) in Turin, a training package for employers' organizations on enhancing employers' involvement in social protection policy debates was launched in 2015.

3.2.3. Workers' organizations

174. The ILO Bureau for Workers' Activities (ACTRAV) has provided support to workers' organizations through technical advice and the implementation of development cooperation projects.

175. Workers' organizations have received assistance on the promotion of international labour standards and the MNE Declaration as the linchpin for social dialogue, in particular with respect to the ratification and sound implementation of Conventions Nos 87 and 98. In Europe and Central Asia, successful union campaigns and ILO technical assistance led to the ratification of Convention No. 87 by Uzbekistan in 2016, thus achieving the full ratification of the eight fundamental Conventions in the region. In Africa, activities related to international labour standards were developed in countries such as Mozambique and Zambia. In Asia and the Pacific, the ILO supported trade union campaigns to ratify and implement fundamental labour Conventions and to promote the enforcement of national laws and international labour standards in India, Malaysia, Nepal, Thailand and Viet Nam.⁴

176. ACTRAV has helped to mobilize workers' support and gather inputs for the adoption of international labour standards, such as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted in June 2015. It has also supported the participation of workers' organizations in conferences and round tables on the Future of Work in numerous countries.

177. Knowledge generation and dissemination activities in industrial relations and labour dispute resolution have targeted workers' organizations in countries such as Botswana, Kazakhstan, the Russian Federation and South Africa. In Botswana, a study on the strengths and weaknesses of social dialogue was conducted, on the basis of which the Botswana Federation of Trade Unions developed a position paper. The Trade Union Congress of Namibia commissioned a similar study for Namibia, which led to a joint workers' and employers' position paper on the status of social dialogue.

178. Policy advice and technical services to trade unions have been provided in the context of newly established tripartite councils in, for example, Azerbaijan and Georgia.

⁴ See ILO: *Trade Unions for Social Justice: Independent evaluation of outcome 10: Workers have strong, independent and representative organizations* (Geneva, 19 Nov. 2014).

In response to needs expressed by workers' organizations, the ILO has supported capacity building in several fields, including in countries undertaking major labour law reforms. In Peru, the Office supported the action programme on promoting social dialogue in the utilities sector, which was launched in 2011, and in 2015, the parties jointly conducted research on the implementation of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), to determine the magnitude of the gender employment and pay gap in the sector.

179. In different countries, training in various fields of interest has been provided to workers' organizations, as well as tailor-made support in the area of industrial relations. The ILO has also supported capacity building for workers' organizations on research and policy development in partnership with labour-based research organizations, thus enhancing the capacity for social dialogue.

3.3. Labour law reforms and dispute prevention and resolution

3.3.1. Labour law advisory services

180. In 2014–17, the Office provided labour law reform advisory services on labour relations and collective bargaining to 25 countries and territories, and on tripartite social dialogue to seven countries. The Office also maintains the Employment Protection Legislation database (EPLex), which contains data on the employment termination laws of some 95 countries.⁵ EPLex data are used to provide comparative labour law advice to member States and to inform research by the ILO and others. In 2013–17, four papers drawing on the database were published: one on the regulation of collective dismissals; two on methodologies for measuring the relative strength of employment protection legislation; and one on the prevalence and regulation of fixed-term contracts.

181. Office research into the contribution of labour law to the alleviation of poverty and to economic and human development led to the publication of a book on the topic.⁶ The research is being adapted for operational use by the Office. Furthermore, the Office is developing a labour law reform toolkit to guide its support for labour law reform. It is also engaged in research on comparative law and practice on the legal regulation of employment relationships and its evolution in selected jurisdictions, in response particularly to the growth of non-standard forms of employment.⁷ Other research is being carried out, into private employment agencies and the regulation of collective dismissals.

3.3.2. Dispute prevention and resolution

182. In 2014–17, the Office provided technical advice on strengthening the design or operation of labour dispute prevention and resolution systems in 38 countries. The ITC-ILO delivered certification courses on conciliation and mediation skills for 42 participants from 18 countries. It also provided in-country training in five countries. The Office has strengthened its partnerships with dispute resolution agencies, which supported the Office's delivery of technical advice or capacity building in six countries. These agencies also contributed to the annual course at the ITC-ILO on building effective labour dispute

⁵ See <http://www.ilo.org/dyn/epllex/termmain.home>.

⁶ S. Marshall and C. Fenwick (eds): *Labour regulation and development: Socio-legal perspectives* (ILO and Edward Elgar, 2016).

⁷ ILO: *Non-standard employment around the world: Understanding challenges, shaping prospects* (Geneva, 2016).

prevention and resolution systems. Participants from 24 countries took part in the course in 2014–17.⁸

183. The Office supported the establishment of knowledge- and practice-sharing platforms at the subregional level, which offered constituents the opportunity to discuss common interests and challenges. A Network for Agencies for Peaceful Settlement of Labour Disputes was launched in 2016, covering nine countries in Central and Eastern Europe. A similar network was launched for SADC countries in 2017.

184. The Office's research suggests that the design and operation of individual labour dispute resolution systems may be impeded because there is no single ILO instrument that establishes consistent and comprehensive principles for labour dispute resolution systems. Certain principles are addressed in respect of collective dispute resolution mechanisms, labour inspectorates and workplace-level grievance mechanisms by ILO instruments or supervisory bodies. However, guidance is dispersed across different instruments and is insufficiently clear.

185. Research findings are providing input for technical advisory services in countries such as Albania, China, Montenegro, the United Arab Emirates and the United Republic of Tanzania. Research has also analysed global developments in the promotion of access to justice in the context of the SDGs and has examined the principles that can be derived from the existing body of international labour standards. Proposed guiding principles are being developed on that basis.

3.4. Peak-level tripartite social dialogue

186. In 2014–17, in line with the plan of action on social dialogue, the Office engaged in a number of activities to support member States in using and strengthening peak-level social dialogue institutions and processes. These efforts included knowledge generation and sharing through the production of policy, analytical and training tools, capacity building, and global and regional forums to promote mutual learning and exchange of experiences and good practices.

187. A guide on national tripartite social dialogue, translated into seven languages, and a guide on the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113),⁹ were used to underpin policy advice and training interventions to establish institutions for tripartite cooperation in 12 countries, or to enhance the capacity and impact of existing institutions in policy-making in more than 20 countries and in four African regional groupings – the Central African Economic and Monetary Community, UEMOA, the Economic Community of West African States and the SADC. In Tunisia, Office support to the national social dialogue process contributed to the awarding of the Nobel Peace Prize to Tunisia's National Dialogue Quartet in October 2015. The Office's efforts to help build frameworks for social dialogue also included fragile States such as the Central African Republic and Haiti, as well as States experiencing politically instability, such as Mali.

188. A database developed jointly by the ILO and the International Association of Economic and Social Councils and Similar Institutions (AICESIS) on tripartite institutions covering 142 countries was made available online in 2016 and has been used to underpin

⁸ The ITC-ILO publication *Labour dispute systems: Guidelines for improved performance* (which is available in 12 languages) provided the framework for the course.

⁹ ILO: *National tripartite social dialogue: An ILO guide for improved governance* (Geneva, 2013); and ILO: *Voice Matters: Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)* (Geneva, 2017).

policy advice and capacity building for national social dialogue bodies.¹⁰ The database is supported by the collection of laws and regulations on tripartite institutions, and presents substantive information on the organization of these bodies and their main competencies and achievements.

189. Within an EU-funded project, a peer review of the functioning of economic and social councils in the Western Balkans was carried out for 2016–17, and the tripartite bodies concerned made a commitment to implement measures to enhance their impact in policy-making.

190. The Office continued to assist constituents in establishing and upgrading frameworks for tripartite social dialogue, including through the promotion of the ratification and effective implementation of Convention No. 144 and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152). As of July 2017, Convention No. 144 had been ratified by 139 countries, six of which ratified after the recurrent discussion on social dialogue at the 102nd Session (2013) of the Conference. In 2017, the Office stepped up its promotional action aimed at the universal ratification of this Convention by 2019, in time for the ILO centenary.¹¹

191. Although nearly all ILO member States have put in place institutional frameworks for peak-level cooperation at the national or sectoral levels, questions remain as to the effectiveness of many of those frameworks. Since 2013, some governments have acted unilaterally in reforming pensions, the labour market and macroeconomic policies, and the legal frameworks for industrial relations. In several countries, especially crisis-hit countries in Africa and Latin America, tripartite institutions have faced difficulties in easing tensions and in preventing the major labour disputes that have arisen in public services such as education and health care. Some other countries, such as Greece, have pursued dialogue and have called on the ILO to assist (box 3.1).

Box 3.1
ILO action in Greece to promote social dialogue
during structural adjustment

Since 2010, tough political, social and economic conditions have prevailed in Greece. After a debt crisis and the conditions set by the country's creditors (the troika of the European Commission, the European Central Bank and the IMF) in exchange for a financial bailout, several aspects of the country's employment protection legislation, collective bargaining framework and industrial relations were modified, abruptly curtailing space for social dialogue.

Acknowledging consecutive observations of the ILO supervisory bodies since 2011 calling for permanent and intensive social dialogue on Greek labour reforms, and requests from the Greek Government, the Office provided extensive technical assistance and policy advice that led to:

- a tripartite agreement in September 2014 on labour law reforms (facilitated by the ILO Director-General);
- an agreement in December 2015 among the five peak-level employers' and workers' organizations on ways to improve the social dialogue landscape; and
- a tripartite agreement on a roadmap to address informal work in line with the Transition from the Informal to the Formal Economy Recommendation, 2015

¹⁰ See <http://www.aicesis.org/database>.

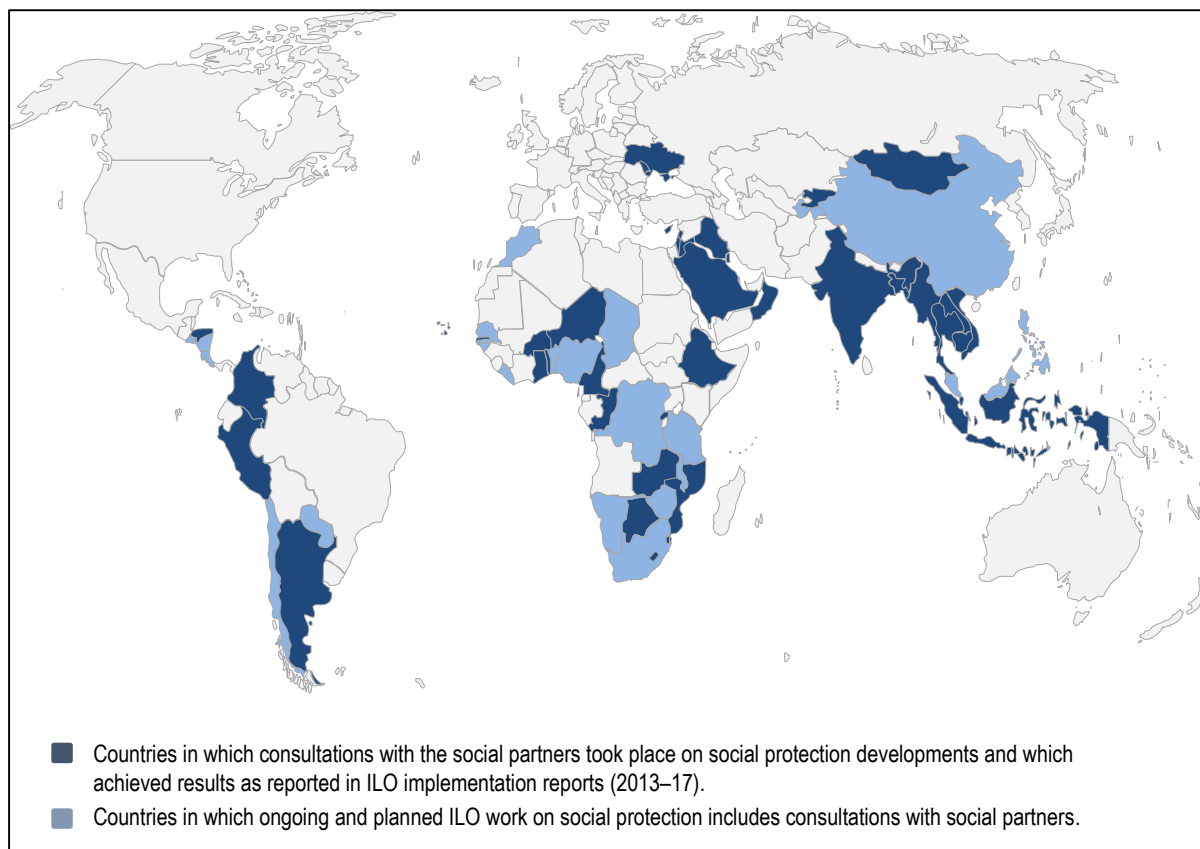
¹¹ See ILO: *Towards the universal ratification of Convention No. 144 on Tripartite Consultation by the ILO centenary in 2019* (Geneva, 2017).

(No. 204), and to strengthen labour inspection, through an ILO–EU-funded project in 2015.

From 2013 to 2016, an ILO Senior Liaison Officer for Cyprus and Greece, based in Athens, facilitated the advice and assistance provided by the ILO on the ground.

192. The Office has provided technical support and policy advice to the tripartite constituents to help develop national and sectoral strategies that strengthen peak-level social dialogue during labour law reforms (in, for example, Guyana and Ukraine); to tackle work in the informal economy and organize hard-to-organize or non-standard workers (in Burkina Faso and Mexico); and to prepare for the ratification of ILO instruments related to freedom of association and collective bargaining (in Iraq and Oman). In Tunisia, the second phase (2014–17) of a comprehensive project funded by Norway supported reforms on regional development, employment policy and social protection, while a third phase (as of 2017) aims at strengthening the operation of the National Council for Social Dialogue (created under the 2013 social contract). In its efforts to mainstream social dialogue in its technical advisory support to member States, the ILO's Assessment-Based National Dialogue methodology, endorsed by various UN agencies, supports the development of social protection strategies and reforms through tripartite participation. It contributes to securing an appropriate degree of political will and social consensus for more sustainable and adequate reforms in line with SDG target 1.3 on implementing nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieving substantial coverage of the poor and the vulnerable.

Figure 3.1. Developments in social protection with the participation of the social partners, 2013–17



Source: ILO Social Protection Department.

193. In most instances, ILO action was complemented by gender-sensitive capacity building targeting employers' or workers' organizations separately, or in tripartite settings, often by region or language.

194. Since 2013, the Office has further expanded its research and knowledge generation as well as its knowledge dissemination efforts through books, guides, policy tools and websites, including in key thematic areas relevant to social dialogue, such as the impact of the economic crisis on industrial relations in Ireland and southern Europe (2014); social dialogue in the rural economy (2015); post-crisis social dialogue in the EU-28 (2017); social dialogue and transition to formality (2017); MNEs and national social dialogue institutions (2017); new challenges and issues in social dialogue (2017); and the business case for social dialogue (2017).

195. Strengthened partnerships with the AICESIS led to four annual global meetings aiming to strengthen the role and impact of national social dialogue institutions on issues related to decent work. In 2017, representatives of 37 ESCs and similar institutions met in Athens to discuss the role of social dialogue in shaping the future of work and adopted a declaration committing them to addressing related emerging challenges and opportunities.

196. Two academies on social dialogue and industrial relations were organized by the ITC-ILO in 2014 and 2016, which were attended by 150 participants from 68 countries. The ITC-ILO has also mainstreamed social dialogue and tripartism in other academies it has held on social security, gender, migration and employment.

197. Partnerships with EU institutions (notably Eurofound and the European Commission) have led to joint activities to build the capacities of national social dialogue actors and institutions to expand their knowledge base and facilitate policy dialogues.¹²

198. In 2016 and 2017, some 113 ILO member States took part in national or supranational tripartite dialogues on the future of work, largely structured around four themes: work and society, decent jobs for all, the organization of work and production, and the governance of work.

3.5. Bipartite social dialogue

199. Since 2013, there have been 16 new ratifications of the Conventions related to freedom of association and collective bargaining (table 3.1), mostly as a result of the promotional activities by the Office.

Table 3.1. Ratification of ILO Conventions related to freedom of association and collective bargaining since 2013

Convention No. 87	Convention No. 98	Convention No. 151	Convention No. 154
Republic of Maldives, Somalia and Uzbekistan	Canada, Republic of Maldives and Somalia	Bosnia and Herzegovina, Morocco, the Philippines, Russian Federation, the former Yugoslav Republic of Macedonia and Tunisia	Bosnia and Herzegovina, the Czech Republic, the former Yugoslav Republic of Macedonia and Tunisia

¹² See K. Papadakis and Y. Ghellab (eds): *The governance of policy reforms in Southern Europe and Ireland: Social dialogue actors and institutions in times of crisis* (ILO, Geneva, 2014); I. Guardancich and O. Molina (eds): *Talking through the crisis: Social dialogue and industrial relations trends in selected EU countries* (ILO, Geneva, 2017).

200. In addition to promotional activities, various Office products and technical assistance have focused on industrial relations. In 2015, an industrial relations database (IRData) was launched, which contains data on trade union density and collective bargaining coverage in 110 countries. Another database on industrial relations (IRLex), which summarizes the legal frameworks in 41 member States, was launched on a pilot basis in March 2016. Research was carried out on trends and developments in emerging economies concerning the impact of labour law reforms on collective bargaining and on labour relations and decent work in Greece and Romania. A supplement was also published to the *Manual on collective bargaining and dispute resolution in the Public Service*.

201. Collective bargaining was integrated into interventions to achieve gender equality at the country level in countries in South America and Africa, including through published guides. At the international level, an issue brief on negotiating for gender equality and on the role of collective bargaining to promote gender equality was published. The Office also produced issue briefs on trends in collective bargaining coverage and on improving working conditions for domestic workers.

202. A policy guide on collective bargaining was piloted in 2015 in Rwanda and Sri Lanka prior to its publication in December 2015. A new training programme based on this policy guide was launched at the ITC-ILO in December 2016. The ITC-ILO also continued to deliver its training course on negotiation skills for the world of work, which runs three times a year.

203. As part of the campaign to promote the ratification and implementation of the collective bargaining Conventions, an annotated guide to the Collective Bargaining Convention, 1981 (No. 154), and its Recommendation No. 163, was produced in April 2015, entitled *Promoting Collective Bargaining*.

204. The Office also published fact sheets on collective bargaining, on representativeness and recognition for collective bargaining, on subjects for collective bargaining, and on the application of collective agreements. It has also published a working paper and an issue brief on workplace cooperation, examining recent trends and the relationship between workplace cooperation and other social dialogue processes.

205. Under the Better Work Programme, at least 4,000 assessments of factories' compliance with national labour laws and fundamental principles and rights at work were conducted in 2013–17. The Office continued to work with the factory employers and workers to develop improvement plans and then monitor progress, in addition to offering training and working with ILO regional and country offices to help constituents to adopt measures addressing the root causes of lack of compliance. The policy advice, technical services and capacity-building activities provided under the programme, including direct engagement with constituents in countries such as Bangladesh, Cambodia, Haiti, Indonesia, Jordan, Nicaragua and Viet Nam, led to the establishment of bipartite workplace committees. An independent assessment of the Better Work Programme, finalized in 2016, demonstrated that well-functioning social dialogue at the workplace is a critical component for improvements in compliance, working conditions and workers' well-being.¹³

206. The Office has produced InfoStories on collective bargaining and non-standard employment, a working paper on the gig economy, and an issue brief on collective bargaining and non-standard employment. It has assisted constituents in reviewing or

¹³ ILO and IFC: *Progress and potential: How Better Work is improving garment workers' lives and boosting factory competitiveness: A summary of an independent assessment of the Better Work Programme* (Geneva, 2016).

developing evidence-based policies and measures to promote collective bargaining and workplace cooperation in more than 18 countries.

207. Customized workshops on grievance handling were carried out by the Office and the ITC-ILO in Bangladesh and Ethiopia in 2017. In Georgia, some 82 representatives of employers and workers were trained in Tbilisi, and 102 in other regions, through three-day training programmes on promoting workplace dialogue in 2016 and 2017.

208. In 2015, the ILO and the German Agency for International Cooperation hosted a regional tripartite workshop in Bangkok on minimum wages and collective bargaining in the garment sector in Asia, to share knowledge among representatives of employers' and workers' organizations and those of governments from seven Asian garment-producing countries. A tripartite regional workshop on consultation, cooperation and collective bargaining in the garment sector in Asia was also held in Bangkok in 2017, hosted jointly by the ILO and the German Federal Ministry for Economic Cooperation and Development. The Office also engaged in development cooperation projects financed by the Governments of Denmark and Sweden and a Swedish MNE to promote sound industrial relations in the garment and textile sectors in Bangladesh, Cambodia, Ethiopia and Myanmar.

3.6. Cross-border social dialogue

209. ILO sectoral meetings – themselves a form of cross-border social dialogue – provide a forum for social dialogue between representatives of governments, employers and workers from several different member States on key and emerging issues in selected sectors. In 2013–17, a number of sectoral meetings were held, where ILO constituents reached consensus on key themes, including themes relevant to the dynamics of supply chains and the importance of cross-border social dialogue.¹⁴ Consensus points and recommendations were adopted by tripartite constituents on, for example, wages and working hours in the textiles, clothing, leather and footwear industries (2014);¹⁵ occupational safety and health in the oil and gas industry in sub-Saharan Africa (2017);¹⁶ issues relating to migrant fishers;¹⁷ and the adaptability of companies to deal with fluctuating demand and the incidence of temporary and other forms of employment in the electronics industry (2014).¹⁸

210. The revised MNE Declaration strengthens social dialogue across borders. The operational tools of the Declaration now include a direct reference to Convention No. 144, and open further space for company–union dialogue facilitated by the ILO on request. The Declaration also encourages member States to appoint, on a tripartite basis, national focal points to promote the principles of the MNE Declaration at the country level, to boost social dialogue on matters related to operations of MNEs and to organize tripartite-plus dialogue platforms for the tripartite constituents and MNEs. Such dialogue could include

¹⁴ A list of all sectoral activities since 2013 is available at <http://www.ilo.ch/sector/activities/sectoral-meetings/lang--en/nextRow--0/index.htm>.

¹⁵ ILO: *Points of consensus*: Global Dialogue Forum on wages and working hours in the textiles, clothing, leather and footwear industries (Geneva, 23–25 Sep. 2014).

¹⁶ ILO: *Points of consensus*: Sub-Saharan African Tripartite Workshop on occupational safety and health in the oil and gas industry (Maputo, 17–18 May 2017).

¹⁷ ILO: *Conclusions on the promotion of decent work for migrant fishers*, Tripartite Meeting on Issues relating to Migrant Fishers (Geneva, 18–22 Sep. 2017).

¹⁸ ILO: *Points of consensus*: Global Dialogue Forum on the adaptability of companies to deal with fluctuating demands and the incidence of temporary and other forms of employment in electronics (Geneva, 9–11 Dec. 2014).

dialogue between home and host countries of MNEs, encompassing the cross-border tripartite social dialogue component of this instrument. Several ILO member States have already appointed, or are in the process of appointing, national focal points.

211. The Office has conducted numerous training courses for tripartite constituents and enterprises on applying the principles of the Declaration (including through e-learning), produced policy guideline notes and developed partnerships on strengthening social dialogue in the operation of MNEs, including in the mining sector in Zambia, the sporting goods sector in Pakistan and the electronics sector in EPZs in Viet Nam.

212. At the global level, in 2017 the International Labour Conference reaffirmed that social dialogue is central for achieving fair and effective labour migration governance.¹⁹ At the subregional level, some initiatives to instil the principles of social dialogue in labour migration governance included institutional and social partner capacity building. Since 2013, four global, 55 regional or subregional, and seven interregional tripartite meetings on labour migration have been held with the support of the ILO.

213. The Office has also undertaken additional research assessing labour provisions in trade and investment arrangements, including social dialogue-related aspects.²⁰

214. An online database on all transnational company agreements signed between MNEs and European and global unions was launched in late 2013 in partnership with the European Commission, which contains information on the content, coverage and signatory parties of such agreements.²¹ Two research projects on IFAs were launched in 2016 on the origins and evolution of IFAs and their effectiveness along the value chains of selected MNEs. The project outcomes are due to be published in early and mid-2018.

215. With regard to multi-company industry dialogue, the Office has provided technical assistance to global union federations, MNEs, social partners and labour administrations to promote cross-border social dialogue in the ready-made garment supply chain. For example, the Office supported the signatories of the Accord on Fire and Building Safety in Bangladesh in reaching agreement, provided technical advice on implementation and facilitated efforts to coordinate with national constituents and the Bangladesh Alliance. The Office also provided technical advice to support a recent initiative named Action, Collaboration, Transformation, involving several MNEs and global union federations, to promote collective bargaining and living wages in the garment and textile industry through industry-wide collective bargaining linked to purchasing practices.²²

3.7. Mainstreaming of social dialogue in the SDGs

216. Decent work is an important part of the quest for policy coherence in the multilateral system and for achieving national development goals in a wide array of policy areas.²³ Before 2015, at the country level, this typically occurred through United Nations Development Assistance Frameworks (UNDAFs), which defined the strategic programme

¹⁹ ILO: Resolution concerning fair and effective labour migration governance, International Labour Conference, 106th Session, 2017.

²⁰ ILO: *Assessment of labour provisions in trade and investment arrangements*, Studies on Growth with Equity (Geneva, 2016).

²¹ See <http://ec.europa.eu/social/main.jsp?catId=978>.

²² See <https://actonlivingwages.com>.

²³ ILO: *Decent Work and inclusive sustainable growth: Challenges for global policy*, Governing Body, 326th Session, Geneva, Mar. 2016, GB.326/INS/5.

frameworks for UN support and provided insight into country progress, outcomes and goals in the context of the Millennium Development Goals. Since 2015, the 2030 Agenda and its Goals have provided a framework aiming to enhance coherence of social, economic and environmental policies.

217. The 2030 Agenda calls on States to protect labour rights and promote safe and secure working environments for all workers (target 8.8), in particular freedom of association and collective bargaining, as captured by indicator 8.8.2; promote the rule of law at the national and international levels and ensure equal access to justice for all (target 16.3); develop effective, accountable and transparent institutions (target 16.6); and ensure responsive, inclusive, participatory and representative decision-making at all levels (target 16.7).

3.7.1. Role of social dialogue in the 2030 Agenda

218. The ILO's End to Poverty Initiative has provided the framework to bring together all relevant ILO activities for achieving the SDGs. Requests for ILO assistance have focused on tripartite capacity development and policy advice for national processes and on monitoring and reporting systems concerning the SDGs.²⁴ These areas are shaping the development of post-2015 DWCPs.

219. The ILO has provided technical assistance to involve the social partners in consultations on UNDAFs, and has worked to support UN Country Teams in aligning UNDAFs with the SDGs, especially Goal 8.²⁵ The Office and the ITUC have implemented a joint research project to improve the knowledge base on the contribution of social dialogue to SDGs in Ghana, Indonesia and Uruguay (in 2016) and the role of social dialogue in the transition from the informal to the formal economy in Argentina, Costa Rica and Kenya (in 2017).

3.7.2. Assessing the impacts of social dialogue

220. As illustrated many times in this report, social dialogue takes place mostly at the country level. The voluntary national reviews of SDGs as of 2016, submitted by some member States to the annual UN High-level Political Forum on Sustainable Development, offer some insight into how social dialogue is used in the context of the 2030 Agenda. The synthesis report on the 2016 voluntary national reviews, which covered 22 countries, and the report on the reviews of 2017, which covered 43 countries, show that countries as diverse as China, Egypt, Finland, the Philippines, Samoa and Switzerland underscored the importance of multi-stakeholder engagement in implementing the SDGs.²⁶ It also emerged that the SDGs can even revitalize social dialogue (box 3.2). Yet few of the countries referred to engaging employers' and workers' organizations in the design or preparation phases of the voluntary national reviews or in actions to achieve the SDGs.²⁷ However, the 2017 voluntary national reviews of Belgium, Portugal and Sweden, for example, do depict such involvement.

²⁴ ILO: *The ILO and the United Nations Development System*, Governing Body, 329th Session, Geneva, Mar. 2017, GB.329/INS/7.

²⁵ UN Development Operations Coordination Office: *2016 United Nations Development Assistance Framework*, Desk Review (New York, Nov. 2016).

²⁶ UN Department of Economic and Social Affairs, Division for Sustainable Development: *Synthesis of Voluntary National Reviews: 2016 and 2017 Voluntary National Reviews: Synthesis Report*.

²⁷ Some countries, such as Germany, have such processes in place but these are not always captured in the voluntary national reviews or in reports to the High-level Political Forum.

Box 3.2
How the SDGs can revitalize social dialogue:
The case of Costa Rica

One example of how social dialogue in the context of the SDGs can act as a means not only for implementing the 2030 Agenda, but also for revitalizing social dialogue at the national level, is provided by Costa Rica. The process of implementing the SDGs in the country served as a platform for relaunching national dialogue, which, after the contentious referendum of October 2007 on ratifying the Central American Free Trade Agreement, appeared to have broken down.

While trade unions initially viewed with scepticism the Government's invitation to participate in the SDG process, they were convinced by the human rights dimension of the 2030 Agenda and the structured process proposed by the Government based on consensus-building. In September 2016, a National Pact for the SDGs was signed by the three branches of government, civil society, religious organizations and businesses, which pledged to promote and comply with the SDGs and to monitor and report on implementation.

The National Pact is the result of an inclusive and participatory process involving national stakeholders. It addresses Goal 17, on strengthening the means of implementation and revitalizing the global partnership for sustainable development, by highlighting the importance of forging collaboration between the public and private sectors for sustainable development. To this end, a new Technical Secretariat for the SDGs was established by presidential decree, which consolidates its mandate and governance structure based on a multi-stakeholder approach. A recent study by the ILO and the ITUC shows, however, that establishing (or re-establishing) social dialogue is only the first step in the long process of building trust and ensuring the continuous involvement of the social partners. *

* Source: R. Cheng Lo: *El diálogo social en la construcción de una estrategia nacional para la transición de la economía informal a la economía formal en Costa Rica* [Social dialogue in the building of a national strategy for the transition from the informal to the formal economy in Costa Rica] (San José, Costa Rica, Oct. 2017), unpublished.

221. The formal integration of many elements of the Decent Work Agenda into Goals 8 and 16, in particular, of the 2030 Agenda, along with better alignment of the DWCPs with the country priorities in UNDAFs, provide important entry points for involving the social partners in national development planning and in the design of UNDAFs. The findings of a 2015 ILO desk review which analysed the mainstreaming of the Decent Work Agenda in 43 UNDAFs were encouraging.²⁸ The review studied countries from five regions for January 2013 to March 2015, and found that 30 out of the 43 UNDAFs included a reference to tripartite social dialogue and the inclusion of the social partners, at times throughout the entire planning cycle. This represents an increase of 6 per cent compared with findings in a similar review in 2012. However, a desk review of UNDAFs for 27 countries and territories that had started implementation by 2016 presented a more blurred picture, with few countries referring clearly to the use of tripartite processes.²⁹ Yet, interesting examples of social partner consultation in the development of UNDAFs were found in the Plurinational State of Bolivia, Brazil, Mongolia, Peru, Senegal and Ukraine.

²⁸ ILO: *Mainstreaming the strategic objectives of the Decent Work Agenda in UNDAFs and UN Joint Programming (2013–2015)* (Geneva, Apr. 2015).

²⁹ M. Mexi: *Mainstreaming the ILO social dialogue model and inducing coherence across international organisations: Key developments and the way forward*, unpublished.

3.7.3. Multilateral organizations and social dialogue: Selected examples

222. The ILO has encouraged other international organizations and multilateral initiatives to engage with the social partners in the context of the SDGs and beyond. For example, under the Let's Work partnership of the World Bank, consultations with the social partners are an element, in collaboration with the ILO, in launching a process to design national job strategies in three pilot countries (Bangladesh, Paraguay and Tunisia).

223. During meetings organized at ILO headquarters and in Cyprus, Greece, Ireland and Portugal from 2012 to 2014, the Office triggered policy dialogue on the impacts of the public debt crisis on social dialogue and labour market institutions with the troika of creditors (the European Commission, the European Central Bank and the IMF) and tripartite constituents in the countries most affected by the crisis. Further, annual ILO–AICESIS conferences on social dialogue on issues related to decent work included participants from the World Bank, IMF, OECD, World Trade Organization (WTO), Asian Development Bank, European Commission, World Economic Forum and UN Economic and Social Commission for Asia and the Pacific.

224. In an encouraging turn, the IMF's 2015 *Guidance Note for Surveillance under Article IV Consultations* states that “[s]taff should routinely request meetings with political leaders (e.g. parliamentarians), trade unions, business representatives and civil society organizations” with a view to helping to stimulate public policy debate. The extent to which such principles are applied by the IMF field missions, particularly in countries with financing arrangements with the IMF, is not clear. Cyprus, Greece, Ireland, Portugal and Romania, which are involved in IMF-led labour and industrial relations reforms, have seen changes to national systems of industrial relations that led to less, not more, social dialogue and public deliberation.³⁰

225. The Office worked with the WTO in preparing a joint publication, which emphasizes that social dialogue is “central to making skills systems responsive to the needs of industry, including those industries producing tradable goods and services”.³¹

226. The Office has also worked closely with the World Health Organization and the OECD to integrate decent work and social dialogue into the work of governments on health-related SDGs. The High-level Commission on Health Employment and Economic Growth is jointly led by the ILO, the World Health Organization and the OECD. Their joint Working for Health programme has been developed to coordinate the implementation of action plans.

227. The delivery of the 2030 Agenda and the SDGs is an overarching objective in ongoing UN reform. At the time of writing, various scenarios are unfolding, while the detailed implications for the ILO as a tripartite specialized agency of the UN with a normative function is yet to be analysed. Clearly, the ILO's unique added value in development cooperation, including its position as a member of the UN family, is widely acknowledged. Its normative agenda, tripartite nature, experience in social dialogue and convening power make it an essential partner in many efforts to achieve the SDGs.

3.7.4. Other initiatives for the mainstreaming of social dialogue

228. Several ILO partnerships rely on the engagement of the social partners as a central element for policy-making. These include: Alliance 8.7 (to eradicate forced labour,

³⁰ Papadakis and Ghellab, op. cit., pp. 1–4.

³¹ ILO and WTO: *Investing in skills for inclusive trade* (Geneva, July 2017), p. 13.

modern slavery, human trafficking and child labour); the Global Initiative on Decent Jobs for Youth (with the participation of 21 UN bodies, which focuses on SDG targets 8.6 and 8.b); the Global Partnership for Universal Social Protection (initiated by the ILO and the World Bank, and officially launched in September 2016); the global Fair Recruitment Initiative (to help prevent human trafficking and protect the rights of workers, including migrant workers, from abusive and fraudulent practices); the Partnership for Action on the Green Economy (which brings together five UN agencies to support countries wishing to embark on greener and more inclusive growth); the UN Global Compact (which promotes the ILO Declaration on Fundamental Principles and Rights at Work, among others); the Equal Pay International Coalition (launched by the ILO, OECD and UN Women in September 2017, which focuses on SDG target 8.5); and the UN Secretary-General's High-Level Panel on Women's Economic Empowerment, of which the ILO is a member.

229. The Global Deal for decent work and inclusive growth is a multi-stakeholder partnership initiated by Sweden with support from the ILO and OECD to promote social dialogue and sound industrial relations, including as tools for achieving Goal 8 of the 2030 Agenda. Launched in September 2016, it brings together more than 50 governments, businesses, unions and other organizations that have made a commitment to enhancing social dialogue. The partnership aims to address challenges in the global labour market and to enable all people to benefit from globalization. The concept behind the Global Deal is that effective social dialogue can contribute to decent work, which will lead to inclusive growth and benefit workers, companies and society at large.

3.8. Links between social dialogue and the other ILO strategic objectives

230. The ILO strategic objective of promoting social dialogue and tripartism is both an end in itself and a means to achieve the other three strategic objectives of the ILO. Since 2013, cooperation has intensified across the Office to ensure that social dialogue – which has been a cross-cutting policy driver in the programme and budget since 2016–17 – is mainstreamed across other strategic objectives to ensure internal coherence and synergies. Markers have been developed to measure such mainstreaming. In 2016–17, the Office promoted social dialogue under all ten programme and budget policy outcomes, most notably under employment (outcome 1), social protection (outcome 3), formalization of the informal economy (outcome 6) and workplace compliance (outcome 7).

3.8.1. Promoting and realizing fundamental principles and rights at work

231. Despite new ratifications, Conventions Nos 87 and 98 remain the least-ratified fundamental Conventions, with roughly half the world's population living in countries that have not ratified either or both of these Conventions. The ILO supervisory system, notably the Committee on Freedom of Association and the Committee on the Application of Standards, has repeatedly pointed to anti-union discrimination and impunity as major factors affecting the exercise of freedom of association and collective bargaining, and thus social dialogue.³²

232. Beyond standards-related action, the importance of ILO technical assistance to address barriers to freedom of association by strengthening social dialogue institutions and

³² See for Brazil, Malaysia and the Russian Federation the observations of the Committee of Experts on the Application of Conventions and Recommendations on Convention No. 98, Article 1, International Labour Conference, 106th Session, Geneva, 2017.

enhancing trust in them was highlighted in the report for the 2017 recurrent discussion on fundamental principles and rights at work. ILO technical assistance has included in-depth assessments of the challenges to freedom of association faced at the national level, followed by national action plans with tripartite involvement and relevant awareness-raising campaigns, institutional capacity building, and a strengthening of the capacity of employers' and workers' organizations. Between 2012 and 2016, 107 new development cooperation projects to promote fundamental principles and rights at work were approved by the ILO, 12 per cent of which were on freedom of association and collective bargaining. These are in addition to activities funded by the ILO regular budget.

233. In spite of progress made by some States in promoting social dialogue and tripartism in EPZs (in Nicaragua, for example), challenges in realizing fundamental principles and rights at work persist. In 2016, the International Labour Conference discussed decent work in global supply chains and adopted conclusions which included a reference to the need for governments to “[a]ctively promote social dialogue and fundamental principles and rights at work ... including in EPZs”.³³ In November 2017, the tripartite Meeting of Experts on Promoting Decent Work and Protecting Fundamental Principles and Rights at Work for Workers in EPZs concluded that workers in EPZs commonly face barriers to exercising their right to organize, unions may face barriers and discrimination, and collective bargaining remains rare. It also found that these challenges are not unique to EPZs and tend to reflect the broader formal economy.³⁴ The conclusions called on the ILO to support the development of social dialogue at all levels in the countries operating EPZs. ILO projects on EPZs to date, such as those in Pakistan's textile industry, have indeed included a social dialogue dimension.

234. The Office has integrated social dialogue into its policies and activities on child labour in development cooperation projects. Since 2012, tripartite committees have drawn up national lists of hazardous child labour, as required by the Worst Forms of Child Labour Convention, 1999 (No. 182), in Chile, Côte d'Ivoire, Honduras, Malawi, Mali, Uganda and Zambia. National plans for the prevention and elimination of child labour and the protection of adolescent labour were adopted in other countries. In Argentina, for example, the national plan will be implemented by the National Committee for the Eradication of Child Labour, with representatives from the Government, trade unions, employers' associations and civil society. Additional examples of using social dialogue in efforts to tackle child labour come from Benin, Ghana, India, Kenya, Madagascar, Malawi, Morocco, the United Republic of Tanzania, Tunisia, Uganda and Zambia.³⁵

235. A similar approach has been applied with respect to the elimination of forced labour. Examples include projects on eliminating forced labour, with strong social dialogue components, in Brazil, China, Mongolia, Pakistan and Viet Nam.

236. In November 2015, the Governing Body discussed and endorsed an ILO strategy for action concerning indigenous and tribal peoples, in line with the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Office has supported the establishment of consultation mechanisms in Colombia, Guatemala, Honduras, Nepal and Peru. Furthermore, in late 2017, an ILO regional forum of tripartite constituents and the indigenous and tribal peoples' organizations from Argentina, the Plurinational State of

³³ ILO: *Conclusions concerning decent work in global supply chains*, adopted by the International Labour Conference at its 105th Session (2016).

³⁴ ILO: Conclusions of the Tripartite Meeting of Experts to promote decent work and protection of fundamental principles and rights at work for workers in EPZs (Geneva, 21–23 Nov. 2017).

³⁵ ILO: *Social dialogue interventions: What works and why?*, op. cit., pp. 32–33.

Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Panama, Paraguay and Peru took place in Lima.

3.8.2. Social protection for all

237. Participatory assessment-based national dialogues on social protection floors were undertaken in 15 African and Asian countries in 2013–17 using the ILO's global methodology. In this period, new or revised laws were developed in consultation with the social partners in 12 countries and territories, with Office support. Evidence-based policy research emphasizing the importance of social dialogue has been published and disseminated, covering areas such as reform trends and fiscal consolidation; other research is under preparation as part of the ILO Centenary Initiatives.

238. The Office initiated activities to build the capacity of ESCs and similar institutions to support the promotion of Recommendation No. 202 and Convention No. 102. Partnerships in this area include the Global Business Network for Social Protection Floors, which was launched by the ILO and the IOE in October 2015 as a platform for MNEs and employers' organizations, and the Social Protection, Freedom and Justice for Workers Network, which was launched in October 2017 together with the ITUC.

239. Minimum-wage fixing is one of the main topics of social dialogue and a key safeguard against poverty in many countries. Since 2013, the Office has provided policy advice and capacity-building services to specialized tripartite bodies in at least 30 countries in all regions. The Office has also developed a Minimum Wage Policy Guide to build the capacity of the tripartite constituents to engage in meaningful consultations in this regard.

240. In the area of labour migration, since 2013 the Office has organized two tripartite technical meetings and a tripartite meeting of experts, a total of 55 regional or subregional, and seven interregional, tripartite meetings and 116 tripartite capacity-building seminars on migrant workers' rights. It has also provided policy and technical advice in over 65 countries. The Office built the capacity of the tripartite partners to engage in labour migration governance through international trade union collaboration between origin and destination countries. It also provided policy advice for developing labour migration policies, involving the social partners, in at least 40 migration corridors. Such policies were also developed through tripartite consultations in ten countries, including Bangladesh, Chile and South Africa.

241. In line with the HIV and AIDS Recommendation, 2010 (No. 200), the Office helped to develop national tripartite workplace policies on HIV and AIDS in more than 30 member States and to provide technical capacity building and advocacy to ministries of labour and social partners in 26 member States.

3.8.3. Creating more opportunities for all women and men to secure decent employment and income

242. The importance of social dialogue for the development of employment policies is reflected in the provisions of the Employment Policy Convention, 1964 (No. 122), which as of June 2017 had been ratified by 111 countries, including five new ratifications since 2013.³⁶ Since that year, 32 developing countries, mostly in Africa, have received assistance in designing employment policies or programmes based on social dialogue. The Office provided support to establish inter-ministerial tripartite committees and thematic working groups, and to sustain the involvement of tripartite bodies. Social dialogue was

³⁶ *ibid.* p. 44.

also integrated in technical assistance provided in relation to SMEs, green jobs and a just transition, and employment in the rural economy.

243. In view of the examples of the participation of the social partners in the debates on skills development and in the management of technical and vocational training schemes, and in line with the Human Resources Development Recommendation, 2004 (No. 195), the Office provided training to social partners to enhance their knowledge of active labour market policies and macroeconomic policy. Over 90 trade union representatives received training in four regional workshops, and an employment policy guide for trade unions was produced in 2015.

244. The ILO's work on cooperatives is guided by the Promotion of Cooperatives Recommendation, 2002 (No. 193). It provides guidelines on the role of governments and employers' and workers' organizations in creating a supportive enabling environment for cooperatives, which is still lacking in many countries. Against this backdrop, the Office has conducted activities to enhance the role of cooperatives in more than 40 countries. Furthermore, social dialogue is a prominent feature of organizations and enterprises in the social and solidarity economy.³⁷ The ILO currently chairs the UN Inter-Agency Task Force on the social and solidarity economy.

245. Gender equality and non-discrimination is a cross-cutting component of the ILO's strategic objectives. Since 2013, the Office has produced several technical briefs to promote gender balance in tripartite bodies in Europe, Central Asia and the G20, and has compiled information on good practices on collective bargaining and gender equality. In 2016, it published an issue brief on negotiating for gender equality.

246. The Office is also promoting social dialogue through the ILO's Women at Work Initiative, which aims to enhance understanding of why progress on decent work for women has been so slow globally. Under the initiative, a major stocktake of the status and conditions of women in the world of work is being conducted, to identify the impediments and potential remedial action. A key component of the initiative is the forthcoming tripartite standard-setting process on violence and harassment at the International Labour Conference. A further strategic component is the Equal Pay International Coalition, launched in September 2017, which aims to achieve equal pay for work of equal value by 2030, in accordance with SDG target 8.5. Employers' and workers' organizations, alongside other key stakeholders, will have a central role in the Coalition's work.

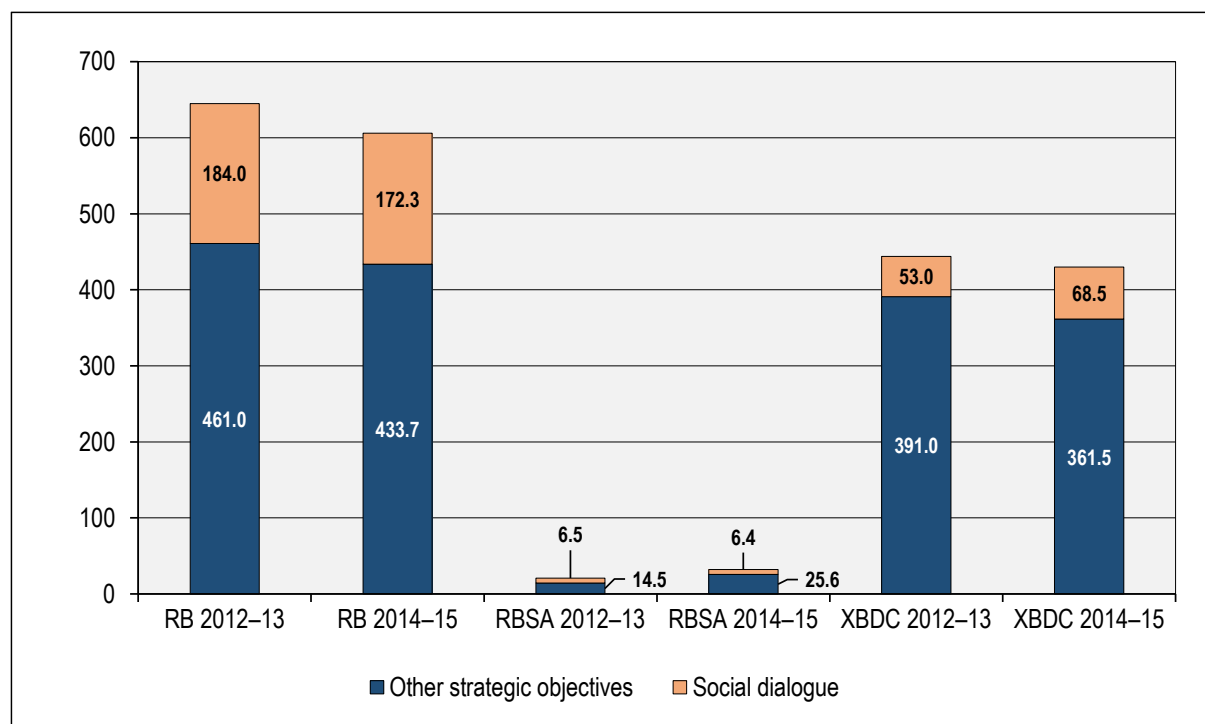
3.9. The ILO programme and budget: A snapshot

3.9.1. Overall allocations for social dialogue

247. In 2012–13 and 2014–15, the strategic objective of social dialogue and tripartism received funding from all sources, namely the regular budget (RB), the regular budget supplementary account (RBSA) and extra-budgetary development cooperation (XBDC) resources. Figure 3.2 compares the amounts allocated to social dialogue under the different sources, and the total allocations for the three other strategic objectives (fundamental principles and rights at work, employment and social protection).

³⁷ A commonly used definition of the social and solidarity economy is that devised by the 2009 ILO Regional Conference, "The Social Economy – Africa's Response to the Global Crisis" (Johannesburg, Oct. 2009): "the social [and solidarity] economy is a concept designating enterprises and organizations, in particular cooperatives, mutual benefit societies, associations, foundations and social enterprises, which have the specific feature of producing goods, services and knowledge while pursuing both economic and social aims and fostering solidarity".

Figure 3.2. Expenditure on the strategic objective of social dialogue, 2012–13 and 2014–15
(US\$ million)



Source: Reports on ILO programme implementation for 2012–13 and 2014–15.

3.9.2. Outcome-based work planning

248. Since their introduction in 2005, DWCPs have been an important means of delivering ILO support to countries seeking to advance the Decent Work Agenda. As of mid-2017, a total of 41 out of the 43 active DWCPs contained outcomes or country programme priorities aimed at strengthening social dialogue actors and institutions, including through reforming labour law frameworks and building the capacity of social partners. Of the 19 DWCPs concluded since 2015, ten have contained objectives related to the SDGs.

249. As stated above, since its change in status from a stand-alone policy outcome to a cross-cutting policy driver in the ILO programme and budget, social dialogue has been mainstreamed across all ten policy outcomes.³⁸ Monitoring of the implementation of the ILO country programme outcomes across the world indicates that, in 2016–17, social dialogue was integrated, to varying degrees, into most interventions at the country level. Around 75 per cent of the results achieved made a significant contribution to social dialogue or directly targeted its advancement. The contribution to social dialogue was notable for results in employment, social protection, formalization of the informal economy and strategies to enhance workplace compliance.

³⁸ The other three cross-cutting policy drivers are international labour standards, gender equality and non-discrimination, and environmental sustainability.

Chapter 4

Key observations and suggested points for discussion

250. This chapter provides a synthesis of the key observations that emerge from Chapters 1, 2 and 3 of this report on the role of social dialogue in a changing world of work and of ILO action to promote social dialogue, highlighting a number of challenges and opportunities. It also contains some suggested points for discussion. Its aim is to facilitate discussion and the adoption of conclusions by the Conference on the way forward in strengthening action on social dialogue.

4.1. Social dialogue in a changing world of work

251. **The continued relevance of social dialogue and its important contributions are increasingly evident in the context of global developments in employment and labour relations.** Promoting social dialogue and tripartism has been an objective in itself and a means to achieve other objectives of the ILO. As the ILO heads towards its centenary in 2019, social dialogue and tripartism remain firmly at the centre of its Decent Work Agenda and are the cornerstone of its standards and actions. Social dialogue is an important mechanism for building consensus, preventing and resolving labour disputes, determining wages, improving working conditions and promoting sustainable enterprises. Nonetheless, in an environment of growing inequalities and vulnerabilities and significant changes in employment and labour relations, it is important to examine how social dialogue and tripartism can be a more effective tool of governance of the world of work. This examination will also enlighten the discussion on the role and impact of social dialogue in the context of the ILO's Future of Work Initiative.

252. **Key social and economic policy topics remain on the agenda.** Over the years and to varying degrees in different countries, several major areas of social and economic policy have been addressed through social dialogue. Examples include economic stability and inclusive growth, employment, enterprise sustainability, poverty alleviation and social protection. Reducing decent work deficits is another important area that has been addressed through social dialogue. There are particular challenges related to specific sectors of the economy or groups of workers. Prime examples are the decent work deficits in the rural and informal economies, which account for the largest percentages of the world's working poor, and in domestic work, sectors of the economy that fall largely outside the scope of labour administrations. Difficulties in organizing employers and workers in these sectors constitute a major challenge and result in the absence of social dialogue.

253. **Challenges for the future of work raise the need for further social dialogue.** These challenges include widening income inequalities, the changing nature of employment relationships, the prevalence of informal employment and reduced public

expenditure. They are exacerbated by a number of mega-drivers of change, in particular technological advances, demographic shifts, climate change and deepening globalization. Further recourse to social dialogue is needed to develop new economic and social policies to deal with such complex issues. The diffusion of new business models and the increasing automation and digitization of work are changing the contours of the employment relationship, on the basis of which social dialogue, industrial relations and labour-management cooperation have historically been built and operated. The diversification of forms of work, such as work in the platform economy, and the continuing rise of non-standard forms of employment pose challenges to both employers' and workers' organizations concerning organization, representation and inclusiveness in the context of the future of work, as well as to governments concerning regulation and compliance.

254. Strong and efficient labour administrations are needed to support social dialogue. Decent work can be achieved only if the core functions of labour administrations, including dispute prevention and resolution, labour law enforcement and the promotion of workplace compliance, are carried out effectively and cover all workers and workplaces. Major violations of decent work often occur when labour administration is weak. Low budgets are constraining the capacity of labour ministries to provide the social partners with the necessary support to promote tripartite and bipartite social dialogue, including with adequate data and labour-market information. In addition to necessary financial allocations, labour administrations need to be properly resourced in terms of expertise and in the use of modern information and communications technology tools.

255. Employers' organizations have been adapting to emerging needs. Strong and representative employers' organizations that are the voice of business in policy dialogue are essential for effective social dialogue. In some regions, employers' organizations have been giving priority to providing services that help members to regain competitiveness by creating conditions to encourage productivity, technology and innovation. To ensure that their members are able to participate effectively in social dialogue at all levels and positively influence policy outcomes, employers' organizations need to broaden the scope of technical advisory services to their members, including through the use of new technology.

256. Respect for workers' rights, in particular the right to organize, is essential. Serious violations of freedom of association and limitations to workers' effective access to trade union rights persist in many countries. Furthermore, trade unions increasingly need to coordinate among themselves, to avoid fragmentation, and to organize hard-to-organize workers and workers in precarious situations to maintain their bargaining power. The difficulties faced in this respect are exacerbated in situations where enterprise-level bargaining is replacing sectoral or national-level bargaining. In order to advance the interests of their members, and to be able to engage effectively in social dialogue and collective bargaining, workers' organizations have also been adapting to the evolving realities in the world of work as triggered by the abovementioned mega-drivers of change.

257. An enabling environment requires appropriate legal and policy frameworks. In some developing countries, recent legislative reforms have improved frameworks for social dialogue and collective bargaining. In some industrialized countries, however, reforms have restricted both the scope of social dialogue and collective bargaining at the national and sectoral levels and the likelihood of legally extending collective agreements sector-wide. These trends could result in social dialogue frameworks that are less ambitious and far-reaching than before. The active participation of the social partners in labour law development and in the framing of public policies and reforms related to the world of work, including employment, social protection, migration and formalization, should be further strengthened.

258. **Efforts are needed to make peak-level social dialogue more effective.** Altogether, 85 per cent of ILO member States have national social dialogue institutions, not counting the ad hoc mechanisms of social dialogue that focus on specific subjects. However, these are often not fully operational, and the proper modalities and prerequisites are not always in place. In some countries, the national social dialogue institutions do not hold regular meetings and the outcomes of agreements, where these exist, are not properly implemented. Furthermore, in many countries, experience with tripartite social dialogue and trust among the tripartite partners are limited. Research shows that when such institutions are used to their full potential, including through the active engagement of all actors, they have served as effective platforms for meaningful tripartite discussions with concrete outcomes on relevant policy issues. They have also helped to improve the social climate, build trust and promote sustainable reforms.

259. **For millions of workers around the world, collective bargaining continues to be key for determining wages and working conditions.** Collective bargaining contributes to sharing productivity gains, ensuring adequate pay, boosting workers' participation and preserving social peace. Collective bargaining coverage has remained stable or has increased in countries that have used a range of policy measures to promote collective bargaining more generally, and bargaining coordination in particular. In other countries, policies have been implemented that have undermined collective bargaining coverage. Given the relationship between collective bargaining and more equal wage distribution, there is growing concern over the contribution of any decline in bargaining coverage to widening wage inequality.

260. **Workplace cooperation can be used as a tool for anticipating and managing change and conflict.** Workplace cooperation, in its various forms, helps to ensure enterprise sustainability and the enhanced protection of workers. Workplace cooperation is distinct from collective bargaining but can complement it. Many countries have institutionalized workplace cooperation, which is most successful where workers and employers pursue an active process of interaction, rather than a mere communication exercise. Its effects are even stronger when cooperation and consultation take place in a unionized context. In non-unionized contexts, the effects depend on the existence of management commitment to and material support for the process, as well as the ability of workers' representatives to articulate an independent collective voice.

261. **Mechanisms to prevent and resolve conflict are necessary to promote sound industrial relations.** Respect for the rule of law, including through effective labour inspection and enforcement and the strengthening of dispute prevention and resolution mechanisms, is indispensable. However, recent research shows that member States face myriad challenges to establishing and maintaining fair, effective and sustainable individual dispute resolution systems. Ensuring quality processes and outcomes remains a challenge. A lack of impartiality, of adequate resources and of independence is common.

262. **Social dialogue also takes place across borders.** Cross-border social dialogue is increasingly observed against a backdrop of new forms of international production; increasing trade integration and foreign direct investment; and a delegation of some aspects of States' economic and political sovereignty to regional integration bodies and to multilateral organizations. The enhanced participation of the social partners in regional and subregional economic and political integration communities (such as ASEAN, the EU, MERCOSUR, UEMOA and the SADC) as well as in private voluntary initiatives involving MNEs and global unions (such as IFAs) has the potential to assist in reducing the compliance and governance gaps at the country level.

4.2. ILO action to promote social dialogue

263. Promoting the ratification and implementation of relevant international labour standards. The Office has continued to assist constituents in establishing and upgrading frameworks for social dialogue, including through the promotion of relevant international labour Conventions and Recommendations. Since 2013, there have been 22 new ratifications of Conventions Nos 87, 98, 144, 151 and 154. Among the 48 member States that have not yet ratified Convention No. 144, 25 have initiated the process of ratification or have declared interest in doing so, in particular through their requests for ILO technical assistance. In 2017, the Office stepped up its promotional action aimed at the universal ratification of Convention No. 144 by 2019, in time for the ILO centenary. Furthermore, the resolution concerning the second recurrent discussion on fundamental principles and rights at work and the framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work 2017–23, adopted by the International Labour Conference at its 106th Session (2017), called on the ILO to step up action to campaign for the universal ratification of the eight fundamental Conventions, taking into account the low rates of ratification of Conventions Nos 87 and 98. The question arises as to whether the adoption of further measures or the reinforcement of existing ones could help to generate momentum in achieving the targets set. Ratifications also need to be accompanied by effective implementation. Further improvement is needed in this regard, as there is still a major implementation gap in many countries.

264. Mainstreaming social dialogue in all ILO strategic objectives. Efforts have continued to ensure coherence between the work on social dialogue and tripartism, and the work on the other strategic objectives of fundamental principles and rights at work, employment and social protection. Furthermore, work on the other strategic objectives has been found to have a positive impact on social dialogue and tripartism. Initiatives emanating from the recent discussions on fundamental principles and rights at work, labour migration, global supply chains, non-standard forms of employment, small and medium-sized enterprises and employment creation, among others, offer new opportunities for mainstreaming social dialogue.

265. Involving workers' and employers' organizations in the implementation of the 2030 Agenda. The adoption of the 2030 Agenda and the SDGs opens important new avenues for promoting policy coherence on social, economic and environmental policies, with emphasis on participatory governance. In this context, the UN and other international institutions such as the World Bank, the OECD and the G20 share a consensus on the need to tackle poverty and inequality. To capitalize on this global consensus, and to ensure sustainability, employers' and workers' organizations must be provided with the opportunity and support to engage in social dialogue both with national authorities and with international and regional organizations and institutions. Research on the role of social dialogue in, and its impact on, the promotion of inclusive and sustainable development in the framework of the SDGs at the national level could offer some insight and guide future efforts.

266. Including social dialogue both as an outcome and as a modality in the framework of DWCPs and UNDAFs. Approximately 95 per cent of active DWCPs contain outcomes or priorities aimed at strengthening social dialogue actors and institutions. This has resulted from a strong engagement by the social partners in the design and implementation of DWCPs. Furthermore, the current UN reform has the potential to provide the social partners with further space to engage actively in setting the priorities for national development strategies and in the design and implementation of UNDAFs.

Continued ILO assistance should respond to the needs expressed by the tripartite constituents and further equip the social dialogue actors and institutions to address the current challenges effectively and remain fit for purpose.

267. Mobilizing resources to strengthen the capacity of actors and institutions of social dialogue. The ILO has continued to develop the capacities of its constituents in all aspects of social dialogue, including for collective bargaining. The tripartite constituents have specific needs for services and support that should be addressed by adapting and modernizing existing regulatory frameworks, revisiting ways to approach and expand membership, including through the use of new technology, and enhancing institutional settings to strengthen voice and representation. Reinforcing the structures available for tripartite social dialogue, bargaining collectively and workplace cooperation, and for complying with labour law, and developing policy and training tools to underpin policy advice, advocacy and capacity building are essential. Continued momentum to secure more development cooperation resources is needed to provide further targeted support to constituents through the design and implementation of projects that respond to their needs and to local context.

268. Closing knowledge gaps and preparing for the future through research and generation of data. The ILO plays a leading role in the collection and dissemination of knowledge and data on social dialogue and tripartism. In order to continue providing cutting-edge policy advice to constituents, evidence-based research on the social and economic impact of social dialogue at all levels is needed. Existing knowledge on labour law and statistics, national tripartite social dialogue, collective bargaining and workplace cooperation should be further expanded. There is a need to expand the ILO's knowledge base on social dialogue in the evolving world of work against a backdrop of technological, environmental and demographic changes. This could be achieved by building or expanding existing partnerships and networks to exchange knowledge and experience, including by engaging with governments and social partners that have undertaken innovative strategies.

4.3. Suggested points for discussion

269. The purpose of the present recurrent discussion on social dialogue is for the ILO to achieve a better understanding of the diverse realities and needs of its Members, and to assess the results of its activities, in order to facilitate decision-making on future priorities. The discussion is intended to lead to the adoption of concise and focused tripartite conclusions, on the basis of which a new plan of action on social dialogue will be adopted by the Governing Body of the ILO. With this in mind, a number of suggested points for discussion are set out below.

Point No. 1. What are the challenges and opportunities related to strengthening social dialogue?

In their interventions, constituents are invited to consider the following:

- ☐ Policies that have strengthened tripartite social dialogue, bipartite social dialogue and collective bargaining, and their contribution to inclusive growth and decent work: what works.
- ☐ Challenges to social dialogue in all its forms: what does not work.
- ☐ How labour law reforms can support effective social dialogue.

- How adequate frameworks for dispute prevention and resolution can support social dialogue more effectively.
- The complementarity between workplace cooperation and collective bargaining.

Point No. 2. How can social dialogue become more inclusive and address current and future challenges?

In their interventions, constituents are invited to consider the following:

- Changes driven by technology, demography, climate change, environmental risks and the continued globalization of production and services and how social dialogue in all its forms (including innovative approaches) could help address them.
- Measures and practices to increase membership of employers' and workers' organizations.
- Institutional and legal frameworks that effectively enable social partners' participation in social dialogue.

Point No. 3. How can ILO action on social dialogue be improved?

Based on the answers under points 1 and 2, constituents are invited to consider the following:

- The ILO's role and priorities in respect of:
 - knowledge generation and dissemination;
 - policy advice;
 - training;
 - capacity building;
 - promotional campaigns and advocacy;
 - development cooperation and building partnerships;
 - standard-setting action.
- Internal policy coherence, to better promote ILO standards and values.
- External policy coherence, to ensure that the policies and actions of other organizations, including their practical efforts to achieve the SDGs, are consistent with ILO standards and values.