**Decent work in global supply chains**

**General Discussion**

**BACKGROUND**

At its 319th Session (October 2013) the ILO Governing Body selected the item “decent work in global supply chains” as a subject for a general discussion to be held at the 105th Session (2016) of the International Labour Conference. Placing this item on the agenda of the Conference has been a long standing demand of the Workers’ Group.

Global supply chains (GSCs) have a major impact on the realization of decent work worldwide. The growing importance of GSCs and the continued lack of decent work make this a very timely topic for discussion at the ILO. The current business model, including the use of export processing zones (EPZs), is highly flawed and characterised by low wages, insecure and precarious work, unsafe work, child labour and forced labour. Social protection is lacking while tax avoidance and evasion are widespread. The share of value created is distributed extremely unevenly due to unequal bargaining power in supply chains. The discussion should aim at exposing this model, addressing the governance gaps and increasing the role and relevance of the ILO in this area.

The Office prepared Report IV as a background document for the general discussion. Its purpose is to provide Conference delegates with up-to-date evidence on the situation of decent work in global supply chains, the challenges and achievements for improvements.

The report contains in chapter 5 four questions that will guide the Conference discussion. The Conference Committee will allocate a given amount of time to each Group to reply to each question. Further to the debate in the Committee, a small tripartite drafting committee will be convened in order to prepare draft conclusions. The full Committee will then consider these conclusions and each Group will have the possibility to modify them through a procedure of amendments. The report of the Committee and final conclusions will then be submitted to the Conference plenary for adoption.

**REPORT IV**

The report consists of five chapters and an appendix. A summary is provided here below.

**Chapter 1: Introduction: Setting the stage**

The first chapter highlights the growing importance of global supply chains as a way of organizing investment, production and trade in the global economy. It presents the impacts of GSCs on investments, productivity, employment and working conditions. It also defines supply chains and discuss their major features, which are analysed in the following chapters. The report recognizes the complexity of GSCs. For the purpose of the report, the term GSC refers to the “cross-border organization of the activities required

to produce goods or services and to the process of bringing them to consumers through inputs and various phases of development, production and delivery”. Importantly, the report recognises the global pressures created by pricing and delivery times and intense competition which places significant downward pressure on wages, working conditions and the fundamental rights of workers. It further recognizes the existence of governance gaps and the difficulties created by cross-border sourcing versus national level legislation, regulation and jurisdiction.

Chapter 2: Global Supply Chains and the world of work

The second chapter described the features of global production networks, its drivers (technology, transport and logistics and trade agreements) and the stages across global supply chains. In particular, it underlines the role of foreign direct investment and international sourcing as well as the different typologies of supply chains: buyer and producer-driven.

It describes the role of lead firms in the supply chains and defines the term. It further takes into consideration the unequal power between lead firms and their contractors and the pressure that this imbalance generates in terms of working conditions and workers’ rights. The report recognizes that although the development of GSCs has led to employment creation and engagement of enterprises in developing countries with GSCs the subcontracting that is characteristic for the GSC model to SMEs and micro-enterprises has also resulted in decent work deficits as these are more common in these enterprises.

The Chapter further provides graphical examples of the organization of the apparel and the agri-food supply chain.

It describes the major trade, investment and production trends, fragmentation of production and the scale and quality of employment in global supply chains. Data, statistics and case studies on these topics are presented. The studies cited on the quality of employment show mixed results, though many studies clearly demonstrate violations of labour standards in GSCs, particularly in lower tiers. The chapter also recognises that the existence of low wages remains a concern, that women are paid at the lower end of the wage scale, that wage structures do not reward skills and productivity gains are not shared with workers. Moreover, there is a recognition that low prices paid to suppliers create pressure to reduce costs down the supply chain, that statutory minimum wages are often too low and that this contributes to excessive overtime work and unsafe and unhealthy working conditions. Excessive working hours with extensive overtime are a major concern. Wages and working time are affected by asymmetrical bargaining positions between buyers and suppliers. There is further recognition in the chapter that the use of non-standard forms of work (NSFE) has grown in many supply chains. This has led to less protection for workers concerned. Moreover labour abuses including forced labour may occur. Examples of the use of NSFE in various industries and their supply chains are provided in the report. Migrant workers are also often found in non-standard forms of work. Finally there is a section on Export Processing Zones, describing their growth, exemptions from labour law in some countries, lack of enforcement of labour legislation in EPZs and mixed results with respect to wages and working conditions in these zones.

Chapter 3: Upgrading for decent work in global supply chains

Chapter three explores the processes through which the employment created by global supply chains may lead to decent work. In particular, the chapter explores two forms of ‘upgrading’ global supply chains: economic and social. To achieve decent work and desired developmental outcomes, social ‘upgrading’ must accompany economic upgrading.

Economic upgrading is the process of suppliers moving into higher value activities in global supply chains. Social ‘upgrading’ is the process of achieving decent work in global supply chains. (Note, as explained below we reject the concept the concept of ‘upgrading’ to a minimum floor of social rights, as States have for example an obligation to fully respect fundamental rights, not upgrade to them). The report shows that developed countries tend to be concentrated in higher value activities, while developing countries tend to
be concentrated in lower value and labour intensive activities and that the value created in those segments has been reduced over time.

Throughout the chapter there are examples of the positive combination of economic and social upgrading, as well as cases where economic upgrading is not matched by social upgrading.

These examples illustrate that economic upgrading can accompany or even drive social upgrading, but that the positive relationship is not automatic. Therefore, there is a clear role and need for governance mechanisms that support and promote integrated and mutually reinforcing links between the two. The fact that collective bargaining is both a fundamental right and an enabling right and can forge the link between economic and social upgrading is highlighted, at the same time it is recognized that there are serious challenges in realizing this right in practice.

The concept of social upgrading has not been used in the ILO. Even though a definition of social upgrading is provided for in the report there is a risk that social upgrading is understood as a process towards achieving decent work in supply chains and that the achievement of fundamental rights like freedom of association and the right to collective bargaining as well as non-discrimination are considered to be progressive, which they are not. They are to be ensured at all times and under all circumstances. The workers group might therefore not be supportive of using this concept.

Several examples are provided in the chapter that show the link between economic and social upgrading which show that a strong trade union presence and high labour standards compliance play a key role in social upgrading. The importance given to the retention of human capital in certain industries could further contribute to an increase in wages and job security.

Chapter 4: Governance in global supply chains

Chapter four recognizes the governance deficit in global supply chains, partly because of a lack of national regulation and enforcement and partly because of the cross border nature of GSCs. Respect for workers’ rights are recognised as a fundamental basis for decent work and job creation and access to representation and rights would also improve transparency, accountability and social cohesion.

This chapter considers the different programmes and structures that have been evolving to govern particular aspects of GSC operations. The governance approaches and initiatives can be categorized into four types; public governance, private governance, social governance and multilateral initiatives.

Public governance describes the State’s duty to promote compliance and enforce national labour laws and to ratify and implement international labour Conventions. It describes challenges related to the lack of extraterritorial application of legislation, national legislative initiatives such as the California Transparency in Supply Chains Act and the UK Modern Slavery Act. The report suggests that incentives in EPZs such as tax exemptions as well as exemptions from national labour law and regulations should be reconsidered. It further describes the strong influence of buyers on the ability to enforce legislation as well as some policies that have been developed to increase compliance such as labour provisions in trade agreements, public lending and public procurement policies. These all have potential but results are not significant enough.

Private governance is led by enterprises, employers’ organizations or industry associations through CSR programmes or codes of conduct, sectoral initiatives, auditing and certification schemes and private compliance schemes (PCIs). Results have been very minimal. The report refers to research that shows that PCIs are weak in ensuring enabling rights such as freedom of association and collective bargaining and non-discrimination. Such initiatives have many shortcomings including their limitation to upper-tier suppliers, a lack of coordination with local labour administration and a lack of accountability. Private governance might even undermine public governance.

Social partners’ initiatives take place at the enterprise, sector, national or international levels. Examples of such governance include social dialogue, collective bargaining and global framework agreements. These initiatives require negotiation between workers and employers. The report further states that the social
partners are crucial to the effective implementation and enforcement of labour laws. Worker representation guarantees a certain degree of accountability. Multi-stakeholder initiatives often include NGOs, for instance the Ethical Trading Initiative. They have a relatively high presence in the apparel sector but sometimes risk to marginalize the participation of trade unions. Another form of social partners’ initiatives is international framework agreements (IFAs), which are agreements between MNEs and global union federations. They enable transnational social dialogue and set minimum standards to improve working conditions at the global level. Recent IFAs have started to refer to GSCs. However, their potential is not fully used. Following the Rana plaza disaster in Bangladesh, the Accord for Fire and Building Safety in Bangladesh was established, which is legally binding. There is thus a trend towards transnational multi-stakeholder approaches to the governance of global supply chains. They should be used to complement public governance.

Multilateral initiatives include international regulatory mechanisms set by international organizations. The most relevant are the ILO MNE Declaration, the OECD Guidelines and the UN Guiding Principles on Business and Human Rights (UNGPs). Concerning the ILO MNE Declaration there has been a decision to revise the Declaration and a tripartite working group will be set up with the aim to adopt a revised Declaration in 2017. The UNGPs apply to all States and business enterprises and are based on the “protect, respect and remedy” framework. Due diligence is an important aspect of the principles. Again there is potential in the UNGPs that has not been fully realised. And finally an open-ended intergovernmental working group on transnational corporations and other business enterprises was set up in 2014 with an aim to elaborate a legally binding treaty on business and human rights. References are further made to the Vision Zero Fund, a comprehensive programme to combat forced labour in Brazil and the ILO-IFC Better Work programme.

These governance initiatives should be better coordinated and they should create synergies between the different actors, while at the same time addressing governance gaps.

**Chapter 5: The way forward and suggested points for discussion**

The last chapter focuses on the findings and the need to consider and use a holistic approach for the promotion of decent work in global supply chains.

In particular, the report underlines the role of the ILO in leading the discussion and helping constituents to achieve decent work through forums and other initiatives; the need to monitor and promote international labour standards and to assess the need for additional guidance or standards on promoting decent work in GSCs; closing governance gaps; the promotion of inclusive and effective social dialogue at different levels including cross-border; deepening the value of existing processes; the necessity to strengthen labour administration and labour inspection’s mechanisms; closing the knowledge gap and improving statistics; the promotion of partnerships and development cooperation and the coherence and coordination between them to improve rights and conditions in GSCs.

Some additional and initial suggestions for each question are provided here below. The comments above may also be relevant in framing a Workers’ Group response and worker members of the Committee will be invited to enrich the discussion by bringing their own national experiences.

1) **What opportunities and challenges to the realization of decent work and inclusive development have emerged/resulted from GSCs and how have the challenges been dealt with?**

GSCs can offer development and employment opportunities if local enterprises manage to increase productivity and upgrade to higher value added activities. However, most forms of GSCs can cause long-term dependency on a narrow technological base and local enterprises are only able to capture little value of their access to MNE dominated value chains. The capacity of firms to avoid dependency and the possibility for upgrading depends substantially on the GSC in which they are engaged, the nature of the relationship, and the capacities and conditions of the local business environment. Often women in global supply chains face discrimination regarding access to decent work, wages, and career opportunities. In many cases inclusive development is not achieved.
Many assume that incorporation into GSCs will automatically translate into decent work but MNEs look to cut costs to compete and to maximize profits. This inevitably puts considerable pressure on wages and working conditions, particularly in labour-intensive sectors. Cost pressures from global buyers mean that GSC related employment is often insecure (precarious and informal), involving poor working conditions (poor safety and health and low wages) and frequent rights violations, as well as prevalence of child labour and forced labour. The use of temporary or outsourced work or bogus self-employment is a common strategy to drive down costs. Buyers in some cases are also able to source goods and services easily from another company or to even less costly and less regulated countries, where governments do not enforce their laws or deliberately deregulate to attract investment, putting further pressure on manufacturers and service providers in GSCs to cut costs. Furthermore, GSC employment can be affected by fluctuations in demand, i.e. through seasonal rather than steady demand and loss of contracts.

Though some companies have made public commitments to establish long term relationships with core suppliers, to pay an adequate price for the products that will allow the payment of living wages, long-term contracts, and investment in safe and secure workplaces, this is by no means the norm. And, even those companies that have made these commitments have often been slow to implement them. Instead, fast production schedules at cut rates remain the norm, making respect for rights and standards difficult at the local level. CSR practices to date have had little positive impact on these issues, and have deferred addressing the underlying issues by distracting the international community with publicity and processes that bring few results. This is even more the case once one looks beyond the Tier 1 suppliers.

A major problem in GSCs is that the local suppliers are unlikely to face accountability because the administrative or judicial processes are too slow, too weak, under-resourced or corrupt. Further, many local companies may be significantly undercapitalized (some by design), making them essentially judgement-proof even if workers were to obtain a judicial order and efforts were made to enforce those orders. At the same time, lead firms are usually immune from legal accountability, as there is no legal cause of action or jurisdiction with application in the host country or in their home country when the violation is caused by a supplier in a contractual relationship. Even in the case of parent-subsidiary relationships, it can often be difficult to hold parent companies accountable for the bad acts of their subsidiaries.

Finally it is important to highlight the specific decent work challenges in Export Processing Zones (EPZs), where the challenges as described above are particularly present and where often exceptions to labour laws apply or where labour inspection is absent or under resourced. Tax holidays and lax environmental protections are also common. Trade union rights violations are common in EPZs. GSCs and MNEs deliberately using such EPZs harm development and damage workers, communities, public services and the environment. This needs to be addressed urgently.

2) What policies, strategies, actions and programmes have been put in place by the Office, ILO constituents, and stakeholders to ensure that economic development and decent work, including respect for international labour standards, go hand in hand?

For the ILO, the two key initiatives have been the adoption of the MNE Declaration and Better Work, a joint ILO-IFC project currently operating in the garment and footwear sectors of Bangladesh, Cambodia, Haiti, Indonesia, Jordan, Lesotho, Nicaragua and Vietnam. Factories participating in the programme are regularly monitored with regard to compliance with fundamental rights, and wage, hour and OSH standards. ILO engagement with factories and buyers is designed to improve conditions in the factories over time, and buyers are encouraged to use reports to make decisions on their sourcing. To date, Better Work has made some progress in improving factory conditions, though respect for freedom of association and payment of living wages remains a problem.

The MNE Declaration, the only tripartite framework aimed at regulating the conduct of MNEs in the global economy, rooted in ILO standards and policies, despite renewed recent promotional efforts, has
not been very effective in holding companies accountable to the principles set out in the Declaration. The interpretation mechanism has not been used for many years, basically due to a lack of results and difficulties in using it. The text is also partly outdated as it does not refer to global supply chains as the dominant production method, nor does it refer to recently adopted international labour standards and the UN guiding principles on business and human rights.

At the international level, Global Union Federations have negotiated International Framework Agreements to set basic rules for industrial relations across supply chains. These have been in some cases effective tools to press MNEs on violations in their supply chains. However, in many cases, IFAs are limited to general principles and have no formal enforcement mechanism beyond dialogue. The implementation of such agreements throughout the global operations of MNEs has been inconsistent. Workers are not always made aware of their rights and information and education programmes to assist workers access their rights have often been lacking. A legal framework for the negotiation of binding international agreements, which sectoral and enterprise level agreements could build on, would be an important step forward. At the same time, GUFs have also formed networks of unions representing workers of a single MNE in order to better coordinate and build power with regard to bargaining. They support organizing and campaigning to ensure that workers in GSCs are able to exercise their rights and enjoy decent working conditions.

Similarly, the ITUC is also pursuing organizing, campaigning and legal action to ensure that the rights of workers in GSCs are protected in legislation and that workers have access to effective remedies, including judicial remedies, when MNEs fail to respect these rights.

At sectoral level the ILO has adopted several international labour standards, particularly in the area of OSH, and a wide variety of sectoral meetings that promote dialogue within specific sectors have been organized. Some of these meetings have focused on decent work challenges related to GSCs such as minimum wages and employment relationships. The outcomes and follow up to these meetings have however not been utilized to the fullest.

At the UN level there has been the adoption of the UN Guiding Principles on Business and Human Rights based on the “Protect, Respect and Remedy” principles. But again the implementation of these principles has remained a voluntary exercise and there is no real accountability either at the state or enterprise level. In particular the principles concerning remedy have remained underdeveloped. There has also been a revision of the OECD guidelines to reflect the UNGPs and supply chains. Another initiative came from the German government last year, as host of the G7, with the establishment of the Vision Zero Fund under the supervision of the ILO, which, among other things, addresses safety issues and provides compensation in the case of accidents.

One initiative to address some of the limitations of CSR and lack of accountability has been the Bangladesh Accord on Fire and Building Safety, which importantly ensures that workers are involved in the governance of the mechanism and that factories and buyers can be held accountable to violations of the Accord. However, the Accord cannot and should not replace effective national and international governance of enterprise conduct.

While all these policies, actions and activities have their merits they remain inadequate due to limited coverage, limited impact and remaining governance gaps and there is therefore an urgent need to identify better ways and tools to secure the implementation of ILO standards and the effective regulation of GSCs.

3) **What kinds of governance systems, including standards, in GSCs can best support the achievement of growth, decent work and inclusive development and how can synergies be created?**

Today, the responsibility of MNEs for the acts of their subsidiaries or contractual suppliers in GSCs is governed largely by voluntary guidelines such as the ILO MNE Declaration, the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights and a vast array of corporate and multi-stakeholder codes of conduct, backed up by a for-profit auditing industry. Such
guidelines have been instructive in changing the expectations of MNE behaviour, and are accepted widely as the standard for MNE conduct – if not necessarily respected in practice. The codes of conduct and social auditing continue to play a significant role, though many have come to recognize the inherent limitations of such a model. Audits are a snapshot in time, often announced and limited to speaking with management. The best auditors are workers who belong to democratic and independent trade unions operating in the workplace daily and are often not interviewed.

At the international level, the ILO must play a greater role in the regulation of global supply chains. This begins with the revision of the MNE Declaration to update its language to the current reality of the global economy and to bring it into line with the ‘respect’ framework of the UN Guiding Principles. This needs also to be coupled with a mechanism whereby breaches of the MNE Declaration can be addressed effectively through mediation, arbitration and other means.

Another important objective for the Workers’ Group should be an ILO Convention on decent work in Global Supply Chains, which can and should form the backbone of a new approach to labour regulation and enforcement at the international level, much the way that the Maritime Labour Convention has for the maritime industry. In this regard consideration should be given as an immediate next step to convening a tripartite meeting of experts in order to discuss the main elements of such a Convention. Central to this convention should be the obligation of states to pass laws and regulations which regulate the conduct of enterprises under its jurisdiction, wherever the alleged harms may occur. Mandatory due diligence is another key component of such an instrument. It should include guarantees for freedom of association and the right to collective bargaining at all levels of the supply chain. It should further include guidance on OSH, minimum living wage setting mechanisms, the promotion of social dialogue and sector wide and cross border collective bargaining, the elimination of forced labour, child labour and informal work in GSCs, the role of labour inspection and specifically address EPZs. And it should ensure the promotion of secure employment relationships, the removal of discriminatory practices, and a reduction of non-standard forms of work in GSCs.

Parallel to the convention, there is a role for the ILO in, for instance, assisting with the setting of adequate minimum wages by country and/or sector as well as assisting in the strengthening and cross border collaboration in the area of labour inspection. These are necessary given the current failure of national governance structures to deal with transnational production and employment relations.

Much more can and should be done to promote decent work through procurement. States have significant leverage over the practices of suppliers, due to the large volumes that governments order. States should regulate their procurement processes and capacitate their staff to require and monitor decent work clauses and to have legal and contractual remedies at their disposal should violations occur. Initiatives in some countries to prohibit the importation of goods and service made by forced or compulsory labour should be replicated.

With greater frequency, trade and investment agreements include labour standards, including fundamental labour rights, but in some cases also include provisions related to wages, hours of work, health and safety and social protection. However, these rights have been rarely enforced effectively post-ratification, in large part due to state discretion not to pursue violations forcefully. The trade agreements in which these labour provisions are imbedded can themselves undermine workers’ rights because they are subjugated to the rights of investors. Better regulation of trade and investment to ensure that agreements provide mandatory recognition and observance of human rights is urgently needed.

4) **What should Governments and the social partners do in order for GSCs to achieve stronger coherence between economic outcomes and decent work, including respect for international labour standards? What can other actors do? What should the ILO do to support them in these efforts?**

It is still national governments, their rule of law and their judiciary that have the responsibility to uphold the governance of GSCs and the realization of decent work.
GSCs will not produce sustainable outcomes unless governments pursue policies that allow firms to participate in GSCs in the first place and to move up to higher value added GSCs, while positively contributing to inclusive socio-economic development. This means pursuing industrial policies, vocational training, skills development and sectoral initiatives. Further, governments must also ensure that all enterprises in their territory respect the fundamental principles and rights at work for all workers, including the rights of migrant workers, precarious workers and workers employed in EPZs. However, a purely territorial approach to regulation is far too limited. Governments must also regulate the extraterritorial conduct of enterprises in their territory.

The lack of transparency in global supply chains creates significant risks not only for workers but also for communities, the environment, consumers and businesses. The lack of transparency on the one hand makes it impossible to know where lead firms source their goods and services, and thus impossible to know, for the sake of accountability, who is responsible for the conditions in the supply chain. At the same time, lead firms often have no idea what their supply chains look like beyond Tier 1 suppliers, exposing themselves to substantial risk. Governments should impose a mandatory disclosure regime of workplace locations. Disclosing these locations is a useful tool for workers and also would require lead firms to know where exactly its goods or services are being produced/delivered.

In many cases, firms look to the lowest cost countries to make investment and sourcing decisions, in particular when the production processes do not require highly skilled labour. One way to prevent the “race to the bottom” on wages is to ensure that wages for the same work are equivalent across countries. The ILO can and should, through a tripartite process, issue wage guidelines for sectors in which there is significant international competition, taking into account of course different costs of living. This is what has happened in the maritime industry, in a manner of transnational wage bargaining that takes place under the auspices the ILO.

Another way to prevent a “race to the bottom” is the establishment of cooperation between governments of major producers of particular goods or commodities.

An in depth discussion on EPZs and the lack of decent work in these zones needs to take place and serious follow up action is needed to improve working conditions and ensure trade union rights are respected and promoted and exemptions from labour legislation are eliminated.

As mentioned above, Governments are major actors in global supply chains, as they procure billions in goods and services, usually based on the lowest possible cost. This often leads governments to procure goods and services in countries where the rule of law and respect for human rights is weak or non-existent and thus is linked to a range of human rights violations. Governments have the purchasing power to avoid companies that violate human rights for the sake of competition.

Of course, labour inspectors are critical actors to secure the respect of workers’ rights and the realization of Decent Work along GSCs. Only adequately staffed, trained, and resourced public labour inspectors in sourcing countries working themselves in decent conditions can effectively ensure that international and national labour legislation and Decent Work are upheld along supply chains. However, systematic tax avoidance by MNEs impact countries by weakening the national tax base. This is a particularly acute problem for developing countries, which are starved of the tax resources necessary to carry out policies and access financing for essential public services and infrastructures for development, including those related to labour such as education, job training, labour law administration, labour inspection, effective judiciary systems and enforcement. Governments need to cooperate to prevent tax avoidance and tax evasion and the ILO should play a role in such an approach. The ILO should step up its efforts to build national capacity in labour inspection and disseminate good practices. And last but not least addressing corruption in the public and private sector is important.