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Employers' Priorities for the ILO Preparatory Report and the 2016 ILC Discussion on Decent Work in Global Supply Chains – initial observations

Executive Summary

1. Global supply chains (GSCs) not only stimulate growth and create jobs, but also contribute to productive employment and decent work. The ILC discussion in 2016 should take a constructive approach to the issue. The Employers reaffirm the Governing Body's decision in March 2014 that the discussion should offer guidance to constituents on how to address both the opportunities and challenges resulting from GSCs.
2. The starting point for the discussion must be a clear understanding of the ILO's activities and initiatives to date with regard to supply chains: what has worked and what has not?
3. The cross-border flow of goods and services does not pose a unique challenge to decent work and effective labour regulation. Indeed, any production of goods within a given jurisdiction is always subject to the laws and regulations of that jurisdiction; connectivity to a global supply chain does not alter that fact. Thus, there is no regulatory gap to be bridged at international level. The challenge is rather to ensure better implementation and enforcement of legislation at national level.
4. The Report for the general discussion in the 2016 ILC should not shift the primary duty to protect from States to companies, whether national or global. Indeed, the UN "protect – respect - remedy" framework and the UN Guiding Principles on Business and Human Rights clearly differentiate between the roles of government and business. The international consensus achieved on these Principles must be preserved in the 2016 ILC discussion.
5. GSCs are highly diverse, as are national circumstances. The Preparatory Report and 2016 ILC discussion must fully speak to this diversity.
6. Insufficient data exists to fully understand GSCs and their impact on local labour markets. There is therefore a need to reinforce capacities to obtain and analyse relevant data in this regard.
7. Any approach to improve working conditions that is limited to global supply chain companies would benefit only a fraction of workers. The aim must be to improve framework conditions for more and better jobs generally – for all workers and in all companies.
8. To fully harness the potential benefits of GSCs, comprehensive "pro-growth" strategies are needed that facilitate the participation of an economy and its enterprises in GSCs.
9. Capacity building is key: The discussion on GSCs should include possible mechanisms for transfer of knowledge and broader capacity building initiatives from large MNE buyers to smaller suppliers, as well as capacity building of the ILO constituents to support national actors in improving the framework conditions on the ground. This would increase the transferability of knowledge and capacities from the supply chain to national actors and institutions.
10. The discussion must fully respect the established governance structure of the ILO.

I. Introduction

Global supply chains (GSCs) stimulate growth, jobs and prosperity. Moreover, research indicates that workers in global value chains (GVCs) are generally better paid and better trained than their peers in companies that serve a purely domestic market. The OECD concludes “*that Global Value Chains have considerable potential to promote desirable labour market outcomes, particularly in lower income countries*”. It is however acknowledged that countries have unleashed the potential of global trade for employment, sustainable growth, prosperity and social progress to varying degrees. Against this background, the ILO Governing Body (GB) decided in October 2013 to include the topic “Decent Work in Global Supply Chains” on the agenda of the 105th session of the International Labour Conference (2016) as a general discussion. In March 2014, the ILO GB decided that:

1. The discussion should offer guidance to constituents on how to address the opportunities and challenges resulting from global supply chains (GSCs).
2. The discussion should help the ILO to better understand constituents’ capacity-building needs and identify potential areas for future work, including further research needs and the promotion of the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.
3. The conclusions should provide an opportunity for the ILO to further develop partnerships with non-state entities and economic actors, as well as international and regional organisations with mandates in closely related fields.

The Employers’ Group supports this approach, and offers the following initial observations on the status of the Office’s preparatory work and Employers’ expectations for the outcomes of the general discussion on GSCs at the June 2016 International Labour Conference:

II. General Observations

- There is little difference between global and national supply chains. The issues are equally present in both. The ILO report needs to take both into account.
- Suppliers, as well as the companies that contract with them, are actors in their national economies and are therefore subject to the laws and regulations of where they do business. There is no regulatory gap that needs to be bridged at international level.
- The preparatory report and the general discussion should not shift the primary duty to protect from States to companies, whether national or global. Indeed, the UN “protect – respect - remedy” framework and the UN Guiding Principles on Business and Human Rights clearly differentiate between the roles of government and business. It is the duty of governments to implement and enforce fundamental social and environmental standards, and it is the responsibility of business to respect these. (This recalls the fact that International Labour Standards are addressed to governments, not to companies.) The international consensus achieved on these Principles must be preserved in the 2016 ILC discussion on decent work in GSCs.

- The UN Guiding Principles on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises, clearly establish the responsibilities that fall to enterprises. As the Commentary to Article 22 of the UN Guiding Principles explains, in efforts to remediate adverse impacts to which an enterprise is directly linked through its operations, products or services, but which it has not caused or contributed to, the “responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so.” Similarly, the OECD Guidelines indicate that when an impact is directly linked to an enterprise’s operations, products or services by virtue of a business relationship, that “[t]his is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship” (MNE Guidelines, II.A.12). The 2016 ILC discussion must not undermine these well-established norms for allocating responsibility.
- It would not only lead to uncertainty for companies, as well as all for other stakeholders, if the conclusions of ILC 2016 discussion were not in-line with the main international instruments such as the UN Guiding Principles on Business and Human Rights or the OECD MNE Declaration, but also weaken their impact - since most actors would most likely not take them up. It is also a matter of policy coherence to ensure that the ILC conclusions constructively contribute to the debate rather than trying to redefine internationally agreed principles and norms.
- The ILO has already discussed important policy issues that are closely linked to GSCs, particularly during the general discussion in the 2015 ILC on small and medium-sized enterprises and decent and productive employment creation, as well as during the ILC discussions on the transition from the informal to the formal economy, the 2007 resolution on sustainable enterprises, the 2011 ILC discussion on labour administration and labour inspection, and the 2012 ILC recurrent item discussion on fundamental principles and rights at work. The conclusions of these previous discussions must be taken fully into account in the preparation of the 2016 ILC report and discussion.
- GSCs are highly diverse and encompass the range of south-south, south-north, north-north, north-south business relationships. GSCs are not limited to one industry, but extend to all sectors. Furthermore, companies often fill the role of buyer and supplier at the same time. It is therefore an artificial construct to differentiate between buyers and suppliers. Moreover, the supplier is not necessarily the smaller company and the buyer the larger one. Even if the buyer is larger than the supplier, it may only purchase a small percentage of the products or services of the supplier. The preparatory report by the Office, as well as the 2016 ILC discussion, must speak to this diversity:
 - ➔ The conclusions must be applicable, relevant and beneficial to the full range of relationships.
 - ➔ The conclusions must provide a wide range of policy advice for governments and reflect the diversity of circumstances.
 - ➔ The conclusions must address the need for governments both to ensure respect for ILO standards and to take advantage of the powerful job creation potential and other benefits of connecting into global supply chains.

- Circumstances at national level are very diverse. Countries, especially the least developed and developing countries, must be able to maintain their national development priorities. There is no “one-size-fits-all” measure to improve the ‘Decent Work’ parameters in GSCs.
- MNEs have made huge efforts to complement national labour regulation with private compliance and capacity building activities. While these interventions may not be perfect, they do support domestic producers in conforming to standards of decent work. However, GSCs are complex arrangements, with larger companies often having several tens of thousands of suppliers in many tiers, which are also continually changing. Especially further down the supply chain, there is a higher likelihood of suppliers being active in the informal sector. Concrete opportunities for companies to influence the supply chain are varied and depend especially on the number of suppliers involved, as well as the structure and complexity of the supply chain and the market position of the company relative to the supplier. Furthermore, it needs to be recognized that practices or codes imposed by buyers on suppliers in their audit of supplier companies often impose rigidities and costs on suppliers.
- Any approach to improve working conditions that is limited to global supply chain companies would benefit only a fraction of workers. The aim must be to improve framework conditions for more and better jobs generally – for all workers and in all companies.
- Capacity building is key: the discussion on GSCs should include possible mechanisms for transfer of knowledge and broader capacity building initiatives from large MNE buyers to smaller suppliers in areas of compliance, machine operations, and safety protocols.

III. Need for more and better data

- Insufficient data exists to fully understand GSCs and their impact on local labour markets. There is therefore a need to reinforce capacities to obtain and analyse relevant data. Important data to secure, differentiated by exclusively national versus global, and by industry, would be:
 - ➔ What percentage of the whole workforce is connected to a GSC?
 - ➔ What are the working conditions for workers linked to supply chains (for instance working time, wages, and health and safety) as compared to the situation of the entire workforce?
 - ➔ What are the consequences engendered by a GSC in the local business environment: e.g. the capacity of SMEs to compete in a global environment, the innovation capacity of SMEs, the skill set of the workforce, increase in employment, etc?
 - ➔ What is the estimated number of formal and informal sector jobs connected to supply chains?

- ➔ What is the increase in formal/informal sector jobs related to supply chains since a given date?

IV. The Employers' expectations with regard to the key issues in the debate

a) What governments should do

- ILO Conventions and Recommendations are addressed to governments, and the burden of responsibility falls on them. The principal responsibility of other stakeholders is to obey national laws. The conclusions of the ILC discussion must express the need for governments to pass appropriate legislation and to enforce it responsibly and effectively.
- Strong national governance frameworks are important because they ensure that all workers, independently of whether they work for a company involved in a GSC, or for a purely domestic company, are covered by legislation. Moreover, strong national governance frameworks are also important with regard to the sustainability of improvements: GSCs are not static; they are constantly changing. Once a business relationship ends, the sustainability of any improvements achieved in the supply chain company could be jeopardised, especially if the progress is not embedded in efforts to strengthen overall governance.
- Good governance at national level also facilitates efforts of companies to improve working conditions and to increase productivity in their supply chains. At the same time it also enables the transfer of knowledge and capacities from the supply chain to national actors and institutions. Companies cannot and should not replace the state, but they can support governments, through their supply chain management, in their efforts to strengthen the application of international standards, increase productivity and improve working conditions. If governments fail to fulfil their primary role to implement and enforce fundamental social and environmental standards, it will be more difficult for companies to foster better working conditions in the supply chain companies. Moreover, the likelihood of purely domestic companies, as well as public administrations taking up some of the practice, is much lower.
- Good governance does not necessarily mean more regulation, but rather regulation that is actually enforced and enforceable, that ensures good working conditions and does not present a barrier to companies being set up in the formal economy and hiring people. The conclusions of the 2015 ILC discussion on SMEs called on governments to simplify overly complex regulations and to design new rules and regulations with a view to their possible effects on SMEs and the well-being of workers in SMEs. Moreover, key measures to improve the enabling environment are: improving SMEs' access to finance; promotion of technology platforms and local economic development; public investment in infrastructure as well as education and training and technology; supporting the formalization of companies in line with the ILO Recommendation on the Transition from the Informal to the Formal Economy.
- Improving working conditions goes hand-in-hand with increasing productivity in supply chain companies. In cases where suppliers have significantly lower levels of

productivity, measures to increase productivity and strengthen competitiveness will also significantly contribute to better working conditions.

- What is needed, in the words of OECD, WTO and World Bank Group, is a “pro-growth agenda”: *“A well-crafted package of macroeconomic and structural policies to stimulate growth, and the precise shape of these policies depends significantly on the specific situation in a given country.”* Social partners have a key role to play in drafting a national pro-growth agenda, as well as in all other policy measures and interventions that address GSCs. National social partners ensure the buy-in from the local business community and workforce, optimise the continuity and sustainability of initiatives and measures, and contribute to the implementation of measures and initiatives.
- Part of this “pro-growth agenda” should be global economic integration that facilitates the participation of an economy and its enterprises in supply chains. The promotion of free trade agreements between governments contributes to this purpose. In addition, comprehensive economic partnership agreements which cover liberalization of trade, investment and the protection of intellectual properties, may further contribute to the expansion of GSCs.

b) What the ILO should do

- The starting point for the discussion must be facilitating a clear understanding of the ILO’s activities and initiatives to date with regard to supply chains: what has worked and what has not? The Evaluation Unit of the ILO has a key role to play. What is needed is not anecdotal evidence, but a coherent and comprehensive analysis of data gathered on ILO actions.
- ILO flagship initiatives, such as Better Work and SCORE, should also be examined to ascertain their effectiveness and sustainability, as well as to determine the potential to upscale them with the involvement of new and different actors. In view of limited budgetary capacity, there is a need to discover new ways to implement projects on the ground.
- The strength of the ILO lies in its tripartite character and its collaboration with its constituents – Governments, Employers’ Organisations and Trade Unions. Thus, the ILO has to support national actors to improve the framework conditions on the ground, which would then increase the transferability of knowledge and capacities from the supply chain to national actors and institutions.
- Capacity building is essential in enabling Employers’ Organisations and Trade Unions to engage more actively in national debates on suitable framework conditions for job creation, decent work and economic growth through trade and investment, as well as in strengthening the capacity of social partners to give guidance and advice to their constituents to seize the opportunities of engaging in global trade.
- The ILO flagship initiative on OSH should be rolled out extensively with maximum resource allocation. The programme should equally benefit global supply chain companies as well as domestic companies.

- Other international organisations, such as the World Bank, OECD and WTO, undertake research and provide relevant guidance with regard to achieving decent work in GSCs. The Office should more actively engage in partnership with these institutions to create greater and more effective synergies.

c) What partnerships can bring

- Employers encourage stronger partnerships between the Office and the private sector, including through their representative employers' organisations, to the mutual benefit of both sides. The ILO Governing Body has decided on the ways in which the Office engages with the private sector, as well as on Private-Public-Partnerships. The GB acknowledged ACT/EMP as the focal point for business engagement in the ILO. Initiatives emerging from the ILC 2016 discussion must fully respect GB decisions.
- The IOE and its members are ready to engage jointly with the ILO in collecting best company practice in supply chain management, as well as identifying the challenges and needs of suppliers and buyers to inform the 2016 ILC discussion.
- Any new initiative for closer collaboration with non-state entities and economic actors can enrich the discussion, but must respect the fundamental tripartite governance structure of the ILO.

V. Points for discussion

- The 2016 ILC discussion on decent work in global supply chains has already attracted a great deal of attention. Within the limited scope of a general discussion, and the allocated timeframe of the ILC, certain priorities should be set. The Employers support the outline approved by the ILO GB in March 2014. To operationalize this GB decision, the Employers propose the following main points for discussion:
 1. Importance of GSCs for job creation and decent work
 2. Key principles for national policies to fully unleash the potential of GSCs for engagement in global trade
 3. ILO action on supply chains: identify what works, what does not and why - which existing programmes and initiatives are to be scaled up and how
 4. Clarify further research needs and by whom
 5. Identify possible partnerships with other international organisations, non-state entities and economic actors: What kind of engagement, with whom and to what end?



The International Organisation of Employers (IOE) was created in 1920 to advocate in the tripartite International Labour Organization (ILO) on behalf of the global employer and business community.

Today, from its headquarters in Geneva, the IOE continues to defend and promote these same interests across a wide range of UN agencies, including the Human Rights Council, as well as other international organisations and intergovernmental processes such as the G20. With more than 150 employers' organisation members worldwide, it is the global voice of business in social and labour policy at the international level.

For more information, please visit www.ioe-emp.org