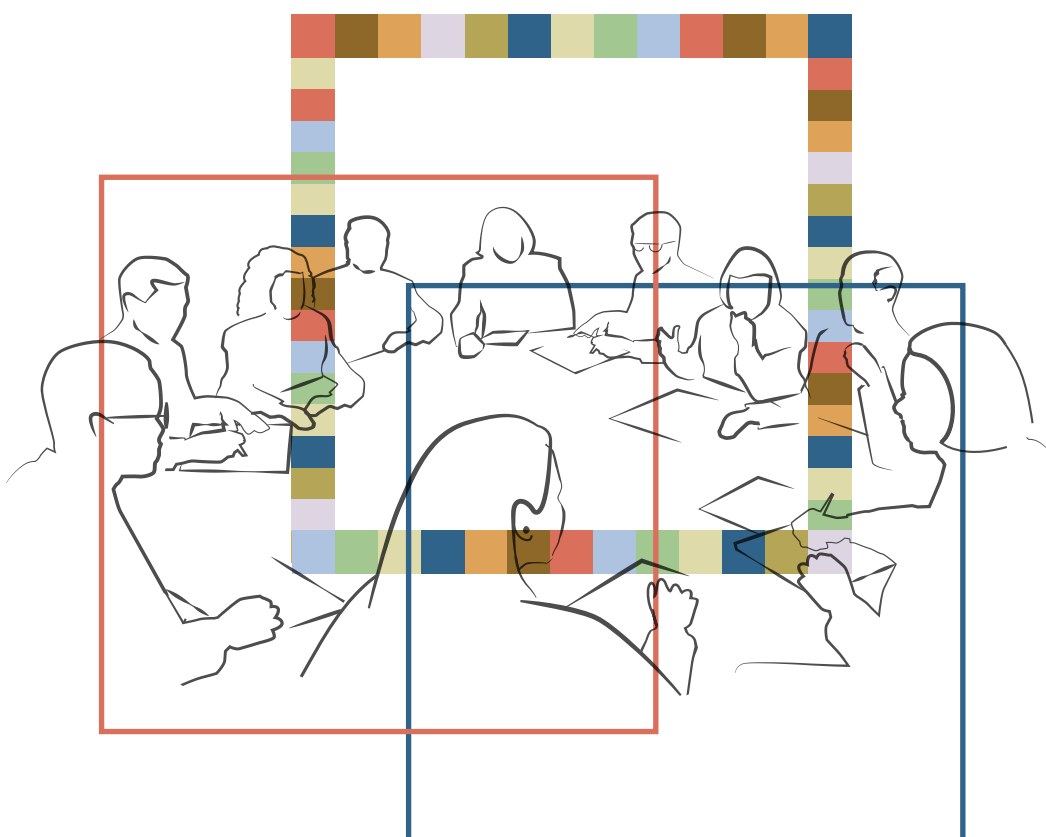


Multinational enterprises and inclusive development:

Harnessing national social dialogue institutions to address the governance gap



Governance
and Tripartism
Department

Enterprises
Department

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**Multinational enterprises and inclusive
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Harnessing national social dialogue institutions
to address the governance gap**

Frank Pyke

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Foreword

Social dialogue and tripartism are key governance tools for the International Labour Organization (ILO) to promote economic development and social justice worldwide. The ILO encourages and supports the institutionalization of social dialogue at the national level, which has the potential to lead the process of consensus-building and democratic involvement among the main actors in the world of work. Around 80 per cent of 187 ILO member States have national-level social dialogue institutions, although their composition (bipartite, tripartite and tripartite-plus), methods of work, mode of financing and efficiency vary greatly across countries.¹ It is evident however that social dialogue can play a far more effective role in policymaking than it currently does.

Multinational enterprises (MNEs) are major players in today's global economy. Socioeconomic development is influenced through their investment and sourcing decisions, as well as their overall corporate policies and practices, which take into account their broader role and responsibility in society – corporate social responsibility (CSR). The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (the MNE Declaration)² is a universal instrument providing guidance to enterprises, governments, employers' and workers' organizations to encourage the positive contribution of enterprises to socioeconomic development and to mitigate and resolve any negative impacts. This instrument highlights the important role of dialogue at different levels, including among the national tripartite partners, and among home and host governments of MNEs. The implementation strategy of the MNE Declaration adopted by the ILO Governing Body in its March 2014 session, moreover contains an item on national social dialogue stating that “The Governing Body Ad-hoc Working Group suggests that national constituents – governments, employers and workers – appoint national focal points on a tripartite basis (taking guidance from Convention No. 144) to promote the use of the MNE Declaration and its principles, whenever appropriate and meaningful in the national context, and inform the Office of these focal points.”³

Attracting foreign direct investment (FDI) is increasingly at the heart of national development strategies (investment-based growth models) with far-reaching implications for inclusive and equitable growth and decent work opportunities. This raises the important question of how to harness national tripartite social dialogue bodies when formulating and implementing such policies, especially in view of the impact of MNEs on the labour market and socioeconomic development more broadly.

At its annual International Labour Conference (ILC) in 2013, the ILO tripartite constituency reaffirmed the crucial importance of promoting social dialogue and the MNE Declaration worldwide. In October 2013, the ILO Governing Body adopted a plan of action to implement the resolution on the recurrent discussion on social dialogue which, among other things, requests the International Labour Office to scale up research and expand the knowledge base on social dialogue trends and practices.

Within this framework, the Social Dialogue and Tripartism Unit of the Governance and Tripartism Department (DIALOGUE/GOVERNANCE) and the Multinational Enterprises

¹ ILO: “National Tripartite Social Dialogue: An ILO Guide for Improved Governance”, Social Dialogue and Tripartism Unit, Governance and Tripartism Department (Geneva, 2013).

² http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm

³ GB.317/POL/8-http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_204758.pdf

and Enterprises Engagement Unit of the Enterprises Department (ENT/MULTI) have undertaken the present research project with the main objective of analysing and documenting country experiences in the area of tripartite social dialogue and multinational enterprises/FDI, as well as to highlight good practices in this regard.

The study prepared by Mr Frank Pyke contains many interesting findings that confirm the existence of opportunities for positive development, as well as numerous obstacles, for national social dialogue institutions to engage on and with MNEs. The paper presents some examples of national social dialogue institutions advancing the principles of the ILO's MNE Declaration, and also areas where they could potentially become engaged.

The findings of this project will be used to prepare policy tools and training materials to build the capacity of the ILO's tripartite constituency and national social dialogue institutions in dealing with the issue of MNEs at the country level.

We would like to thank Githa Roelans, Head of the Multinational Enterprises and Enterprises Engagement Unit of the Enterprises Department (ENT/MULTI), and Youcef Ghellab, Head of the Social Dialogue and Tripartism Unit of the Governance and Tripartism Department (DIALOGUE/GOVERNANCE) for this important initiative of collaboration. We would also like to thank Angelika Muller and Vongai Masocha, who coordinated this research project, as well as Germaine Ndiaye, who assisted with the editing and administrative preparation of this publication.

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Executive summary

Multinational enterprises (MNEs) are major protagonists in global and national development, and can be important for economic growth, job creation, and efforts to achieve decent working and living conditions. Foreign Direct Investment (FDI) and global sourcing have increased significantly in recent decades.

It is generally considered that MNEs offer positive opportunities for countries eager to develop their economies, and the consequence has been much effort to attract inward investment. These opportunities include the potential for economic growth, increased employment opportunities, skill development, technology transfer, possibilities for productivity improvements and movements up the value chain, and spill over effects along supply chains and to domestic enterprises.

However, it is equally recognized that some MNE operations can have undesirable consequences for local businesses, and labour, social and environmental conditions, with potentially long-term negative implications for broad, inclusive, and sustainable development.

In recognition of the dual character of MNE operations, the International Labour Organization (ILO) adopted the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) (ILO, 2006a), which contains a range of recommendations on inclusive economic development and social progress addressed to government, enterprises, and social partners, with the aim of encouraging the positive contribution of MNEs' operations while minimizing possible negative impacts.

A review of stakeholder perceptions of MNE operations benchmarked against the MNE Declaration principles confirms there are real opportunities for positive development, but there can also be a range of negative effects that are perceived as contravening the principles, and that pose challenges for stakeholders. Most of the challenges lie in labour and social areas, including decent work deficits in enterprises and supply chain operations, obstacles to freedom of association, threats to employment security in the host country of operations, and inadequate compliance with, and enforcement of, labour laws.

Globally, governance mechanisms have been established at various levels, and these mechanisms influence economic and social behaviour, including in respect of the operations of MNEs. However, despite the various governance mechanisms, ILO constituents attending the 2016 International Labour Conference in Geneva concluded that there is a “governance gap” and a need to find new ways of ensuring that economic growth and decent work occur in tandem.

Social dialogue is embedded in the ILO MNE Declaration. Social dialogue could be key to promoting the best, while minimizing the worst, aspects of MNE operations, and forms of such governance have proliferated at a range of operational levels: global, national, sub-national, and local.

All governance levels are relevant, but national level governance could be particularly important because of its role in leveraging the developmental potential of MNEs for domestic gain. A sound national regulatory policy and effective implementation can help to raise standards, create a level playing field, promote productivity and competitiveness, and alongside transnational governance arrangements, such as International Framework Agreements, help to inhibit a global race to the bottom. National governance institutions can

also promote beneficial effects by employing appropriate economic, social, and industrial policies, strategies, and interventions tailored to domestic conditions.

So far, relatively little attention has been paid to the role of national governance in regard to the operation of MNEs, or to the role of national Economic and Social Councils and Similar Institutions for social dialogue (ESC-SIs). ESC-SIs are bipartite, tripartite or bi/tri-partite-plus organizations, are widespread, exist in more than 100 countries, and could potentially play a significant role in advancing the application of the principles of the MNE Declaration and in reducing the governance gap.

ESC-SIs can bolster national governance effectiveness by providing advice on policies, laws, and actions appropriate to specifically national conditions, while acting as forums for negotiation, consensus forming, and collective action amongst key representative stakeholders.

Hitherto, there is little evidence that existing ESC-SIs have widely engaged in areas related to MNE operations, whether in respect of providing government with advice or council members engaging in formal or informal discussion. Nevertheless, the report finds there are exceptions to a general picture of non-engagement, and that, moreover, there is an interest amongst some non-active ESC-SIs to become engaged.

The report highlights some examples of ESC-SI involvement in advancing the principles of the ILO's MNE Declaration, and also areas where ESC-SIs could potentially become involved, such as: organizing seminars and spreading best practice; advising on strategic policies for economic growth; advising on national labour laws and regulations; advising on improving employment security; engaging in collective actions; and engaging in compliance initiatives, both internationally and nationally.

But there are obstacles to effective engagement by ESC-SIs in MNE-related issues. These could include: insufficient representation of MNEs and possibly other key groups; inadequate expertise and resources; a propensity or preference for bilateralism, especially between governments and MNEs; and limitations imposed by some ESC-SI mandates. Some councils appear to be more focused on labour issues, albeit most have broader socio-economic mandates. Many are established as advisory councils, which might restrict their ability to engage in executive or monitoring functions.

Government can also create obstacles to, or enable conditions for, effective engagement by ESC-SIs. Governments may create regulatory frameworks that encourage, or not, the formation of representative organizations; they typically play a key role in deciding which issues should be addressed, including in relation to MNEs; politically commit, or not, to the promotion of social dialogue; and pursue development objectives that might chime with, or not, the advice of ESC-SIs, and with, or not, the exhortation of the MNE Declaration to promote inclusive development.

The report concludes that social dialogue in ESC-SIs could indeed potentially help to bolster national governance effectiveness, and reduce the governance gap in global supply chains, at least at the national level, provided that identified obstacles are overcome.

It is also suggested that this initial study be followed by further research into the issues highlighted and other issues not addressed. Possible areas for research are included in an annex. It is further advocated that the issues raised by the study be discussed in tripartite meetings, especially ones involving participants in existing ESC-SIs. Their feedback and insights would be invaluable.

Chapter 1. Introduction

Multinational enterprises (MNEs) are major protagonists in the ever-increasing economic integration around the world that we call globalization. In 2009, the United Nations Conference on Trade and Development (UNCTAD) estimated there were approximately 82,000 MNEs globally, with 810,000 foreign affiliates, employing about 77 million people (UNCTAD, 2009). More recent estimates of UNCTAD suggest that between 1990 and 2014, the amount of sales of foreign affiliates of MNEs increased from USD 4.7 trillion to USD 36 trillion, while the numbers employed increased from 21 million to 75 million (See Table 3, p. 13, UNCTAD, 2015a).

A parallel increase has been witnessed in the sourcing of products or services by lead firms, such as international brand holders or major retailers, who do not actually own the supplying production plants involved. Approximately one in five workers are estimated to work in global supply chains, that is, in jobs that contribute to the production of goods and services that are either consumed in other countries, or further processed in other countries (ILO, 2015a). MNEs, global sourcing, and global supply chains pose major challenges, and opportunities, for national governments and other stakeholders.

An important guide for MNEs, national governments, and other stakeholders is the International Labour Organization (ILO) Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration) (ILO, 2006a), which provides guidance on how to promote the positive aspects of MNE operations – vis-à-vis economic growth, greater employment and rising standards and incomes –, while minimizing any negative aspects, especially in the labour and social spheres. The MNE Declaration is used in this report as a benchmark against which to set existing conditions and practices, and future activities.

Despite the existence of a range of governance instruments and processes at various levels, during a recent meeting of ILO constituents at the 2016 International Labour Conference (ILC) it was concluded that when it comes to ensuring that economic growth is accompanied by decent work in global supply chains, there exists a “governance gap” that needs to be addressed.

Social dialogue is a form of governance embedded in the MNE Declaration and could be seen as a viable way of promoting its principles among the various groups addressed: government, social partners, and MNEs. For the ILO, social dialogue is defined as including “all types of negotiation, consultation or information sharing among representatives of governments, employers and workers, or between those of employers and workers on issues of common interest relating to economic and social policy” (ILO, 2013a, p. 12). Where employers and workers alone engage in dialogue it is referred to as “bipartite” engagement, and where government is also involved it is called “tripartite”. The ILO also recognizes that in some circumstances the traditional social partners might be joined in their deliberations by civil or community organizations in order “to gain a wider perspective and consensus on issues beyond the world of work” (ILO, 2013a, p.15). Where there is a broader participation in social dialogue, the phenomenon is usually referred to as “bipartite-plus” or “tripartite-plus.”

Social dialogue can occur at multiple levels – global, national, local and within the enterprise. The focus in this report is on the national level, and especially on the role of national Economic and Social Councils and Similar Institutions for social dialogue (ESC-SIs). These are bipartite, tripartite or bipartite/tripartite-plus organizations, which are established to advise governments on economic and social policy and/or to act as forums for discussion and agreement amongst major stakeholders.

This report looks at MNEs and the opportunities and challenges they pose for countries trying to develop on a basis of broad social inclusion, and discusses how widespread ESC-SIs are, and how, if at all, they are involved in MNE-related development issues. If yes, in what form does this involvement take place? If not, what are the challenges and obstacles preventing ESC-SIs addressing issues arising from MNE operations?

The report proceeds in the following way. After this Introduction, Chapter 2 reviews briefly some characteristics and trends for foreign direct investment (FDI) and global sourcing. Chapter 3 sets out the ILO MNE Declaration, summarizes the areas it addresses, and outlines some of the main opportunities and challenges faced by stakeholders wishing to apply the MNE Declaration's principles. Chapter 4 focuses on the different levels at which social dialogue and governance affecting MNE operations occur, and highlights the recent ILC conclusion that there exists a "governance gap". Chapter 5 looks at the national level of governance, in particular ESC-SIs, and describes which countries have them, the various names they go under, their mandates and activities, and their organization through the use of various committees and secretariats. Chapter 6 considers evidence regarding whether ESC-SIs have been engaged in MNE-related issues, and in strategies to leverage their operations. Chapter 7 proceeds to consider areas where ESC-SIs have been, or could be, involved in advancing the principles of the MNE Declaration in relation to MNE-related issues. Chapter 8 discusses some of the main obstacles to a greater role for ESC-SIs in this area. Finally, Chapter 9 summarizes the key findings and concludes. An annex suggests avenues for future research and discussion at tripartite meetings.

Chapter 2. MNEs, FDI and global sourcing: Some characteristics and trends

FDI

FDI has increased significantly over recent decades. Global FDI inflows rose from an annual USD 205 billion in 1990 to USD 692 billion in 1998, and then to USD 1,359 billion in 2000, rising again to a peak of USD 1,902 billion in 2007. Between 2008 and 2014 flows never fell below USD 1,181 billion (in 2009), reaching USD 1,566 billion (in 2011), before rising again to USD 1,762 billion in 2015 (UNCTAD, 2016). In 2014, developing countries saw their FDI reaching a new high of more than USD 700 billion (UNCTAD, 2015b), rising again in 2015 to USD 765 billion, and accounting for 45 per cent of global FDI (UNCTAD, 2016).

China has become particularly significant for FDI. By 2005, China (including Hong Kong) already accounted for more than a third of total inward FDI in countries that were not members of the Organisation for Economic Co-operation and Development (OECD), and more than half of all outward FDI (OECD 2009, p. 197). By 2014, China had become the world's largest recipient of FDI (UNCTAD, 2015b). Box 1 shows that in 2014 China accounted for an estimated USD 128 billion of inflows, and Hong Kong, China another USD 111 billion. The United States came next at USD 86 billion, and then Singapore and Brazil at USD 81 billion and USD 62 billion respectively (UNCTAD, 2015b). Four of the top five recipients in the world are developing countries, the exception being the United States (the third highest recipient) (UNCTAD, 2015b).

China	128
Hong Kong, China	111
United States	86
Singapore	81
Brazil	62
United Kingdom	61
Canada	53
Australia	49
Netherlands	42
Luxembourg	36
Top Ten Total	709

Source: UNCTAD 2015b.

Not only are we seeing diversification in locations for FDI, with some developing countries growing in prominence, MNEs are also characterized by increasing diversity of national origin. Many enterprises from non-OECD countries have become active as foreign direct

investors, as shown by the near doubling of their share in the global stock of outward FDI between 1990 and 2005 (OECD, 2009, p. 217).⁴

Global sourcing

FDI flows do not tell the whole story when it comes to internationalization and the increasing integration of enterprises into global production networks. Another major trend has been the rise of global sourcing, that is to say sourcing by major brand holders, retailers, wholesalers and others who source directly from global networks of producers over whom they have no formal ownership or legal ties (see, for example, Barrientos, 2007). Global sourcing companies might possess distribution and retail facilities in multiple countries, as well as on the Internet. The locally owned suppliers to global sourcing companies are often first-tier suppliers and, in countries such as India and China, are often located in export-oriented industrial clusters, and organize their own domestic supply chains further down the production chain. Such first-tier suppliers can themselves be significant enterprises, and some, such as the Taiwanese firm FOXCONN, which supplies many major Western electronics companies, may even be MNEs with production plants in various countries. Recently FOXCONN announced a major billion dollar investment to establish its own production plants in India (Crabtree, 2015a; 2015b).

Global sourcing by major brand holders such as Apple and Nike, or retailers such as Walmart, Gap, and others, has significantly increased and can be a major influence on enterprises and broader economies integrated into the leaders' global supply chains. For example, FOXCONN employs hundreds of thousands of people in China alone. The number of jobs linked into global supply chains has increased rapidly over past decades, both in absolute terms and as a share of total jobs. The ILO estimates that for 40 countries considered the number of people employed in global supply chains increased from 296 million in 1995 to 453 million in 2013 (ILO, 2015a).

Varying rationales for investment and sourcing

The reasons for overseas investment or sourcing vary. Over the last 20 years or so there has been a big increase of outsourcing from higher cost Western nations to lower cost countries in Eastern Europe and the developing world. Accessing low cost labour has been a major driver, and some countries such as China have leveraged the competitive advantages they have held in this regard to develop their economies accordingly. Many low cost producers have focused on consumer products such as textiles and clothing, electronics, and footwear.

However, there have been other important drivers of investment in, or enhanced sourcing from, other countries. These include the ability to access knowledge and production capabilities, whereby units are established in locations that have a particular ability to manufacture according to desired criteria such as speed, quality, innovativeness, and general capabilities. In such cases, the cost of labour would only be one of the criteria to be considered, and might hardly feature at all.

There might also be FDI or global sourcing aimed at accessing specific resources, such as oil, copper, diamonds, phosphates, or agricultural products. Then, also important can be the desire to access expanding markets. Finally, we might mention the practice of MNEs

⁴ In the specific case of FDI in Ghana, the highest number of foreign investment projects in 2007 were from China, accounting for 65 of 294 projects, followed by India at 49, Lebanon at 45, and Nigeria at 17. Great Britain came next with 16, followed by the United States of America with nine. However, Great Britain easily accounted for the highest value of projects, followed, a long way behind, by China (Sarpong and Otoo, 2009).

following customers, i.e. establishing branch plants in locations in order to retain the business of important customers who prefer their suppliers to be close by, for reasons of speedy delivery, easier coordination, or better service.

Although FDI in search of low cost labour has received much attention, in fact, some of the biggest recipients of inward investment are advanced economies with relatively high labour costs. For example, in the Americas, the United States receives more FDI than the next six American country recipients combined (ILO 2014a), and is the third biggest FDI recipient in the world (UNCTAD, 2015b, see Box 1). This serves to highlight that investment flows do not only move from developed countries to developing ones, and also that to attract inward investment a country need not remain an “underdeveloped” economy dependent on low cost labour. Moreover, even when MNEs do establish plants abroad in order to access low cost labour, to assemble at low cost products designed in the home country, they can go on to develop into much more complex organizations, perhaps engaging in design and new product development, and engaging in dense relationships with networks of local suppliers. The message is that countries do not have to rely on low cost labour strategies to be competitive and that, with the right policies, MNEs or global sourcing enterprises can be leveraged to help countries move up the development ladder.

Host country strategies to leverage MNEs

Most countries recognize the importance of attracting FDI or sourcing from international firms and so the subject is of major political relevance.⁵ By 2004, it was reported that only a few countries were not actively seeking to attract FDI (ILO, 2004), and by 2013, 81 per cent of all countries in the world, and 78 per cent of developing countries, had a national investment promotion agency (IPA) with the mandate to attract inward investment (UNCTAD, 2013). A range of monetary, fiscal, industrial, and regulatory policies and strategies, involving various incentives, conditions, constraints and enabling environments, can be used to both attract and make the most of FDI and global sourcing.

Different government policies might attract different kinds of MNEs, and different kinds of MNEs might require different government policies to make the most of their potential for national development. A subsidiary established to simply use low cost labour to assemble imported components for a product sent to the MNE’s home country for global distribution might require a different governmental approach than a subsidiary established to manufacture a complete, possibly complicated, product, using local suppliers, for sale on the domestic market. It is clear that governments need to develop strategies appropriate to leveraging the best local impact of MNEs, FDI and global sourcing. Social dialogue in national ESC-SIs could play important roles in researching, advising on, monitoring, and possibly implementing such strategies.

⁵ According to an UNCTAD global survey of import promotion agencies, the objectives for attracting FDI are first of all employment creation, followed by technology transfer, export promotion, local linkages, and skills development (ILO, 2014a, citing UNCTAD, 2014).

Chapter 3. Challenges and opportunities of MNEs for inclusive economic development

The potential for MNEs, and global sourcing enterprises, to make positive contributions to a country's development is well recognized, but it is equally recognized that there is also the potential for negative effects. In recognition of this, in 1977 the ILO Governing Body adopted the MNE Declaration, a framework to enhance the positive developmental aspects while reducing possible negative impacts, by setting out a set of principles for guiding the behaviour of governments, employers' and workers' organizations, and MNEs. This document was amended in 2000 and then again in 2006 (ILO, 2006a). It is currently again being reviewed by an ad hoc working group of the ILO's Governing Body with the expectation that an amended version might be adopted during its 329th session (in March 2017).

Significantly, the ILO's MNE Declaration recommends that both growth- and employment-enhancing areas, and areas related to working conditions and workers' rights should be addressed for inclusive development, and as such can be read as a forerunner of the organization's Decent Work Agenda. Its overall aim is to stimulate MNEs, governments, and other stakeholders to voluntarily adhere to a series of principles based on ILO standards in order "to encourage the positive contribution which multinational enterprises can make to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise" (MNE Declaration, paragraph 2, ILO, 2006a). The MNE Declaration makes recommendations on good practice in four specific areas: employment; training; conditions of work and life; and industrial relations, in addition to general policies (see Box 2).

The ILO's MNE Declaration is a valuable benchmark against which to assess conditions and practices in individual countries. As part of a follow-up mechanism, the ILO carries out surveys to elicit opinions from tripartite constituents on the promotion and application of the MNE Declaration in particular regions, and includes questions on both the opportunities that government and the social partners think MNEs offer for their country and the kinds of challenges that need to be addressed. Recently, such surveys were carried out in the Americas (2014), Africa (2015), and Asia and the Pacific (2016a).⁶ Responses in the Americas came from nine governments, 15 employers' organizations, and 38 workers' organizations, covering 31 countries (ILO, 2014a); in Africa from 14 governments, 20 employers' organizations, and 25 workers' organizations, covering 33 countries (ILO, 2015b); and in Asia and the Pacific from 18 governments, 22 employers' organizations, and 20 workers' organizations, covering 29 countries (ILO, 2016a) The results of the surveys with respect to perceived opportunities and challenges give some insight into areas that could be the focus of social dialogue. Examples of responses are presented below:

⁶ Another exercise will be under way in 2017 in the Europe region.

Box 2. The ILO MNE Declaration

The Declaration sets out principles in the fields of **employment, training, conditions of work and life,** and **industrial relations,** which governments, employers' and workers' organizations, and multinational enterprises are recommended to observe on a voluntary basis. The document pays particular attention to the roles of MNEs and governments.

In the field of "**employment**", the Declaration urges governments to promote full employment and reduce underemployment as part of a strategy to stimulate economic growth and development. With this in mind, the employment impact of MNEs should be given attention. MNEs should give priority to the advancement of nationals of the host countries, and consider sourcing materials and parts from local suppliers. Governments and MNEs should promote equal opportunities in employment.

Several paragraphs are devoted to "**employment security**". MNEs are urged to provide stable employment and observe agreements focused on employment and social security. In fact, MNEs are urged to play a leading role in promoting employment security, and provide governments and workers' organizations with advance notice of pending plant closures. Arbitrary dismissal agreements should be avoided. Governments should provide dismissed workers with social protection in the form of income payments.

A second field focuses on "**training**". For this, the instrument recommends both government and MNE actions on vocational training, and urges MNEs to participate in government-supported skill formation programmes that are part of national development policies.

With respect to "**conditions of work and life**", the Declaration recommends that MNE wages and working conditions should be at least as good as those offered by comparable employers in the host country, and in the absence of comparable employers, the best possible wages. Governments are urged to take actions to ensure lower income groups and those in less developed areas benefit from MNE activities. MNEs should act to eliminate the worst forms of child labour. Governments are advised to ensure that MNEs and national enterprises provide adequate safety and health, and MNEs in any case are urged to maintain the highest standards.

The fourth field – "**industrial relations**" – is the lengthiest part with the most detailed provisions. The Declaration states that freedom of association and the right to engage in collective bargaining should be respected by all, and there should be protection against anti-union discrimination with respect to employment. Paragraph 46 says that host country governments should not offer potential inward investors incentives that would limit workers' freedom of association or the right to organize and bargain collectively. MNEs, when negotiating with unions, should not use the strategy of threatening to transfer operations to another site. There should be opportunities for regular consultation between workers and their representatives and MNEs (and national enterprises) on matters of mutual concern. There should be appropriate grievance and arbitration machinery and procedures.

Source: ILO, 2006. MNE Declaration (amended).

Opportunities for stakeholders

The MNE Declaration highlights the role of employment creation, both for its effect on living standards and as a means to stimulate economic growth and development (see paragraph 13), while also recognizing that employment creation can be indirect and induced by stimulating economic development in the broader economy, such as by MNEs establishing business linkages with local firms and producers (see paragraph 20). It is clear that respondents in the three follow-up surveys saw the potential to boost employment creation as the main advantage of the presence of MNEs in their countries.

In the Africa and Asia and the Pacific regions, when asked which areas of the MNE Declaration were relevant when it came to MNE operations in their countries, 93 per cent and 83 per cent respectively of all respondents mentioned employment promotion. In the case of Africa, respondents from 14 countries said that strategies, policies, laws and regulations were in place to help leverage the potential of MNEs for employment creation. The potential to create jobs for youth was seen as particularly significant. In respect of the Asia and the Pacific region, one respondent mentioned that in her/his country MNEs had already created 3 million jobs as employment patterns shifted from agriculture to manufacturing. For this country, and also several others in the region, respondents said there were frameworks in place to ensure that MNEs prioritized the hiring of nationals. In the

Americas, employment promotion also was seen as a crucial aspect of MNEs' contribution to socioeconomic development.

In all three regions, various comments pointed to the potential for MNEs to help raise skill levels, to strengthen the capacities of local and national enterprises through the development of upgrading programmes for their suppliers, and for MNEs to set up training programmes or participate in them to fill skills gaps. In Africa, respondents from eight countries made comments that emphasized the contribution MNEs could make to capacity-building, skills transfer, and the training of the local labour force. Respondents in the Americas also noted that MNEs could help raise skill levels and strengthen the capacities of local and national enterprises through the development of quality upgrading programmes for their suppliers. MNEs could help fill local skills gaps by setting up training programmes or participating in them.

In Africa, respondents from four countries pointed out that MNEs could contribute to technology transfer in host countries, and in the Americas an employers' organization highlighted that MNEs were usually at the forefront of management and quality systems, including new technologies and know-how, which were important to promote business development in host countries. A workers' organization pointed out that MNEs could help boost productivity.

Some respondents in Asia and the Pacific region said that MNEs offered, or at least had the potential to offer, better wages, benefits or working conditions. In the area of occupational safety and health (OSH), in the Americas it was pointed out by a respondent from a workers' organization that MNEs often employed comprehensive company risk assessment and management mechanisms; and it was suggested by another respondent that MNEs could make positive contributions through the implementation of voluntary corporate social practices and controls to minimize OSH risks. Also, in Africa in one country, an employers' organization reported that MNEs had good policies and practices with respect to OSH, and that these good practices could be shared with other enterprises.

Finally, a government respondent from a country in Africa suggested that there might be opportunities to make suppliers to MNEs aware of the need to embrace collective bargaining; while a workers' organization from another country thought MNEs could play a major role in promoting the right to freedom of association by facilitating the exercise of the right in their own enterprises and by taking up the issue with governments concerned. In Asia and the Pacific, respondents from the workers' organizations saw global framework agreements, negotiated between MNEs and global union federations, as an opportunity to strengthen industrial relations in all countries in which these MNEs operate.

Challenges for stakeholders

Respondents also confirmed the existence of numerous challenges or issues posed by MNE operations, where, especially, there are negative impingements on the social and labour conditions highlighted by the MNE Declaration.

In Asia and the Pacific, three government respondents, two respondents from workers' organizations, and one respondent from an employers' organization, all from different countries, expressed disappointment concerning the wages paid by MNEs to their workers, as well as limited social protection benefits. For example, a respondent from an employers' organization said that in his/her country many MNEs prefer to pay only prescribed minimum wages which are much below national averages. This has especially occurred in the service sector. In respect of working conditions, in Africa, respondents from six of the 33 countries covered reported MNE challenges related to OSH, and some respondents identified outsourcing and subcontracting practices as a cause of low wages and poor working conditions.

Respondents in four African countries expressed concerns about the presence of child labour. Also, in the Americas a workers' organization in one country said that the worst forms of child labour could be found in the supply chains of MNEs operating there, especially in the agro-industrial and tourism sectors. In Asia and the Pacific, a workers' organization respondent said that MNEs in the media industry were taking advantage of the fact that in that industry there was no minimum wage requirement for people under 16 years of age, or minimum age requirement for employment.

In Africa, respondents from six countries raised the issue of MNEs hiring international staff in preference to local people, while in the Americas one employers' organization and one workers' organization said that the preference of MNEs for recruiting international staff was one of the challenges. In all three regions some respondents complained about inadequate promotion of equality of opportunity in MNEs, or about discriminatory practices between international and local staff, or between female and male employees. In the Americas, inadequate controls over sexual harassment in the workplace were mentioned.

The contribution of MNEs to training and skills upgrading was identified by some as another challenge. In Asia and the Pacific, one workers' organization pointed out that, in general, the workplace training in his/her country is weak and that MNEs have not been noticeably better at providing it. In the case of another country, a workers' organization said that while some MNEs do indeed train their workers, others merely pirate the trained. In that country, the perception of the MNE record with regard to training is mixed.

In all three regions large portions of the workforce are employed in the informal sector. In the Americas, a government respondent expressed concern over the fact that the informal sector is mostly concentrated in small and medium-sized firms and that many of them are actually integrated into MNE value chains. In Asia and the Pacific, one workers' organization reported that it had exhorted its government to ensure that informal workers working for MNEs should be protected by government labour law.

Lastly, in the Americas, two workers' organizations complained that measures to attract FDI often did not adequately ensure decent employment creation or stimulate sufficient linkages to local firms, while three workers' organizations raised concerns about the effects of MNEs on the environment.

Freedom of association

Amongst workers' organizations in particular a major challenge was perceived to be the existence of obstacles posed by some MNEs to freedom of association. In the Americas, a workers' organization in one country asserted that anti-union practices were very common, while workers' organizations in two other countries claimed some MNEs had set up management-friendly trade unions in order to curtail the creation of free trade unions by workers. In Africa, workers' organizations from nine of the 33 countries covered said MNEs were obstructing freedom of association and the right to organize, with some sectors, such as mining, oil, construction, tobacco, and tea being seen as particularly problematic. In one country, a workers' organization respondent said MNE anti-union practices included the firing of activists, subcontracting, and bribing government officials. In Asia and the Pacific also, workers' organizations indicated that freedom of association was one of the most challenging issues regarding MNEs. For example, in one country, employers were said to be strongly opposed to freedom of association and free collective bargaining. In another, it was reported that, in respect to MNEs, workers who took the initiative to form a trade union could be penalized, including through transfer to other jobs, loss of promotion, or dismissal.

With respect to collective bargaining, in the Americas some workers' organizations said MNEs did not particularly facilitate collective bargaining. Meanwhile, in Africa, workers' organizations in four countries were critical of the low number of collective agreements with

MNEs. One government respondent in another country noted that subcontractors of MNEs were particularly unlikely to benefit from collective agreements. In Asia and the Pacific, workers' organizations from four countries reported difficulties in bargaining collectively with MNEs.

Employment insecurity

Another significant challenge posed by MNE operations was perceived to be that of employment insecurity. In the Americas, one workers' organization expressed fear for employment stability due to the departure of MNEs in search of lower labour costs elsewhere in the world. Also, some workers' organizations complained that when MNE relocation resulted in plant closures, the MNEs did not respect the principles in the ILO MNE Declaration pertaining to closures and layoffs. Another workers' organization thought that MNE subcontracting practices also caused employment instability, while another raised a concern about arbitrary dismissals.

In Africa, 11 workers' organizations, covering 10 African countries, reported the frequent occurrence of MNE practices that induced employment insecurity, including: the use of fixed-term contracts; casualization; outsourcing; an absence of contracts, and unfair dismissals. For example, a trade union respondent from one country said:

“MNEs are coming in with much needed FDI but as good as that may be they are bringing in new kinds of work methods that threaten the employment security of workers. The introduction of flexible employment, casualization, fixed-term contracts, and labour broking has been noted. These types of employment contracts threaten the very essence of employment security, as embodied under the Decent Work Agenda”.⁷

One African workers' organization respondent echoed American counterparts when he/she noted that the ability of MNEs to relocate to other countries also contributed to workers' insecurity.

In Asia and the Pacific also, employment insecurity was highlighted as a prominent challenge. One respondent pointed out that in his/her country the predominant MNE practice of employing people through contractors on a contract basis meant that employment security was not prevalent. A respondent from another country also testified that a practice of hiring on a basis of short term contracts was common. In another country, it was reported that workers employed on a kind of contract different from that enjoyed by regular workers had limited access to social protection schemes. Several respondents echoed others in Africa and the Americas by highlighting the employment insecurity inherent in the practice of MNEs moving production to other countries, or to off-shoring jobs.

Inadequate compliance

A further prominent challenge was perceived to be inadequate compliance with, and enforcement of, labour laws. In Africa, one worker's organization suggested that the lack of enforcement of national labour laws contributed to insecurity. Also, respondents from four countries in that region said that, at times, MNEs failed to comply with the labour regulations of the host countries concerning conditions of work. Respondents in two countries suggested weak enforcement of national labour laws was a cause of deficiencies in OSH.

In Asia and the Pacific, a respondent in one country said that some MNEs were not respecting national laws concerning freedom of association and collective bargaining. Also, some respondents said that labour inspection practices regarding MNEs are either

⁷ See ILO 2015c, p.32.

insufficient or ineffective. One workers' organization respondent reported a challenge related to MNE compliance with international OSH standards. In the Americas, the absence of effective inspection mechanisms to check for violations of OSH law was mentioned.

Some respondents indicated that the national labour laws themselves (rather than their enforcement) could be problematic for decent work. In Africa, one respondent suggested that in her/his country the source of employment insecurity lay in national laws which, it was said, had been designed against the interests of workers in order to attract FDI. Also, in Asia and the Pacific, some respondents indicated that their national laws were promoting insecurity, and/or hindering freedom of association, and/or generally undermining efforts to ensure decent work. One workers' organization said that in its country many MNEs were concentrated in a free economic zone, where workers received inferior treatment in terms of wages, benefits and other working conditions because businesses were exempt from complying with national legislation. In another country, it was explained that in an MNE industrial zone, the law does not allow workers to form trade unions.

In conclusion, it can be said that the perceptions of the respondents in the three regions confirmed that MNEs could offer developmental opportunities, but also challenges. MNEs were seen as offering the opportunity to increase employment creation and promote economic growth through various mechanisms such as technology transfer, skills upgrading, and linkages with local enterprises. They were also thought by some to have the potential to pay higher wages, and to help the spread of good social and labour practices, including in OSH. However, examples were also cited of social and labour deficits in the operations of some MNEs, which could hamper attempts to promote productive, inclusive, and sustainable economic development. These deficiencies appeared in areas such as disappointing wage levels, OSH, child labour, lack of equality of opportunity, perceived MNE obstacles to or non-respect of freedom of association, and insecurity of employment. The weak enforcement of national labour laws, or possibly the laws themselves, and MNE subcontracting and outsourcing practices were included amongst the explanations for cases of poor working conditions, including employment insecurity.

The ILO MNE Declaration has embedded within it the principle to encourage social dialogue as a means of addressing the kinds of opportunities and challenges highlighted above. The following chapters consider the possible role of social dialogue.

Chapter 4. Governance and social dialogue at various levels

According to a 2011 United Nations Development Programme (UNDP) publication: “(Governance) comprises the mechanisms and processes for citizens and groups to articulate their interests, mediate their differences and exercise their legal rights and obligations. It is the rules, institutions and practices that set limits and provide incentives for individuals, organisations and firms (UNDP, 2011, Ch.8, footnote 20, p. 287).” Governance goes beyond simply government to encompass a range of national and international entities and institutions.

MNEs and governance

The increasing globalization fired by rising levels of FDI and global sourcing practices has been accompanied by demands to improve global governance. Consequently, we see a number of global institutions involved in trying to regulate international business activities. These include the World Trade Organization, the rules of which can affect government strategies to control inward and outward movements of products. It was also the scene in past years of a failed attempt to regulate labour conditions and perhaps combat tendencies to “race to the bottom” by inserting a social clause into trade rules. Other important institutions include the World Bank and the International Monetary Fund. There are also international organizations that seek to influence labour conditions in MNEs and their suppliers through voluntary codes. The international labour standards of the ILO are particularly influential, with the eight core conventions widely adhered to by other organizations and MNEs. And then there is the ILO’s MNE Declaration, which is a focus of this report. Also, of increasing relevance for MNEs has been the OECD’s Guidelines for Multinational Enterprises,⁸ a voluntary code of responsible business practices, which includes adherence to the ILO’s core conventions and the principles of the MNE Declaration, and which is being promoted by 46 countries. Also, the United Nations Guiding Principles on Business and Human Rights call on businesses to respect human rights, including by behaving in accordance with the ILO’s Declaration on Fundamental Principles and Rights at Work. The United Nations Global Compact urges adhering enterprises to comply with principles in the areas of human rights, labour, the environment and anti-corruption.

Of increasing importance has been the role of international trade agreements. Some of these are bilateral, but others, such as the North American Free Trade Agreement and agreements involving the European Union (EU) and other countries, are multilateral. Most recently, major multilateral trade agreements being negotiated include the Transatlantic Trade and Investment Partnership (between the United States of America and the EU) and the Trans-Pacific Partnership Free Trade Agreement (involving several countries that border the Pacific Ocean). Such trade agreements are strong global governance tools and often include labour and/or environmental provisions stipulating basic conditions that must be adhered to in participating countries (See Box 3).⁹

⁸ The OECD MNE Guidelines provide voluntary principles and standards for responsible business conduct in areas such as employment and industrial relations, human rights, the environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. By 2014, governments in 34 OECD countries and 12 non-OECD countries had agreed to adhere to the Guidelines.

⁹ The inclusion of labour provisions in trade agreements has increased considerably over the past 25 years. For example, while in the period 1995-99 only 4 per cent of trade agreements contained labour provisions, the percentage rose to 11 per cent for the period 2000-04, and to 31 per cent for the period 2005-09 (ILO, 2009).

Box 3. Example of labour provisions in an international trade agreement

A free trade agreement between European Free Trade Association (EFTA) States and Costa Rica and Panama was signed in 2013. The agreement addresses a range of issues related to trade, investment, intellectual property rights, and sustainable development. It asserts that economic development, social development, and environmental protection are interdependent and mutually supportive components of sustainable development. The parties commit to respect, promote and realize international labour standards, with explicit reference to the ILO Declaration on Fundamental Principles and Rights at Work and its follow-up; to implement multilateral environmental agreements; and to encourage corporate social responsibility. In addition, the parties explicitly recognize that they should not weaken labour or environmental protection to attract foreign investments.

Source: ILO, 2014a.

Also significant at the international level are the attempts to regulate the behaviour of entire cross-border supply chains associated with the value chain of an individual MNE or a global buyer, or groups of such entities. This form of cross-border governance can include private voluntary corporate codes of conduct established by individual MNEs, groups of MNEs, or multi-stakeholder groups; and the aforementioned ILO, OECD, and United Nations institutional codes of practice to which MNEs and governments can adhere. Also important are international framework agreements (see below).

Social dialogue at various levels

Social dialogue often plays an important role in governance processes. Social dialogue affecting MNE operations can occur at different levels. At the international level, social dialogue is inherent to the operations of the ILO and the production of governance instruments such as international labour standards and the ILO MNE Declaration. Also important are international framework agreements (IFAs) (see Box 4) between individual MNEs and global trade unions, which set out the conditions to be adhered to across the worldwide operations of MNEs.

Box 4. International Framework Agreements

International framework agreements (IFAs) are negotiated agreements between multinational enterprises (MNEs) and global union federations (GUFs) representing workers at the global level by sector of activity. IFAs are aimed at jointly promoting and monitoring fundamental labour standards across the worldwide operations of MNEs, in particular in the areas of freedom of association and the right to collective bargaining, but also in the areas of good labour relations and decent conditions of work. In 2011, it was reported that IFAs were aiming increasingly to anticipate and mitigate the impact of company restructuring, and that occupational safety and health (OSH) issues had also come to the fore (Papadakis, 2011). The number of IFAs is rising. In October 2012 it was reported there were 80 IFAs in force worldwide, covering some 6.3 million workers, excluding suppliers and subcontractors (ILO, 2013b). By June 2015, the number of IFAs appears to have risen substantially. At that time, 112 companies were identified as signatories to a global framework agreement (Hadwiger, 2015).

Social dialogue can also exist at the regional level. For example, in Europe the European Economic and Social Committee (EESC) provides advice to the European Parliament, the Council of the European Union, and the European Commission. In Africa, the Economic, Social and Cultural Council of the African Union provides a forum for 150 representatives from a broad range of civil society organizations coming from the member States of the African Union. In South America there is the Advisory Economic and Social Forum of MERCOSUR.

Social dialogue also occurs at the national, subnational, and local levels, involving bipartite, tripartite or bipartite/tripartite-plus governance institutions. Some of these might be permanent, as in the case of city consultative councils. In Liepaja, Latvia, representatives from Liepaja City Council, employers' organizations and workers' organizations engage in the Trilateral Consultative Council, addressing economic and social problems in the area. In Mexico City, the Economic and Social Council of Mexico City is an advisory body made up

of 62 members drawn from employers, trade unions, universities, civil society, and other organizations (AICESIS-ILO database). A city-level forum for social dialogue also exists in Buenos Aires, Argentina (see Box 5).

Box 5. City-level social dialogue in Buenos Aires, Argentina

In Argentina, the Economic and Social Council of the City of Buenos Aires has 25 members. It is made up of representatives of trade unions, business organizations, and civic associations (including universities, professional associations, consumer protection organizations, cooperatives and mutual societies, and religious organizations).

The Council provides opinions on economic and social laws and projects proposed by the city's legislative and executive bodies.

Source: AICESIS-ILO Database.

Some social dialogue institutions might be established to address specific initiatives, such as in the case of Europe's territorial pacts.¹⁰ Others might be ad hoc multi-stakeholder bodies, or "task forces", set up to address specific crises, such as when there is a major plant closure – as was the case with the collapse of MG Rover in Birmingham, United Kingdom, in 2005 (Bailey et al., 2014). Or, such bodies may be formed when enterprises need to collaborate together and with other stakeholders in order to overcome a threat of regulatory barriers to accessing international markets, such as might occur when customers require adherence to particular quality, environmental, or labour standards. In Sialkot, Pakistan, allegations of the use of child labour in the supply chains of global sports brands threatened to cause an international boycott of soccer ball exports, resulting in different stakeholders¹¹ coming together to sign the Atlanta Agreement (see, for example, Lund-Thomsen, P. and Nadvi, K., 2009).

Finally, social dialogue occurs widely inside enterprises. Employers and workers in individual enterprises may engage in a range of industrial relations activities.

A governance gap

In 2016, representatives of employers' and workers' organizations and governments met at the annual International Labour Conference to discuss the issue of decent work in global supply chains. The Tripartite Committee on Decent Work in Global Supply Chains met in several sittings over late May and early June 2016. The number of members attending each sitting was substantial, varying from 129 to 234.

Despite the proliferation of governance activities described above in this chapter, the Committee echoed the findings of the follow-up research to the ILO MNE Declaration described in Chapter 3 by concluding that, notwithstanding the developmental potential of global supply chains, there were also various decent work deficits or challenges. Employers, workers, and government representatives were in agreement that there existed a "governance gap" permitting decent work deficits, and that this gap needed to be bridged. This finding

¹⁰ Territorial pacts have been established at various times in numerous European countries, such as Italy, Austria and Ireland, where the social partners engage in social dialogue to come to agreement on economic and social strategies appropriate to local situations.

¹¹ Stakeholders included major sports brands, the World Federation of the Sporting Goods Industry, the Soccer Industry Council of America, the ILO, the United Nations Children Fund, Save the Children – United Kingdom, and the Sialkot Chamber of Commerce and Industry (Lund-Thomsen and Nadvi, 2009).

was set out in a document presenting the Committee's resolution and conclusions (ILO 2016b) (see Box 6).

Box 6. Conclusions of the ILO Committee on Decent Work in Global Supply Chains, International Labour Conference 2016

At the 105th session of the International Labour Conference in Geneva, held between the end of May and the beginning of June 2016, the Committee on Decent Work in Global Supply Chains concluded in a conference report that "failures at all levels within global supply chains has contributed to decent work deficits for working conditions (paragraph 3)". It was further concluded (paragraph 8) that "despite (a wide range of interventions at different levels) to ensure that economic development and decent work in global supply chains ... go hand in hand, decent work deficits and governance gaps continue to exist and these challenges must be addressed". The conclusions then go on to reiterate that "the General Assembly resolution through which the UN Guiding Principles were adopted in 2011 ... highlights that weak national institutions, legislation and implementation hamper maximizing the benefits of globalization and that further action is required to bridge governance gaps at the sectoral, national, regional and international levels (paragraph 13).

Source: ILO, 2016b.

In the report of the discussion (ILO, 2016c), which preceded the formulation of the conclusions, specific reference was made by some speakers to the relevance of the ILO's MNE Declaration for addressing the governance gap. More generally, different speakers emphasized the relevance of different levels of governance. For example, some speakers put more emphasis on bridging governance gaps at the cross border level. Others favoured a focus on national governance deficiencies, while still others emphasized the need for a multilevel approach. For example, the Uruguayan Government member "reaffirmed the importance of governance solutions at both the national and international levels, including social dialogue and transnational bargaining" (paragraph 162). The Tunisian Government member emphasized "the importance of social dialogue as a unique tool to tackle the issue of decent work in global supply chains" and advocated that "governance measures should be developed by participatory frameworks involving governments, employers, workers and the business community (paragraph 187)".

This report focuses on the national level of governance and considers the potential for the participatory framework provided by an ESC-SI to help reduce the governance gap by promoting adherence to the ILO's MNE Declaration. It can be argued that it is at the national level that the exercise of governance is particularly salient for MNE operations. National governments are responsible for putting in place and carrying out policies and programmes to leverage the positive potential of MNEs while reducing any negative effects. National labour laws set the standard for MNEs and their suppliers (Markey and Ravenswood, 2009; World Bank, 2003). Many MNEs seeking to source from local suppliers compliant with corporate social responsibility (CSR) requirements would welcome strong national labour laws and sound even-handed enforcement (World Bank, 2003). A sound national regulatory policy and effective implementation can help to raise standards, create a level playing field, promote productivity and competitiveness, and, alongside transnational governance arrangements such as IFAs, help to inhibit a global race to the bottom. Furthermore, strong national governance institutions can promote beneficial effects by employing appropriate economic, social, and industrial policies, strategies, and interventions tailored to domestic conditions.

It is clear that national governance is of crucial relevance to countries, employers, workers and MNEs. Yet, while the spread of global supply chains and global governance frameworks, including private codes of conduct, has been well studied, the role of national governance seems to have been relatively neglected. This report brings focus to social dialogue in national level governance institutions, namely ESC-SIs, and their potential for helping to reduce the governance gap through the promotion of the principles of the MNE Declaration.

Chapter 5. Social dialogue at the national level: ESC-SIs

An institution that, on the face of it, could play a significant role in national governance and in furthering the application of the principles of the MNE Declaration is a national ESC-SI. The International Association of Economic and Social Councils and Similar Institutions (AICESIS) and the ILO have created a joint evolving database on ESC-SIs that lists councils in terms of a number of variables, including size, mandates, committees or working groups, publications or studies, and competences (see AICESIS-ILO database). This chapter draws on that database as it appears in 2016 in order to provide an introduction to ESC-SIs, describing what they do, outlining aspects of their organization, and showing their names and the countries in which they are located.

An ESC-SI is a forum in which representatives of different economic or social groups in society can express their voices and engage in social dialogue. The term “economic and social council” is the most common name but such institutions also go by other names, albeit with the same basic aims and characterization (see, for example, Boxes 7 and 13 for examples of names for similar institutions). A major role of an ESC-SI is typically to provide the government concerned with strategic advice on economic, social, or labour-related policies. For this, ESC-SIs may carry out studies, write reports, and review and comment on government social or economic policy proposals and draft legislation. Potentially, therefore, an ESC-SI could have a significant influence on a State’s development strategies by contributing to the framework of laws, policies and principles that guide action. This would apply as much to initiatives aimed at MNE-related matters as it would to other areas.

A second important function of ESC-SIs is typically to act as a means of encouraging different groups to reach consensus on socioeconomic and labour matters, helping to minimize industrial or broader social strife, and laying the basis for collective actions, in some cases resulting in formally binding agreements or pacts.

ESC-SIs vary significantly in size. There are those with comparatively small membership, such as the Economic and Social Council of the Republic of Srpska, with nine members, or the Economic and Social Council of Honduras, which has 12. Others have larger membership, such as Italy’s National Council of Economy and Labour with 64 members and the Economic, Social and Cultural Council of Niger, with 99. There are even larger ones, such as the Economic, Social and Environmental Council of France, which has 233 members (AICESIS-ILO database).

Employer, business and worker representatives are typically present in a council, which in some cases will be restricted to a tripartite (employers, workers, government) or bipartite (employers and workers) format. In many cases, however, representation has been extended to cover a broader range of civil society. This broader representation is usually referred to by the ILO as tripartism- or bipartism-“plus”.

Frequently, ESC-SIs organize their work through various committees or commissions that individually focus on a particular economic or social theme. Jordan’s Economic and Social Council is listed on the AICESIS-ILO database as organizing its work through five committees: “Labour Relations”; “Economy and Environment”; “International Public Relations”; “Evaluating Projects and Policies”; and “Social and Cultural Matters”. Latvia’s National Tripartite Cooperation Council has seven committees, while France’s Economic, Social and Environmental Council is listed as having 11 (AICESIS-ILO database). Councils typically have a secretariat attached. These range in size from less than 10 employees in secretariats for councils in countries such as Finland and Nicaragua, to over 100 employees in countries such as Algeria, Chad, and the Netherlands.

ESC-SIs are widespread and appear to be growing in number. AICESIS-ILO's database currently lists around 98 national ESC-SIs. Taking into account other sources,¹² it appears there are in excess of 100 countries with national ESC-SIs.

Europe

Many countries in Europe have ESC-SIs (see Box 7), including a majority of those in the European Union (EESC, 2010). Europe's ESC-SI membership is more likely than in other continents to be tripartite, restricted to the social partners and government. This is the case, for example, for councils in Albania, Poland, and Slovenia. However, a majority of councils in Europe also include representatives from other social groups. For example, Spain's Economic and Social Council includes not only representatives of workers and employers, but also people from "agricultural and professional organizations", the "maritime-fisheries sector", "consumers and users", "social economy cooperatives," and "experts in the social, economic, and labour fields" (AICESIS-ILO database).

ESC-SIs in Europe typically provide advice to government and act as forums for discussion amongst different social groups and, in some cases, agreement-making.

Box 7. Examples of ESC-SIs in Europe (AICESIS-ILO Database)

Country	Name of ESC-SI
Albania	National Labour Council
Armenia	Public Council
Azerbaijan	Council of State Support to Non-Governmental Organisations
Austria	Advisory Council for Economic and Social Affairs
Belgium	Central Economic Council
Bosnia and Herzegovina	Economic and Social Council of the Republic of Srpska
Bulgaria	Economic and Social Council
Croatia	Economic and Social Council
Czech Republic	Council of Economic and Social Agreement
Denmark	Economic Council
Estonia	Economic and Social Council
Finland	Economic Council
France	Economic, Social and Environmental Council
Greece	Economic and Social Committee
Hungary	National Economic and Social Council
Ireland	National Economic and Social Council
Italy	National Council of Economy and Labour
Latvia	National Tripartite Cooperation Council
Lithuania	Tripartite Council
Luxembourg	Economic and Social Council
Macedonia	Economic and Social Council
Malta	Council for Economic and Social Development
Monaco	Economic and Social Council

¹² For example, a 2013 ILO publication reported that "mechanisms for national tripartite social dialogue have been set up and function in some 80 % (149) of ILO member States" (ILO, 2013b, p. 43).

Country	Name of ESC-SI
Montenegro	Social Council
Netherland	Economic and Social Council
Poland	Social Dialogue Council
Portugal	Economic and Social Council
Romania	Economic and Social Council
Russia	Civic Chamber of the Russian Federation
Serbia	Social and Economic Council
Slovenia	Economic and Social Council
Slovakia	Economic and Social Committee

An example of an ESC-SI that carries out studies and provides advice to government, while also acting as a forum for concertation and agreement-making is Portugal’s Economic and Social Council. Box 8 describes its membership, mandate, committees, and examples of subjects on which it has provided opinions.

Box 8. Portugal: Economic and Social Council

Portugal’s Council has 66 members. They include representatives of employers, workers, government and civil society. This last group includes individuals of renowned merit; and representatives from cooperatives; local government; disability organizations; finance and insurance organizations; women’s associations; agriculture; young entrepreneurs; universities; the Higher Council for Science, Technology and Innovation; family associations; social welfare institutions; associations for consumer protection; associations for environmental protection; autonomous regions; the State corporate sector; and professional associations.

In regard to its mandate, the Council is a constitutional body for consultation and social concertation. It gives opinions on drafts of programmes and policies for social and economic development, regional development, and other matters; offers a space for social dialogue between the government, the social partners and civil society; and, through arbitration, aims to settle collective disputes in labour relations.

The Council has provided opinions on: 1) the competitiveness of cities, social cohesion and spatial planning; 2) the economic, social and organizational consequences of an aging population; 3) corporate social responsibility; 4) services of general interest; 5) the main options for the plan and development strategy; 6) the draft State budget for 2014; 7) people with disabilities: mobility, education, and work; 8) the future of the Eurozone; and 9) the Lisbon Strategy.

The Council has the following committees: 1) Specialized Standing Committee on Social and Economic Policy; 2) Specialized Standing Committee for Regional Development and Land Planning; 3) Standing Committee for Social Concertation.

Source: AICESIS-ILO Database.

The Americas

In the Americas, ESC-SIs exhibit a variety of membership forms, ranging from those that are more narrowly restricted (such as the “workers, employers, and expert representatives” format of the ESC-SI of Aruba), to those with much broader representation. The council of Panama, for example, includes numerous civil society representatives (of churches, youth, indigenous people and more) in addition to representatives of private enterprises and workers. Examples of countries in the Americas with ESC-SIs are presented in Box 9.

Box 9. Examples of Countries with ESC-SIs in the Americas

Aruba, Brazil, Curacao, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Sint Maarten, Suriname, Trinidad and Tobago, Uruguay, Venezuela.

Source: AICESIS-ILO Database.

An example of an ESC-SI that has a predominantly tripartite membership with, in addition, a number of non-voting social organizations, is that of Peru. Box 10 describes that council's membership, its mandate or mission, its standing commissions or committees for addressing specific issues, and examples of reports it has produced between 2007 and 2013.

Box 10. Peru: National Council of Labour and Employment Promotion

Peru's Council has 25 members distributed as follows: managers (10); workers (8); government (1); social organizations (groups with voice but no vote) (6).

In terms of mission, the Council serves as a mechanism for social dialogue and the coordination of policies on labour, employment promotion, job training, and social protection for national and regional development.

There are commissions for: 1) Labour; 2) Employment; 3) Professional Training; 4) Social Security; 5) Anti-crisis; 6) the Analysis of Productivity and Minimum Wages; and 7) the Analysis of the Informal Economy.

The following are examples of reports produced by the Council: 1) Productivity Growth and Adjustment of the Minimum Wage (2007); 2) Measures to Improve Working Conditions of Workers in Urban Transportation, Inter-city, and Inter-provincial Passage (2007); 3) Policies of Ignition for Growth in Productivity (2008); 4) Labour Market Performance in Peru: 2007 (2008); 5) Characterization and Problems of Workers in the Informal Economy in Peru (2008); 6) Proposal of Incentives for Training and Innovation (2009); 7) Guidelines to Counteract the Effects of the Crisis on the Economy, Productivity and Employment (2009); 8) National Employment Policies (2011); 9) Analysis of the International Situation and Its Impact on the Economy (2013).

Source: AICESIS-ILO Database.

Asia

Asia also has countries with ESC-SIs, which provide strategic advice to the governments concerned and act as forums for the promotion of cohesion and consensus. Box 11 provides examples of Asian countries listed as having ESC-SIs.

Box 11. Examples of countries with ESC-SIs in Asia

China, Israel, Japan, Jordan, Laos, Lebanon, Mongolia, Nepal, Philippines, Saudi Arabia, Republic of Korea, Thailand, United Arab Emirates, Viet Nam.

Source: AICESIS-ILO Database.

As elsewhere, in Asia there are significant differences in the size of ESC-SIs. For example, while Jordan's Economic and Social Council has 44 members, Lebanon's Economic and Social Council has 71, and China's Economic and Social Council has 200. For 11 of the 14 councils highlighted in Box 11, information on composition is available. This indicates that at least seven of the 11 ESC-SIs include civil society representation, and at least the same number also include representatives from workers, employers, business or the private sector.

As elsewhere, work in Asia's councils is often carried out through subject-focused committees. For example, Lebanon's Economic and Social Council is listed as having eight committees, while China's Economic and Social Council has six. In the Republic of Korea, over the years the Economic and Social Development Commission has established numerous working committees, each focused on a specific subject, such as the Committee on Advancement of the Labour Market (2011), and the Committee on Jobs for Work-Life Balance (2013).

An example of a council that includes representatives of employers, workers, government, and civil society, is that of Jordan (see Box 12).

Box 12. Economic and Social Council of Jordan

Jordan's Council has 44 members composed of representatives of workers, employers, government and civil society.

The Council plays a consultative and advisory role, and its mandate includes: assisting policy decision-makers; approving plans and programmes; developing public policy; promoting social cohesion; acting as a permanent forum for social dialogue; evaluating social conflicts and policies; consolidating the principles of democracy; and fighting against corruption, marginalization and social exclusion.

Examples of papers, observations, recommendations and activities include: proposed amendments to labour law; observations on national employment policy; corporate social responsibility in Jordan; a policy paper on female labour force participation; recommendations on the health insurance sector; the Economic and Social Report 2012; assessing the middle class in Jordan, 2008; participation in the preparation of the National Employment Strategy; observations with regards to the General Budget Law for 2010; the most important developments of Jordanian foreign trade during the period 2000-2010; foreign trade development in Jordan and its implications for the national economy for the period between 2000-2011; recommendations on the promotion of national exports; recommendations on stimulating the real estate sector; opinion paper on proposed civil status law; a document entitled "the Rule of Law: the Safety of Citizens and the Security of the Nation"; an opinion on demographic challenges; recommendations on "Rule of Law and Rising Social Tension".

It has the following committees: Committee on Labour Relations; Economic and Environmental Committee; Committee on International Public Relations; Committee for Evaluating Projects and Policies; Social and Cultural Committee.

Source: AICESIS-ILO Database.

Africa

The AICESIS-ILO database lists 29 ESC-SIs in Africa (See Box 13). It is reported that African ESC-SIs can lack institutional and financial capacity (UNDESA, 2010), but they can nevertheless be of significant size. For example, the council of Burkina Faso has 90 members while that of Côte d'Ivoire has 120.

Box 13. Examples of ESC-SIs in Africa

Country	Name of ESC-SI
Algeria	National Economic and Social Council
Angola	National Council of Social Dialogue
Benin	Economic and Social Council
Burkina Faso	Economic and Social Council
Burundi	Economic and Social Council
Cameroon	Economic and Social Council
Chad	Economic, Social and Cultural Council
Côte d'Ivoire	Economic and Social Council
Democratic Republic of Congo - Brazzaville	Economic and Social Council
Republic of Congo – Kinshasa	Economic and Social Council
Djibouti	Social Development Agency
Gabon	Economic and Social Council
Ghana	National Development Planning Commission
Guinea	Economic and Social Council
Kenya	National Economic and Social Council
Malawi	Tripartite Advisory Council
Mali	Economic, Social and Cultural Council

Country	Name of ESC-SI
Mauritania	Economic and Social Council
Mauritius	National Economic and Social Council
Morocco	Economic, Social and Environmental Council
Mozambique	Advisory Labour Committee
Namibia	Labour Advisory Council
Niger	Economic, Social and Cultural Council
Senegal	Social, Economic and Environmental Council
South Africa	National Economic and Labour Council
Tanzania	Labour, Economic and Social Council
Zambia	Tripartite Consultative Labour Council
Zimbabwe	National Economic Council

Source: AICESIS-ILO Database

Members of civil society participate in the large majority of African ESC-SIs. In some cases a broad range of groups are represented. For example, the South African National Economic and Development and Labour Advisory Council (NEDLAC) includes, in addition to the social partners, a range of civil society organizations such as the Women’s National Coalition, the South African National Civics Organization, the South African Youth Council, Disabled People’s South Africa, and others. Senegal’s ESC-SI also has broad civil participation (See Box 14).

Box 14. Senegal: Social, Economic and Environmental Council

With a membership of 120, the Council has a broad composition that includes, for example, representatives from: trade unions; employers’ organizations; farmers’ organizations, fishermen and loggers; women’s groups; imams and clerics; Christian churches; mayors; cultural actors; persons with disabilities; youth movements; organizations for the protection of nature and the environment; experts in economic, scientific, cultural and environmental fields; and others.

In terms of mission, the Council is a consultative assembly. It: 1) reviews projects, bills, and decrees on economic and social issues. It may undertake studies and give government its opinions on reforms likely to promote the country’s economic and social development, and opinions on the implementation of economic and social action programmes; and 2) promotes collaboration and ensures the participation of key sectors of the country in national economic, social, and environmental policy.

The Council regularly collaborates with the Government to develop and implement national policies and strategies, such as the Decent Work Country Programme; the Global Jobs Pact; the National Strategy for Economic and Social Development; and work on Green Jobs.

Examples of publications, studies, reports and opinions include: 1) The Dakar Road Map for Promoting and Implementing the Global Jobs Pact by the ESCs; 2) Soaring Food Prices of Basic Necessities; 3) The National Waste Management Programme; 4) Energy Security in Senegal: For a Secure and Cheaper Supply; 5) The Management of Chronic Diseases; 6) Effectiveness of the Instruments to Promote Good Governance in the Rationalisation of Public Resources.

Source: AICESIS-ILO Database

In conclusion, it is clear ESC-SIs have been widely established across the different regions, engaging employers, workers’, and civil society organizations in social dialogue at the national level, providing strategic advice to government, and forming an institutional framework for consensus building and collective action. It would seem that these national governance institutions could be ideally placed to play important roles in furthering the principles of the ILO’s MNE Declaration and in reducing the governance gap. But have ESC-SIs hitherto been doing so? This question is addressed in the next chapter.

Chapter 6. Are ESC-SIs engaging in strategies to leverage the operations of MNEs?

From the previous chapter, ESC-SIs appear to be well placed to engage in MNE-related issues. But are they doing so? Do they, for example, carry out studies on the presence and behaviour of MNEs in their countries, looking at the kinds of issues highlighted in the ILO's MNE Declaration, including with respect to MNEs established in the country, and of both lead firms and their supply chains? Do they identify which sectors should be prioritized and which kinds of inward investors should be targeted and encouraged, and how they should be encouraged – such as by utilizing special regulatory, fiscal, and trading incentives? Do they propose framework conditions or rules for inward investment, such as in relation to local sourcing, training, or labour standards? Do they discuss and make recommendations on potential downsides of MNE operations or global sourcing, such as in relation to working conditions, obstacles to freedom of association, employment insecurity, or environmental concerns? Do they discuss the need for local content or local staff requirements in MNE operations?

If ESC-SIs do such things, we might expect it to be reflected in the listing of the issues and topics addressed by councils, as well as their areas of competence, their missions, the names of committees, the titles of reports, and the matters on which they make recommendations. In 2010, the EESC included names of committees and missions for 20 EU ESC-SIs (EESC, 2010). Also, a database hosted by the United Nations Department of Economic and Social Affairs (UNDESA database) presents the issues and topics addressed by about 40 ESC-SIs. In both cases, a substantial number of social, economic, and labour subjects are listed, such as: economic, social, educational, and cultural issues; wages and wage-related issues; economic and monetary policy and structural economic questions; regional development; health, labour, and social affairs policies; and labour, employment, and social security. But for both sources there is little to indicate much interest in the specific subjects of MNEs, foreign investment, global production chains, international value chains, global supply chains, or the like.

However, it should be noted that the categories employed by the EESC and UNDESA reviews are often broad. As such, some of the subjects listed might encompass MNE-related issues, even if they are not explicitly mentioned. There are a few references to subjects such as the challenges of globalization; internationalization; sector policies; external affairs; international policies; and corporate social responsibility, which might be more likely to include MNE-related matters. A more detailed database is the one managed jointly by AICESIS and the ILO, referred to earlier, including in Chapter 5. Box 15 focuses on the database's category of "publications, studies and reports", and presents examples of studies carried out by a sample of 10 ESC-SIs in Africa.

As can be seen in Box 15, the studies cover a range of economic, social, labour, and cultural subjects, but there is scant reference to subjects that might encompass MNE-related issues, including strategies to leverage inward investment or global sourcing. This general picture of limited reference to subjects covering MNEs or related topics is repeated with respect to the names of the many committees, working groups, or commissions listed in the full AICESIS-ILO database, and in references to the competences of ESC-SIs and the papers, studies, opinions and recommendations they have produced (see, for example, Boxes 8, 10, 12 and 14). Consequently, it would seem that such topics as MNEs, international investment, global production chains, global supply chains, and international value chains, and/or strategies to leverage the best out of inward investment or global sourcing, have not been widely addressed.

Box 15. Examples of studies carried out by 10 African ESC-SIs, as listed on the AICESIS-ILO Database (Algeria, Benin, Burkina Faso, Chad, Côte d'Ivoire, Djibouti, Gabon, Ghana, Niger, Zambia)

- Improvement of training conditions; livestock and fishing promotion; tax administration;
- Promotion of culture; the energy crisis; effects of environmental deterioration on food security; social dialogue for peace; socioeconomic effects of oil revenues;
- Banking reform; tourism policy; globalization control; agricultural training; social exclusion; local finances; agricultural development; social welfare system; report on human development; employment; small and medium-sized enterprises (SMEs) and SME industries; school books; youth protection and minor delinquency; town planning, natural and industrial risks; changes to the economic and social information system; women in the labour market; what strategy for the knowledge economy?;
- The environment; women's roles; fight against poverty, exclusion, and inequalities in poor and dangerous areas; improving living conditions: infrastructures; minimum social services; access to finance and micro-finance;
- Youth and women's unemployment; food security; the business case for the social responsibility of organizations; enabling local authorities to achieve economic security; opportunities and prospects for micro-insurance; the role of local communities in agricultural production; the planning and management of markets;
- Strategy for growth and the reduction of poverty; progress in achieving the Millennium Goals since 2006;
- Promotion of manioc production as a contribution to food sovereignty and the fight against poverty; employment problems of young graduates of higher education;
- Codes on the safe use of chemicals; code of practice on HIV/AIDs; minimum wages; conditions of employment; employment of young people;
- Reforms to link education to employment to reduce youth unemployment; inventory of the educational system; valorization of human capital for sustainable development; the challenges of illiteracy and non-formal education;
- Problems of violence; challenge of rubbish collection and processing; the rural landowner; conditions for economic reflation; the question of insecurity; conditions for a good application of a political agreement.

Source: AICESIS-ILO Database.

However, there are a few exceptions to the general picture. There are a few references in the AICESIS-ILO database to topics that could possibly encompass MNE-related themes, such as corporate social responsibility or foreign trade development. A clearer exception is Kenya's ESC-SI, which includes in the database competences references to: FDI, special economic zones, and clustering and cluster development initiatives, which imply interest in MNE initiatives and inward investment. Similarly, the ESC-SI of the Netherlands has a committee devoted to international corporate social responsibility, which, as we will see below, actually refers to the activities of MNEs.

The absence of extensive reference to MNE-related subjects in the titles of written reports, and the names of commissions, competences, and areas of interest, leaves open the possibility that such topics have been addressed during verbal discussions, whether on an informal, formal, ad hoc or regular basis. A source that addresses this is a 2015 ILO survey. Completed questionnaires were received from 28 ESC-SIs, focusing mainly on the subject of their potential roles in improving regulatory compliance (see ILO, 2015c).¹³ Some

¹³ The ESC-SIs surveyed covered a range of countries from across the world, of various sizes and stages of development. 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 were included.

questions related to MNEs. In one question, respondents were asked whether the policy areas of their ESC-SIs “entailed discussion or consultation on how to maximize the positive developmental impact of global supply chains or value chains and/or MNEs in their countries”. Twenty (72 per cent) of the 28 respondents said the issue was not discussed. This generally confirms the impression given by sources cited earlier that ESC-SIs have not widely taken up issues related to MNEs and global sourcing, including leveraging the best out of inward investment.

The above perception is strengthened by the fact that 19 (68 per cent) of the ILO’s respondents did not tick any of three (ILO, OECD, and United Nations) guidelines on MNEs as “playing a role in discussions in the ESC-SI on global supply chains”. Moreover, when questioned on specific issues, 20 (72 per cent) did not mention building up any relationships with key MNEs established in the country “specifically in the field of CSR, including respect for national laws and the safeguarding of international labour and environmental standards”.

Thus, it can be said that ESC-SIs are many and present in all continents, but the evidence from the limited number of studies available suggests that such councils have not hitherto been widely active in providing strategic advice to governments on MNE-related issues, nor in engaging in discussion on such matters, including how best to leverage the possibilities of FDI or trade for inclusive development. However, we can say that there is clearly widespread engagement with regard to labour, economic and social development issues. Therefore the prospects for future involvement in MNE-related issues look promising. There are also exceptions to the general picture of inaction. These matters will be discussed in the next chapter.

Chapter 7. In what kinds of MNE-related activities do or could ESC-SIs Engage?

Although the previous chapter pointed out that ESC-SI engagement in specifically MNE-related issues does not seem to be extensive, there were indications that a minority of institutions were nevertheless active. In the ILO 2015 survey of ESC-SIs (ILO, 2015c), eight (28 per cent) out of 28 council respondents said the policy areas of their ESC-SIs 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”. Then, of the 20 ESC-SIs who said MNE issues were not currently discussed, nine (45 per cent) said they thought they should be included within their organization’s scope in the future. The implication is that weak current involvement should not be read as lack of interest in the subject, and that under the right circumstances ESC-SIs could play roles in furthering the principles of the MNE Declaration. This chapter sets out areas where ESC-SIs have, or could be, active in addressing MNE-related issues.

Organizing seminars and information exchange

Half of the above-mentioned eight councils in the ILO 2015 survey who said they had discussed MNE-related issues reported their activities to be in the sphere of round tables, seminars, and information exchange.

Outside of the survey, a Chilean ESC-SI also has been active in organizing seminars on MNE-related issues (see Box 16).

Box 16. Chile: The Social Responsibility Council for Sustainable Development

In 2013, the Ministry of Economy, Development and Tourism established the Social Responsibility Council for Sustainable Development to advise on public policy in the field of social responsibility. The Council references the ILO’s MNE Declaration as one of the five international frameworks that can guide good business behaviour. The Council acts as a dialogue platform between different ministries, employers’ organizations, a trade union, SME enterprise associations, non-governmental organizations, and academia, among others. It aims to identify good practices and to propose concrete initiatives and policies to promote sustainable development.

In the framework of the Social Responsibility Council for Sustainable Development, Chile has organized several seminars on the areas of the MNE Declaration, held jointly with the ILO, the Organization of American States, and the Economic Commission for Latin America and the Caribbean (ECLAC).

Source: ILO, 2014a.

Providing advice on strategic policies for economic growth

Governments may have strategies to leverage the benefits of inward investment or global sourcing. For example, in some countries, the government or government agencies have encouraged lead firms in supply chains to help develop their suppliers. In other countries, governments have targeted specific types of inward investors who might fill gaps in value chains, or offer a particularly valued asset, such as advanced knowledge in a particular field. India has actively supported its largely export-oriented clusters, many of which supply global buyers. Some countries insist on requirements for incoming MNEs. These requirements might relate to areas such as technology transfer, and/or local content, and/or employment and training of host country nationals. Such recommendations are made in the MNE Declaration to encourage the positive contribution of MNEs to socioeconomic development in the host countries.

ESC-SIs could advise on such strategies and policies. For example, the ESC-SI for Kenya is active in providing advice on MNE-related strategic issues, has carried out research on markets, value chains, and FDI, and has also advised on policies for clusters and special economic zones (see Box 17).

Box 17. The Kenyan National Economic and Social Council (NESC): Engaging in strategic MNE-related issues

The NESC has a broad-based membership and provides advice to the government on strategic policies to promote economic growth, social equity, and employment creation. Advice includes the development of research-based policies to strengthen the contribution of MNEs to economic growth. The advice is provided at council meetings in which MNEs are represented by the Kenya Private Sector Alliance and other industry representatives. Recommendations from the ESC-SI to the government have included, for example, the creation of special economic zones, and the promotion of a cluster development strategy.

There has also been policy advice on mining and minerals, which led to the Mining Bill of 2014. The Mining Bill expressly provides that each mineral right holder should give preference to hiring Kenyan citizens, and ensure skill transfer and capacity-building among Kenyans. Regarding the country's cluster development strategy, the NESC has collaborated with the Ministry of Industrialization to improve the capacity to develop clusters by training 50 Cluster Facilitators.

Source: ILO, 2015c.

Providing advice on national labour laws and regulations

A particular characteristic of the principles of the MNE Declaration is that they address economic growth, working conditions and respect for labour rights issues simultaneously. Decent working conditions are integral to a sustainable and inclusive growth strategy.

The national labour and regulatory environment is important for encouraging growth with decent work, and this is an area in which ESC-SIs could provide important input. It is clear from both the AICESIS-ILO and UNDESA databases that councils have mandates to engage in a range of labour and social issues, and to comment on proposed new legislation, including in the sphere of labour. The AICESIS-ILO database lists various examples of councils addressing labour laws and regulations, as evidenced in the names of reports, competences, committees and mandates. Also, Hethy (2009) reported that national tripartite institutions in Central and Eastern Europe addressed a range of labour issues, including, for example, wage bargaining and the setting of national minimum wages; the formulation of labour, employment and social policies; and the reconstruction of labour law (Hethy, 2009).

Providing advice on improving employment security

Labour laws are very significant for employment security, one of the topics in the ILO's MNE Declaration. The MNE Declaration advises that "multinational enterprises equally with national enterprises, through active manpower planning, should endeavour to provide stable employment for their employees" (see paragraph 25). The Declaration also advises that MNEs should provide reasonable notice to governments and workers' representatives on operational changes that might have adverse effects on employment so that there might be joint examination of the implications, with the aim of mitigating adverse effects to the greatest possible extent (see paragraph 26). Then the MNE Declaration goes on to say: "Governments, in cooperation with multinational as well as national enterprises, should provide some form of income protection for workers whose employment has been terminated" (see paragraph 28, ILO 2006).

The promotion of employment security is prominent in the MNE Declaration, but Chapter 3 of this report showed significant numbers of respondents testifying that MNE operations were giving rise to employment insecurity in their countries. The rise of non-standard forms

of employment and growing insecurity has been highlighted recently by the ILO's World Employment Social Outlook for 2015 (See ILO, 2015a). In recent years, labour legislation in many countries seems to have included a lessening of employment security, leading some writers to assert that some States have deliberately provided workers with weak protection as part of "a race to the bottom" to attract FDI (Olney, 2013).¹⁴ The effects of employment insecurity are all the more deleterious the less States provide an adequate out-of-work social protection system. Given the threat of rising precariousness, ESC-SIs could play important roles in providing advice on appropriate employment security and social protection strategies and regulatory frameworks.

Engaging in collective actions

A potentially important role for members of ESC-SIs is to mobilize their organizational membership and resources to put into effect, and monitor, policies, principles, or strategies agreed upon during social dialogue, including possibly with MNE representatives. Collective agreements or understandings could cover a full range of issues – including economic growth issues, such as promoting MNE-local enterprise linkages, new business start-ups, or research initiatives; or community activities (such as, perhaps, in regard to child care, or transport, housing, or health areas); or in narrower labour areas, such as wage rates, training, rights of association, or others.

Where appropriate, member organizations can collaborate with one another and/or outside agencies, such as government institutions or international institutions, in public-private partnerships. It is conceivable that mobilization and collaboration could occur at both national and international levels, such as when ESC-SIs in different countries cooperate together.

Improving compliance

Improving compliance is one area that could be addressed through collective action. Appropriate labour laws need mechanisms to ensure compliance. The 2015 ILO ESC-SI survey, referred to earlier, asked questions about involvement in workplace compliance issues. Eighty-six per cent of respondents said that the discussion of workplace compliance (albeit not specifically relating to MNEs) has been on the agendas of their institutions, while 78 per cent provided information in response to the question: "What role does the ESC-SI play or should play in sharing good practices on workplace compliance and social dialogue within global supply chains/global value chains?"

In fact, many ECS-SIs in the ILO survey highlighted various methods of how they do, or would, go about collectively sharing good practices on promoting workplace compliance in global supply chains. Methods included providing advice, including to the government concerned and the social partners; organizing workshops and exchanging experiences; carrying out studies; publishing and disseminating reports; promoting dialogue on the subject; and, in one case, providing technical assistance to specific sectors.

The above highlights the potential for ESC-SIs to be actively engaged in ensuring labour law compliance in MNEs and their supply chains. This perception is strengthened by the fact

¹⁴ In addition to lowering employment protection, other labour, environmental, fiscal and other regulations could be weakened with the aim of attracting FDI. In 2004, the report by the World Commission on the Social Dimension of Globalization stated there was "growing concern that incentive competition between developing countries to attract FDI is inducing these countries to go too far in lowering regulations, taxes, environmental protection and labour standards" (ILO, 2004, paragraph 388).

that eight (28 per cent) of the 28 ESC-SIs surveyed said they had “built up relationships” with key MNEs established in the country specifically “in the field of CSR, including respect for national laws and the safeguarding of international labour and environmental standards”. Furthermore, of the 20 councils that said they had not built up relationships with key MNEs, seven (33 per cent) said that, in the future, such activities should be included within the scope of their councils.

Of those who said relationships had been formed, three ESC-SIs said they had interacted with MNEs on the subject of CSR through forums, seminars or meetings. One other said it had urged a multinational retail chain to establish a trade union branch. Yet another said policy dialogue had led a leading minerals MNE to promote an elaborate CSR programme and to adhere to requirements for inward investors to employ local staff and to engage in skills transfer (requirements that are in line with the ILO MNE Declaration, paragraphs 18 and 30, 2006).

Promoting collaboration between public and private MNE-compliance regimes

One area that potentially could lie within the scope of ESC-SIs is the facilitation or encouragement of collaboration between, or harmonization of the work of, government labour inspectorates and private sector auditors for the voluntary codes of conduct for MNE supply chains.

Other research has suggested that collaboration, or joint action, could be beneficial (see, for example, Locke and Coslovsky, 2013). However, in the 2015 ILO ESC-SI survey, 75 per cent (21) of respondents said they were not aware of any collaboration between public and private compliance regimes. Five (17 per cent) of ESC-SIs said they were aware of such public-private partnerships in their countries, but only one of them gave an example that possibly referred specifically to a case of collaboration between State labour inspectors and private enterprise auditors or compliance officers. One ESC-SI said there was a public-private initiative to eradicate child labour, including in supply chains.

Nevertheless, despite a lack of awareness of collaboration reported by 21 respondents, seven (33 per cent) of them said yes to the follow-up question, which asked whether they thought such collaboration should fall within the scope of their ESC-SI. The implication is that public-private partnerships on compliance issues are not common, but some ESC-SIs would welcome involvement in future programmes.

Promoting compliance along global supply chains

Promoting CSR and compliance with laws and regulations along the supply chain of an enterprise, or a group of enterprises is very common. Such actions can be instigated and monitored by enterprises themselves on the basis of their unilaterally adopted “supplier codes”, or by single global employers and trade unions through IFAs (see above), or possibly by broader groups of stakeholders. ESC-SIs in home countries would appear to be ideally placed to engage in promoting such activities. One that does is the Social and Economic Council (SER) of the Netherlands. The SER has launched an initiative to promote international CSR, including along supply chains (see Box 18).

Box 18. The Social and Economic Council (SER) of the Netherlands and corporate social responsibility (CSR)

In 2008, the SER launched an initiative to promote international corporate social responsibility, including responsible supply chain management. Various activities have been undertaken. In 2012, the SER decided to continue with the programme by focusing on specific annual themes, based on the priorities set out in the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.

In 2013-2014, the SER Committee engaged on the theme of international CSR and chose to focus on and undertake activities related to the theme of due diligence, a central concept in the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. As part of its year-long focus on the subject of due diligence, the Committee wrote a report on due diligence, developed a practical module on the various steps of due diligence, and worked with the Standardization Institute to develop a code of practice aimed at integrating due diligence into existing risk management systems. The Committee also organized a conference on due diligence, advised on international CSR covenants, and organized a workshop for small and medium enterprises, multinational enterprises, and other companies, on how to identify, appropriately prioritize, and start to address their most salient human rights risks, in line with the aforementioned OECD Guidelines and United Nations Guiding Principles.

The overarching theme for 2014-2015 is the development of a national agenda that connects risks to opportunities. In this context, attention will also be paid to the concept of a "living wage." The SER will use, and will continue to use, the OECD Guidelines and the United Nations Guiding Principles on Business and Human Rights as frameworks for its international CSR-related activities.

Source: SER response to ILO, 2015c

Engaging in compliance as a competitive strategy

Compliance with national and international quality, hygiene, environmental, and labour standards might be employed as a competitive strategy by, for example, allowing enterprises to differentiate their products from non-compliant competitors; or by enabling access to regulated markets; or simply by preventing denial of access to markets. See, for example, the case of Sialkot's soccer ball cluster referred to in Chapter 4, where the use of child labour was threatening to deny manufacturers access to certain markets. Also, it could be argued that compliance might have other competitive benefits, such as improved productivity as a consequence of better working conditions and more harmonious industrial relations.

In the ILO-International Finance Corporation's Better Work programme, which links international buyers to national garment sectors, improving compliance plays a key role. In Central America, one developing country, Nicaragua, said in the ILO 2015 ESC-SI survey that its ESC-SI is involved in the Better Work programme. The Nicaraguan Better Work programme was launched in 2011 after the national employers' association (Nicaraguan Association of Textile Manufacturing) and the government (through the National Free Trade Zone Commission) wanted to capitalize on the growth of the garment sector by marketing enterprises' compliance with labour laws and international labour standards (ILO, Better Work, Country Programme Nicaragua) (see Box 19).

Box 19. Better Work

The ILO-International Finance Corporation's Better Work programme collaborates with 60 international clothing buyers and operates its programmes in eight developing countries (ILO, Better Work, towards 2017).

The ILO acts as a convenor of key stakeholders. The programme has auditors who evaluate whether factories are adhering to ILO core conventions and national labour laws, and people who provide training and capacity-building.

Better Work is also collecting evidence that compliance with national labour regulations and ILO core conventions is not only good for workers but also good for business (ILO, Better Work, towards 2017).

National stakeholders, including government, employers and trade unions, are being given an increasingly large role in the delivery, and ultimately the governance of the Better Work programmes. This is being established through Project Advisory Committees, which are made up of representatives from government, employers and trade unions, to provide advice on programmes, as well as through active partnerships with local representatives (ILO, Better Work, towards 2017).

An example of a Better Work programme is that launched in Nicaragua in 2011. In Nicaragua, the clothing industry is worth USD 1,500 million and is one of Nicaragua's most important manufacturing sectors in terms of employment generation and national income. Better Work Nicaragua currently covers 27 factories (51 per cent of factories in the industry), encompassing more than 41,000 workers, of which 60 per cent are women (ILO, Better Work, Country Programme Nicaragua).

In conclusion, it can be said that the evidence indicates that there are various areas in which ESC-SIs already do, or potentially could, act to further the principles of the ILO's MNE Declaration. These range from providing strategic advice on a range of policy issues to carrying out research and promoting information dissemination; monitoring programmes to promote productivity and growth, inclusive development, and standards compliance; taking direct executive actions, and/or mobilizing members to do so, possibly through partnership agreements.

Chapter 8. Obstacles that hinder the ability of ESC-SIs to effectively address issues arising from MNE operations

Despite the potential, most ESC-SIs do not yet appear to have been much engaged in MNE and global sourcing issues. This is so even though, as we showed in Chapter 2, FDI and global sourcing have increased significantly over recent decades and many governments are pursuing strategies to attract FDI and global sourcing. In this chapter we ask: what are the past, and possibly future, hindrances to the ability of ESC-SIs to effectively ensure that MNE operations are positively harnessed for national development, in line with the principles of the MNE Declaration, thereby helping to reduce the governance gap referred to in Chapter 4?

ESC-SI representation

The range of bodies represented on ESC-SIs varies considerably, and this is likely to influence what members might wish to discuss or be able to discuss, and the likelihood that recommendations would be acted upon. A particular obstacle to an ESC-SI's capacity to provide opinions on MNE issues, and to act as a forum for consensus formation and agreement-making on policies affecting the operations of MNEs or their supply chains, could be the absence of such enterprises from the council. In theory, MNEs could be represented directly or through membership of broader employers' associations.

In the ILO 2015 ESC-SI survey, 21 (75 per cent) of respondents said that MNEs were affiliated with employers' organizations that were members of their ESC-SIs – suggesting that many ESC-SIs do in fact include MNE representation. For example, the Economic and Social Council of Korea has as members the Korea Employers Federation and the Korea Chamber of Commerce and Industry. Well-known MNEs that are members of those employers' organizations include Samsung Electronics, LG Electronics, and Hyundai Motors. Also, in Montenegro, it is reported that a significant number of MNEs operating in the country are members of the Montenegrin Employers Federation, which participates in the ESC-SI.

However, a significant minority (21 per cent) of ESC-SIs reported that they do not include employers' organizations that have MNEs as members. For example, in Mongolia, Albania, and Namibia, it is reported that MNE affiliation with ESC-SIs does not exist. Moreover, even for some of the examples in which MNEs are members of organizations affiliated with ESC-SIs, the proportion of all MNEs that are involved is not always large. For example, in Romania and Serbia only some MNEs are affiliated with organizations that are members of ESC-SIs. An absence of MNEs, or global sourcing companies, could be seen as a weakness for ESC-SIs wishing to address MNE-related issues. The non-presence of other groups, such as small enterprise associations, organizations for the self-employed, informal sector representatives, youth groups, and community organizations, might also matter. It may be that given the growth of non-standard forms of employment, the prevalence of the informal sector, and the importance of community conditions for economic development (see Pyke and Lund-Thomsen, 2016), a council that includes a broad range of actors might be more relevant than one that includes only a small range of stakeholders.

Mandates of ESC-SIs

Another possible reason why MNE issues might not or cannot feature in ESC-SI discussions could relate to mandates. There is limited information on this, but it can be speculated that some ESC-SIs, in particular those limited to tripartite representation, might see themselves as being mandated to focus on specific labour-related matters and not to consider broader development issues. However, the evidence from the AICESIS-ILO and UNDESA

databases and the EESC EU review mentioned earlier does suggest the large majority of ESC-SIs have broader socioeconomic mandates.

Another constraint on mandates could be when ESC-SIs are considered to be simply advisory bodies, and so are prohibited from engaging in executive and monitoring activities that might be seen as the prerogative of government agencies. Certainly, ESC-SIs do not seem to include amongst their members technical agencies, such as training institutes, technology transfer agencies, supply chain development agencies, labour and environmental compliance institutions, and development agencies. The implication is that ESC-SIs have not generally been set up as implementation agencies, and so might not have the mandate or the expertise to address certain executive matters. On the other hand, ESC-SIs do have the potential to engage in monitoring and also to mobilize their membership and resources to engage in practical implementation. Consequently, engaging in implementation is not necessarily impossible.

In the ILO 2015 ESC-SI survey of 28 ESC-SIs, the issue of mandates was sometimes referred to by respondents as an explanation for why there was no ESC-SI involvement in particular MNE-related issues. For example, of the 20 councils that said they had not built up “relationships with key MNEs established in the country in the field of CSR, including respect for national laws and the safeguarding of international labour and environmental standards”, some respondents explained that such activities do not lie within the scope of their councils. One respondent simply said it was not his/her ESC-SI’s role. Another pointed out her/his ESC-SI was an advisory agency and did not get involved in executive matters. One other said it was the role of government agencies, while yet another respondent said such activities should be included within the activities of his/her council but it would require a change in legislation.

Then, nine (37 per cent) of 24 respondents who said their ESC-SIs had not “built up expertise in workplace compliance in export processing zones, special economic zones or free trade zones, and operate monitoring activities on the aforementioned zones” also said their ESC-SIs should not engage in such relationships in the future. Five gave reasons, namely: “there were no [export-processing zones] EPZ’s”, and so, by implication, the question was not relevant; “the activity was not in the scope of the ESC-SI”; “the ESC-SI was only an advisory body and it was not in its mandate to monitor”; the activity could not be carried out because there was a “shortage of experts”.

The implication is that ESC-SIs might be constrained by their mandates, but it is difficult to assess how this would affect engagement on MNE-related issues. Certainly, as pointed out earlier, significant numbers of ESC-SIs surveyed by the ILO indicated a desire to engage on such matters. This implies that for some at least, mandates might not be an obstacle, at least when it comes to giving advice, albeit they might be more so in respect of matters of execution or monitoring.

A lack of expertise and/or resources

A lack of expertise in certain advisory areas could serve to narrow down an ESC-SI’s capacity. Also, some councils appear to be poorly resourced and are said to only function sporadically (ILO, 2013b). Earlier it was mentioned that some African ESC-SIs can have limited resources. A lack of funding for meetings, employing support staff, commissioning research or consultancy expertise, writing and publishing reports, and engaging in monitoring or other activities could limit what ESC-SIs might be able to do.

A propensity for bilateral relations

A possible reason why there has not been extensive engagement by ESC-SIs in MNE matters is that many discussions and negotiations between governments, representative organizations, and MNEs occur on a bilateral basis. The ILO's follow-up survey in Africa (ILO, 2015b) found a variety of bilateral relationships. It reported that six out of 14 government respondents and eight out of 20 employers' organizations had representatives or a specific office serving as a contact point for foreign MNEs. Five trade unions also said they had engaged in direct consultations with MNEs. Two reported direct consultations with employers' organizations; and one with an NGO. Moreover, 13 out of the responding 25 workers' organizations said they had contact points for representatives of workers of foreign MNEs. Just six workers' organizations "noted the existence of tripartite dialogues or consultations on MNE activities, either on a regular or ad hoc basis" (ILO, 2015b, p. 45).

A question that arises is whether a preponderance of, or preference for, bilateralism might in some cases result in tripartite structures being bypassed, especially if government and MNEs prefer to engage in exclusive negotiations and discussions with one another. The existence of bilateralism per se does not preclude the simultaneous existence of tripartism. For example, an ESC-SI might have an influence on framework conditions that guide discussions in bilateral negotiations. Alternatively, some kinds of bilateral discussions – for example, between trade unions and MNEs – might focus on a variety of specific issues, while tripartite meetings might focus on more general ones. Nevertheless, it does seem possible that in some cases bilateralism might be used as an alternative to tripartism rather than as a complement.

The role of government

It might be government that exerts the greatest influence on the likelihood of ESC-SIs addressing MNE-related issues, and having influence on related policy. Governments create regulatory frameworks that encourage, or not, the formation of representative organizations, thereby facilitating, or not, the exercise of voice and social dialogue. If tripartite forums for social dialogue are created, the government is likely to influence the content and scope of discussions, and the impact of those discussions on policy.

Setting the agenda

In general, it appears governments are mostly responsible for setting agendas, and indeed for establishing ESC-SIs in the first place. Some ESC-SIs, however, such as those of Belgium, France, Republic of Korea, the Netherlands and Italy, have more room to initiate work on particular themes (Bond et al., 2007). It is quite possible that one reason why we have found little evidence of widespread take-up of MNE issues by ESC-SIs is simply that many governments have not asked for advice on such matters.

Some governments might not wish ESC-SIs to have great influence on policies, including in respect of MNEs. A 2013 ILO report on social dialogue suggested "many ESC-SIs are weak and play only a marginal role in policymaking" (ILO, 2013b, p. 43), and that: "ILO experience shows that in many countries tripartite institutions play at best a marginal role in policymaking and often see their outputs bypassed by governments in shaping economic and social policies" (ILO, 2013b, p. 47). A small UNDESA survey of 12 African ESC-SIs found presidents/chairpersons and council members often considered the visibility and acknowledgement of their work by governments and the public as not satisfying (UNDESA, 2011). There is also a suggestion that some governments might take their ESC-SIs more seriously at some times than others. Some councils are said to have been established at times of political or economic crisis (Bond et al., 2007), and it could be that some councils are more likely to be "activated" by government and/or listened to at times of crisis (see, for

example, Hethy, 2009, for tripartite institutions in Central and Eastern Europe), but perhaps not at other times.

On the other hand, some councils do seem to have been listened to, and on a more regular basis. Councils in Ireland and the Netherlands were said to have played important roles in their countries' national economic revitalization (Bond et al., 2007). Also a survey of seven (primarily OECD members) ESC-SIs (Belgium, Brazil, Netherlands, France, Italy, Republic of Korea, Malta) found that in these cases most members believed that their councils had been useful mechanisms for influencing government policy decisions. However, in most countries respondents also wanted more space to discuss issues that were not part of a predetermined agenda. They also wanted to become more involved in follow-up procedures, including those related to policy implementation, monitoring, evaluation, and information dissemination (Bond et al., 2007).

Development objectives

The ability for ESC-SIs to effectively influence MNE or global sourcing operations in line with the ILO's MNE Declaration might be thwarted if an active role for social dialogue, or the kinds of advice council members propose, or the activities they wish to undertake, are not in line with a government's general economic and social development objectives, including with respect to MNEs. A foundation of political will by governments is required if there is to be genuine engagement with the social partners for shaping national development strategies (ILO, 2013b). With regard to countries in Central and Eastern Europe, Hethy (2009) suggested that practices of tripartism had little role in the neo-liberal approaches of Czech Governments in the 1990s, but fit well with the social market philosophies of certain governments in Hungary and Poland, and where governments were dominated by Socialists.

A government's broad development strategy both sets an important context for ESC-SI deliberations, and also influences the potential effectiveness or, indeed, adoption of ESC-SI policy recommendations. A development approach that is premised on the assumption that raising, and ensuring compliance with, labour standards is good for economic development is likely to increase the likelihood of the adoption of some ESC-SI recommendations by the government in question. These might include recommendations to improve working conditions, or freedom of association, or perhaps social protection floors (ILO, 2014b). Equally, a government policy to weaken, or not enforce, labour standards because it is thought that this could encourage more inward investment clearly sets a difficult context for ESC-SIs wishing to address the kinds of challenges highlighted in Chapter 3. It may be telling that the ILO's 2015 ESC-SI survey found that when asked about challenges to future compliance enforcement, 23 per cent (six) of ESC-SI respondents answering this question said that they thought a challenge to improving workplace compliance was posed by the "pressures to attract investment and the belief that promoting workplace compliance deters investment" (ILO, 2015b).

A government that seemingly did welcome an active role for social dialogue, and did try to insert decent work objectives into its economic strategy, was that of Brazil under President Lula, and these objectives were translated into a particular agenda for an ESC-SI. The Brazilian Social and Economic Development Council (CDES) was established by a government pursuing a growth strategy based on social inclusion and was tasked to provide advice on ways to advance the strategy (see Box 19).

The case of Brazil offers some interesting lessons. Here an ESC-SI was set up to strategically advise government on developmental issues, and in particular to provide inputs to the government's National Development Agenda. The ESC-SI seems to have been particularly successful in influencing policymaking. That the council did have significant influence on government policy might reflect the active support of the Brazilian Government under

President Lula for social dialogue, and its determination to pursue a socially inclusive growth agenda. As can be seen in Box 20, social security reform was one of the council's successes. We can speculate on whether there would have been as much success had there been a different government less committed to social dialogue, or to inserting decent work elements, such as social protection, at the heart of its development strategy. The case of Brazil suggests that when it comes to the influence of ESC-SIs, government prescriptions or strategies for economic development matter.

Box 20. The case of the Social and Economic Development Council of Brazil

The Social and Economic Development Council of Brazil (CDES) has a broad-based civic membership that goes well beyond a traditional tripartite organization. The Council was established in 2003 by President Lula to act as a consultative civil society body for government. The aim was to carry out social dialogue in support of development. The CDES has been mainly responsible for producing the National Development Agenda, a comprehensive action plan for economic and social development.

The CDES is an advisory body for national development planning and not a managerial body involved in policy implementation and monitoring.

In 2007, 27.5 per cent of the ESC's 102 members responded to a United Nations set of questions about its operations. Ninety-five per cent of respondents said the council had been a useful way for civil society to influence government policy, and 90 per cent agreed that the government supported and implemented the ideas and suggestions coming from the CDES. A source other than the survey has said that the government in fact adopted about 80 per cent of the Council's advisory reports and recommendations (de Valk, 2009).

A Council-driven policy initiative that became government policy was social security reform that promoted social inclusion and growth with wealth distribution. This reform was linked to the Programme for Accelerating Growth, the great part of which, some respondents said, was drawn from discussion at the CDES.

There was some suggestion that some respondents felt constrained by a focus on the National Development Agenda and that they would like a broader mandate. For example, because the environment was not a priority of the Agenda it was not included in CDES discussions.

Although the council aimed to reflect the opinion of civil society at large rather than, say, simply the social partners, it was also said that discussions in the council formed a basis for various social accords between workers' and employers' organizations (de Valk, 2009). It was also reported by the United Nations survey that some respondents would like to see broader civic participation.

Source: Bond et al. (2007), unless otherwise specifically indicated as De Valk (2009).

This chapter has highlighted a number of obstacles that could hinder the ability of ESC-SIs to effectively address issues arising from MNE operations. These have included ESC-SI representativeness, mandate restrictions, a lack of expertise and resources, and the possibility of bilateralism being preferred to tripartism. But perhaps the biggest enabler, or possibly obstacle, is government.

Chapter 9. Summary and conclusion

FDI and global sourcing have grown significantly over recent decades, providing countries with both opportunities for, and threats to, broad-based and inclusive development. This report has addressed the potential for ESC-SIs to promote the positive effects of MNE operations, as advocated in the principles of the ILO's MNE Declaration, and has come to the conclusion that this can happen, and that ESC-SIs can contribute to reducing the governance gap in global supply chains as advocated at the 2016 International Labour Conference. However, there are obstacles to overcome.

In terms of maximizing the potential of MNEs for promoting national growth, ESC-SIs can advise on, and collectively promote, a range of macroeconomic, fiscal, regulatory, and industrial policies and strategies, including ones that target inter-firm linkages, cluster development, business start-ups, finance, training, and more. In the social and labour sphere also, ESC-SIs could play very significant roles. Members of ESC-SIs can carry out research, advice on legal and other regulations, propose framework conditions governing inward investment, monitor compliance, come to agreements amongst themselves, and mobilize their members to apply policies and supervise policy application. With the right membership, parts of supply chains hitherto unreached by codes of conduct could be reached.

However, it is clear ESC-SIs exhibit differing degrees of effectiveness and influence on government policy, and that there is little evidence of councils in either developed or developing countries currently being widely engaged in issues specifically related to MNEs. But there are exceptions and, moreover, it was reported that there is some enthusiasm for doing more. The report has indicated areas in which councils are or could be involved.

The report has also highlighted a range of potential obstacles, including with respect to expertise and resources, mandates, and representation. Another obstacle could be the preference of governments and MNEs to engage exclusively in bilateral discussions and negotiation, thus bypassing any ESC-SI forum. Then, even if governments were prepared to involve an ESC-SI in discussions, the extent of the council's influence might depend on the content and/or scope of subjects it is asked to cover.

In fact, the role of government was identified as being particularly significant. Of importance would be a government's political commitment to the MNE Declaration's development aim of promoting business growth and decent work standards in tandem, and its commitment to the ideas that social dialogue, consensus and the promotion of social cohesion have significant developmental roles. A sympathetic government will commit time and resources and look for ways to raise an ESC-SI's influence, as part of a broader agenda to implement MNE Declaration principles and to incorporate decent work as an integral part of its development strategy.

The focus on national ESC-SIs is not intended to imply that other levels of governance are unimportant. In fact, an enterprise and its workers may be subject to local, national, and international influences. The latter could include, for example, MNE voluntary codes of conduct, international trade agreements, international labour standards, and IFAs. ESC-SIs will need to work in the context of such influences, and ideally develop strategies to harmonize them. Promoting enabling national legal and regulatory frameworks, and effective compliance regimes could, for example, be usefully linked to international efforts to regulate MNE standards throughout their global value chains.

National governance is just one of several levels of influence, albeit, we suggest, particularly important, but that hitherto has not been in receipt of the attention it deserves. This study constitutes only an initial look at the potential for ESC-SIs to contribute to reducing the governance gap, at least at the national level. More research is needed on a range of issues, and these are set out in the Annex. Of particular value would be feedback to this study from the ILO's tripartite constituents, in particular those linked to ESC-SIs. It is therefore

proposed that issues raised in this study be discussed at ILO-convened meetings of ESC-SI representatives. Their feedback and insight would be invaluable.

References

- AICESIS-ILO database, accessible at: www.aicesis.org/database.
- Bailey, D., Bentley, G., de Ruyter, A., and Hall, S., 2014, “*Plant Closure and Taskforce Responses: An Analysis of the Impact of and Policy Response to MG Rover in Birmingham*”, *Regional Studies, Regional Science*, Vol. 1, No. 1, pp. 60-78.
- Barrientos, S., 2007, “*Global Production Systems and Decent Work*”, Working Paper No. 77, Policy Integration Department, International Labour Office, Geneva.
- Bond S., De Vera, J., Makoriwa, S., Ong-Reyes, M. C., Simpson, J.B., and Zoo, J., 2007, “*Institutionalizing Civic Engagement for Building Trust: The Case of the Economic and Social Councils*”, Division of Public Administration and Development Management, United Nations Department of Economic and Social Affairs (UNDESA), New York.
- Crabtree, J., 2015a, “FOXCONN Hopes to Avoid Quagmire In Bold India Bets”, *Financial Times*, 11 August 2015.
- Crabtree, J., 2015b, “FOXCONN Plans up to 1 Million Jobs for India as it Battles Rising Wage Costs in China”, *Financial Times*, 14 July 2015.
- De Valk, 2009, “CDES Member Paulo Simao on the Significance of the Brazilian Council for Economic and Social Development.” Retrievable at: www.ser.nl/en/about_the_ser/ser_countries/brazilian.aspx
- European Economic and Social Committee (EESC), 2010, “*EU National Economic and Social Councils and Similar Institutions*”, Brussels.
- Hadwiger, F., 2015, “*Global Framework Agreements: Achieving Decent Work in Global Supply Chains*”, *International Journal of Labour Research*, 7 (1-2), pp. 75-94.
- Hethy, L., 2009, “*Negotiating out of the Crisis: Tripartite Answers to the Economic Downturn in Central and Eastern Europe*”, 25-27 November, International Training Centre of the ILO, Turin, Italy.
- ILO, Better Work, Country Programme Nicaragua, reachable at: www.ilo.org/washington/areas/better-work/lang--en/index.htm
- ILO, Better Work: “*Towards 2017, Better Work Phase III Strategy*”. Available online: <http://betterwork.org/global/wp-content/uploads/ILO-1406-Strategy-Document-v9-28.7.pdf>
- . 2004, “*A Fair Globalization: Creating Opportunities for All*”, World Commission on the Social Dimension of Globalization, International Labour Office, Geneva.
- . 2006, “*Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*”, adopted 1977, amended 2000, amended again 2006, International Labour Office, Geneva.
- . 2009, “*World of Work Report 2009: The Global Jobs Crisis and Beyond*”, International Labour Office, Geneva.
- . 2013a, “*National Tripartite Social Dialogue: An ILO Guide for Improved Governance*”, International Labour Office, Geneva.

-
- 2013b, “*Social Dialogue: Recurrent Discussion under the ILO Declaration on Social Justice for a Fair Globalisation*”, Report VI, International Labour Conference, 102nd Session, 2013, International Labour Office, Geneva.
 - 2014a, “*Multinational Enterprises, Development and Decent Work*”, Report on the Promotion and Application of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy in the Americas, International Labour Office, Geneva.
 - 2014b, “*The Role of Economic and Social Councils and Similar Institutions in Promoting Social Protection Floors for All Through Social Dialogue*”, Background Report for the ILO-AICESIS Conference 20-21 November, 2014, Seoul, Korea, International Labour Office, Geneva.
 - 2015a, “*The ILO’s World Employment Social Outlook: 2015*”, International Labour Office, Geneva.
 - 2015b, “*Multinational Enterprises, Development and Decent Work*”, Report on the Promotion and Application of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy in Africa, International Labour Office, Geneva.
 - 2015c, Survey: “*Promoting Workplace Compliance Including in Global Supply Chains: The Role of Economic and Social Councils and Similar Social Dialogue Institutions*”, International Labour Office, Geneva.
 - 2016a, “*Multinational Enterprises, Development and Decent Work*”, Report on the Promotion and Application of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy in Asia and the Pacific, International Labour Office, Geneva.
 - 2016b, “*Reports of the Committee on Decent Work in Global Supply Chains: Resolution and Conclusions Submitted for Adoption by the Conference*”, Provisional Record, International Labour Conference, 105th. Session, Geneva, May-June 2016, International Labour Office, Geneva.
 - 2016c, “*Reports of the Committee on Decent Work in Global Supply Chains: Summary of Proceedings*”, Provisional Record, International Labour Conference, 105th. Session, Geneva, May-June 2016, International Labour Office, Geneva.
- Locke, R. M. and Coslovsky, S.V., 2013, “*Parallel Paths to Enforcement: Private Compliance, Public Regulation, and Labor Standards in the Brazilian Sugar Sector*”, Working Paper No. 2013-01, the Watson Institute for International Studies at Brown University, USA.
- Lund-Thomsen, P. and Nadvi, K., 2009, “*Global Value Chains, Local Clusters and Corporate Social Responsibility: A Comparative Assessment of the Sports Goods Cluster in Sialkot, Pakistan and Jalandhar, India*”, Technical Paper 17, Industrial Policy and Private Sector Development Branch, United Nations Industrial Development Organization (UNIDO), Vienna.
- Markey, R. and Ravenswood, K., 2009, “*The Effects of Foreign Direct Investment and Multinational Enterprises on the Areas Covered by the 1977 MNE Declaration of the ILO*”, paper prepared for the ILO, September, 2009.
- OECD, 2009, “*Annual Report on the OECD Guidelines for Multinational Enterprises 2008: Employment and Industrial Relations*”, OECD, Paris.

-
- Olney, W., 2013, “*A Race to the Bottom? Employment Protection and Foreign Direct Investment*”, Department of Economics, Williams College, U.S.A.
- Papadakis, K., (ed.) *Shaping Global Industrial Relations: The impact of International Framework Agreements*, International Labour Office & Palgrave Macmillan, Geneva & New York, 2011, p. 2.
- Pyke, F. and Lund-Thomsen, 2016, “*Social Upgrading in Developing Country Industrial Clusters: A Reflection on the Literature*”, *Competition and Change*, Vol-20(1), 53-68.
- Sarpong, S. and Otoo, I. K., 2009, “Survey on the Implementation of the MNE Declaration in Ghana”, Ghana Ministry of Employment and Social Welfare in collaboration with the Ghana Employers’ Association and the Ghana Trades Union Congress.
- UNCTAD, 2009, “*World Investment Report 2009: Transnational Corporations, Agricultural Production and Development*”, UNCTAD, New York and Geneva.
- . 2013, “*Optimizing Government Services: A Case for Joint Investment and Trade Promotion?*” IPA, No.1, 2013, UNCTAD, Geneva.
- . 2014, “*World Investment Report 2014: Investing in the SDGs – An Action Plan*”, UNCTAD, New York and Geneva.
- . 2015a, “*World Investment Report: Reforming International Investment Governance*”, “Overview”, UNCTAD, Geneva.
- . 2015b, “*Global Investment Trends Monitor*”, No. 18, January 29th, 2015, UNCTAD, New York and Geneva.
- UNDESA, 2010, Aide Memoire for the Regional Workshop “Enhancing the Role of National Economic and Social Councils for Inclusive Socio-economic Policy Development”, Ouagadougou, Burkina Faso, June 1-3, 2010.
- . 2011, Aide Memoire for the Capacity Building Workshop “Managing ESCs as a Driving Force of the National Dialogue on Economic and Social Policies”, Nairobi, Kenya, March 7-8, 2011.
- UNDESA database: “Global Directory of Economic and Social Councils”, Division for Public Administration and Development Management. Retrievable at: <https://publicadministration.un.org/en/Research/Databases/Database-on-Economic-and-Social-Councils-anc>
- UNDP, 2011, “*Towards Human Resilience: Sustaining MDG Progress in an Age of Uncertainty*”, UNDP, New York.
- World Bank, 2003, “*Race to the Top: Attracting and Enabling Global Sustainable Business*”, Business Survey Report, October 2003, World Bank, Washington D.C.

Annex. Questions and topics for further research and debate at tripartite conferences

This review of the potential for ESC-SIs to become effective actors in encouraging positive outcomes associated with MNE operations, in line with the principles of the ILO's MNE Declaration, suggests numerous themes for research and discussion. These can usefully be categorized under the headings of the roles of government, ESC-SIs, and MNEs.

The role of government

1. What can governments do to promote effective ESC-SIs capable of addressing issues arising from MNE operations?
2. The ILO's MNE Declaration recommends that actions to further the economic growth potential of MNEs, and also to improve working conditions and workers' rights, should be taken simultaneously. What evidence is there that governments have bought into the idea that promoting the Decent Work Agenda, including freedom of association and opportunities for social dialogue, is essential for competitiveness and economic growth?
3. Is there a need to more strongly persuade and convince governments that a range of social and labour standards, including the promotion of social dialogue, are essential for productivity, competitiveness, profitability, and growth?
4. What evidence is there that governments may prefer to deal directly with MNEs? Are employers' or workers' organizations included in MNE-related discussions? Are ESC-SIs included? If not, why? What matters are discussed?

The role of ESC-SIs

1. What should be the functions of national ESC-SIs? Advisory bodies? Executive agencies? Monitoring authorities? Forums for negotiation and agreement making and formulating collective actions?
2. Given that developed countries are heavy recipients of FDI, should ESC-SIs in these countries be as heavily involved in addressing host country issues related to MNE-related growth, employment and working conditions as ESC-SIs in developing countries?
3. If ESC-SIs are to act as advisory bodies, what MNE-related issues should their advice address? Incentives and conditions? Labour laws and standards, and improving compliance? Social and labour challenges identified in the ILO's MNE Declaration follow-up surveys (see Chapter 3), such as employment insecurity and freedom of association? Monetary and fiscal policies? Identification of suitable (unsuitable) inward investors? Strategies for promoting inter-firm linkages? Filling in gaps in value chains/clusters? Encouraging MNEs to spread best practices, help domestic entrepreneurs, and help with training?
4. Should ESC-SIs seek to harmonize or coordinate their activities at the national level with activities and instruments emanating from other governance levels, such as IFAs, company voluntary codes of practice, international trade agreements, and others?
5. Is the mobilization of members' organizations and resources an important aspect of the role of ESC-SIs? If so, what kinds of actions would be involved? Members engaging in

monitoring conditions? Members cooperating to engage in collective actions, vis-à-vis training, conferences, marketing, community support, and other areas?

6. What should be the representative makeup of ESC-SIs? Should they be broadly inclusive? Should there be a size limit? Are global sourcing enterprises engaging in ESC-SIs? If not, should they be?
7. Where ESC-SIs have broad membership, could representation from the informal sector, the self-employed, small and micro-enterprises, home workers, and others, help in the monitoring of conditions and compliance in the less-reached upstream parts of MNE and global sourcing supply chains?
8. Who should set the agendas of ESC-SIs? The members of the ESC-SIs or the government?
9. How should ESC-SIs be funded? Would greater funding from member organizations give ESC-SIs greater independent authority?
10. Who should be the recipients of ESC-SI advice and information? Only governments? The members of ESC-SIs themselves? The broader public?
11. Should ESC-SIs enhance their expertise by bringing in experts on particular subjects, such as value chain promotion, taxation matters, or labour law?
12. In what ways could ESC-SIs in host countries collaborate with ESC-SIs in home countries? For example, could host country ESC-SIs collaborate with home country ESC-SIs to monitor MNE supply chain adherence to international labour standards?

The role of MNEs

1. What might be the interest of MNEs and global sourcing enterprises in strong and effective ESC-SIs? ESC-SIs as mediators for promoting host country business assets such as skills, inter-firm linkages, new start-ups, finance, and more? ESCs as key influencers with regard to the creation of strong labour laws and effective compliance mechanisms? ESC-SIs as platforms for addressing disputes through dialogue and mediation mechanisms?
2. Are existing private codes of conduct by themselves adequate? Are they being effectively implemented? Do they reach all members of supply chains? Should MNEs look to ESC-SIs as possible partners in spreading good standards?
3. FDI and global sourcing is increasing from developing countries, such as India and China. Do these MNEs behave differently from those from Europe, the United States of America and other areas? Do they adhere to the same voluntary codes? Would they be more or less likely to support social dialogue initiatives?
4. Should ESC-SIs make stronger efforts to attract MNEs as members? Could global sourcing enterprises that do not have local subsidiaries be included? Should first-tier suppliers serving global sourcing companies be included?

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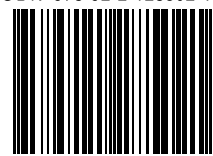
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