



**GLOBAL SUPPLY CHAINS AND DECENT WORK
TRADE UNION INPUT TO THE G7
16 March 2015¹**

1. Trade Union Priorities – Global Supply Chains

1. Recent tragedies in Bangladesh, Cambodia and Pakistan have exposed appalling working conditions experienced by workers in parts of Global Supply Chains (GSCs), together with violations of workers' human rights. The international trade union movement has identified a series of priorities for tackling abusive practices and for strengthening respect for workers' rights. These include the following:

- Purge Global Supply Chains (GSCs) of forced labour and informal work;
- Ensure a minimum living wage and wage fixing mechanism in each nation (ILO Convention 131);
- Deliver a social protection floor;
- Tackle precarious work by providing for secure employment relationships in GSCs;
- Expand global sectoral agreements and International Framework Agreements;²
- Provide for transparency and traceability of supply chains;
- Develop international initiatives that take a rights-based approach to improving workers safety and health in GSCs;
- Develop a EU Sustainability Compact for the Ready-Made Garment sector for Cambodia, building on the lessons of the EU Sustainability Compact for Bangladesh;
- Review countries that receive trade privileges from G7 countries and considering withdrawing GSP or EBA status for countries that violate labour rights;
- Develop an ILO Convention to hold MNEs responsible for rights and safety in their supply chains;
- Strengthen the focus on social upgrading in policy work on Global Value Chains (GVCs) and link to the G20 work;

¹ This paper focuses on Supply Chain issues. It does not address other trade union priorities for the G7, including on healthcare. Building on its leadership on infectious diseases, in view of the Ebola crisis, trade unions call on the G7 to support the development of a *Strategy for Strengthening Global Health Systems*. This should be based on information sharing and collaboration across sectors including frontline workers, community organisations and international organizations such as UNAIDS and WHO. We call for the expansion of the Global Health Security Initiative so as to increase the focus on recruiting, training, equipping, and retaining the health care workforce.

² International Framework Agreements are global agreements between MNEs Global Union Federations. They are qualitatively different from codes of conduct in that they are negotiated by employers and unions.

- Strengthen the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), by implementing comprehensive National Action Plans;
- Update the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration) to extend its application to supply chains, including by incorporating due diligence provisions in line with the UNGPs;
- Enact legislation that mandates due diligence by home country MNE's concerning rights and safety in supply chains;
- Improve access to non-judicial remedy, including:
 - o Strengthening the complaints mechanism of the OECD Guidelines for Multinational Enterprises, the National Contact Points (NCPs);
 - o Developing a compliance mechanism for the updated ILO MNE Declaration.

2. The G7 under the German Presidency is well-placed to take a leadership role in advancing the agenda on GSCs. Some examples are elaborated below.

2. Extra-territorial Regulation of Violations of Workers' Rights in Supply Chains

3. G7 Governments should undertake a review of how to effectively prevent, address and remedy extraterritorial violations of the rights of workers' in the supply chain.

4. Under the UN Guiding Principles on Business and Human Rights (UNGPs) (Guiding Principle 2) all "*States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights through-out their operations.*" This includes workers' rights in the supply chain.

5. The UN's official guidance on National Action Plans developed under the UNGPs, explains that home governments can address extraterritorial impacts of corporations through *domestic measures with extraterritorial implications, or direct extraterritorial legislation and enforcement*. States can also reform their civil liability regimes (torts) so that workers in the supply chain outside the territory of the State can obtain remedy from enterprises that have perpetrated/are complicit in violating their human rights.

3. Strengthening the National Contact Points (NCPs) of the OECD Guidelines

6. The NCPs are a unique characteristic of the OECD Guidelines for Multinational Enterprises. Trade unions have had some significant successes in bringing complaints to the NCPs. However, too many NCPs fail to function as an effective non-judicial grievance mechanism.

7. NCP effectiveness is not linked to one specific NCP structure or model, but is determined by a range of factors relating to both structure and procedure (see *BOXES 1* and *2*).

BOX 1: FACTORS UNDERMINING NCP PERFORMANCE – ORGANISATIONAL

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| <ul style="list-style-type: none"> - Inadequate <i>financial resources</i>; - Insufficient <i>staffing levels</i>; - <i>Conflicts of interest</i>/lack of impartiality; - Insufficient breadth of expertise/knowledge; - <i>Interference</i>: when the NCP decisions affect the economic interests of government; - Insufficient <i>oversight/accountability</i>; - <i>Insufficient level of involvement</i> of the social partners/external stakeholders. |
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BOX 2: FACTORS UNDERMINING NCP PERFORMANCE - PROCEDURAL

- *High threshold* applied for assessing cases;
- No *investigation or fact-finding* when mediation is refused or fails;
- No *determination* of a violation of the Guidelines when mediation is refused or fails;
- *Weak authority* of the NCP; in particular, failure to strengthen the hand of the NCP when companies refuse to participate in mediation;
- *Lack of consequences* for not participating in NCP procedures;
- *Lack of follow-up*;
- *Lack of consequence*

G7 Peer Review

8. Trade unions call on G7 governments to strengthen the “peer review” system of the OECD Guidelines. The current system is not only voluntary but slow – the upcoming peer review of Denmark is only the third to be held since the Update of the Guidelines in 2011.

9. G7 commitment to a coordinated and accelerated peer review programme would send a signal of strong political support as well as producing a body of evidence that could be used to support improvements across all NCPs.

Analysis of Cases

10. As part of the peer review exercise, in addition to an examination of structures and procedures, it would be necessary to include an **analysis of completed cases**, in order to identify the factors of success/ failure in the handling of cases by G7 NCPs.

Policy Coherence

11. A further essential element would be to undertake a **review of policy coherence**: how other public policies – trade and investment agreements, private sector development, public procurement, export credits – strengthen compliance with the OECD Guidelines. The refusal of some companies to participate in NCP processes underlines the urgent need to strengthen coherence. One recent example is Canada’s position of withdrawing “economic diplomacy” from companies that refuse NCP-led or other dispute resolution processes.

Peer Review Modalities

12. The Peer Review should have the following characteristics, based on OECD best practice³:

- coordinated by the OECD Secretariat to the Working Party for Responsible Business Conduct: the OECD secretariat should play a central coordinating role so as to ensure continuity and consistency across reviews and to build institutional capacity;
- standard methodology: use a standard and country specific questionnaire;
- comprehensive: examine structure and procedures; cases; and other policy measures;
- participatory: involve the social partners, as well as other relevant external stakeholders;
- transparent: publish a report with recommendations;
- follow-up: follow-up of measures within set timescales.

13. The G7 should also consider whether to revise the Procedural Guidance of the OECD Guidelines, in a limited revision, so that the findings and recommendations from the peer review can form part of the rules governing the functioning of NCPs.

Funding the OECD Secretariat

14. The OECD Secretariat would require significantly more funding if it is to play this crucial central role of coordinating the G7 peer review exercise.

Global Mediation Fund

15. In addition to a G7 peer review exercise, it is also necessary to address the resource constraints that impede the effectiveness of many NCPs. Many NCPs do not have the resources required to conduct effective mediation.

16. The G7 should consider establishing a **global mediation fund**, together with a **roster of mediators**, for use by NCP.

3. Preventing Accidents at Work (Vision Zero Fund)

17. Trade unions support the idea of establishing a fund for preventing work-based accidents in GSCs. Trade unions should be represented in the governance of the Fund in order to ensure that the measures developed meet workers' needs. Specific initiatives to be discussed include:

- *Learning the lessons from the Bangladesh Accord*: trade unions would support a G7 initiative aimed at learning the lessons from the Bangladesh Accord, so as to share the lessons with buyers, suppliers and trade unions working in the RMG sector in other countries, including Cambodia, India and Pakistan, with a view to examining replicability and scalability. The G7 should work with the ILO in this regard. The Accord, which is an agreement between trade unions and employers, has a number of defining characteristics, which represent a break with past (failed) approaches to tackling safety and health in supply chains (see *BOX 3*);

BOX 3: CHARACTERISTICS OF THE BANGLADESH ACCORD

- a binding and legally enforceable dispute resolution process;
- independent inspections;
- transparency of results of inspections;
- transparency of suppliers (signatories publish a list);
- training of workers on health and safety;
- participation of workers in health and safety committees;
- right of workers to refuse unsafe work;
- brands make funding available for building repairs;
- long term sourcing arrangements.

- *Compensation*: trade unions would *in principle* support the use of the Fund to develop work-related injury insurance systems based on ILO C121. However, in Bangladesh there can be no question of moving forward with this long-term solution until the victims of Rana Plaza have been compensated in full. **From the 24th March 2015, there will just one month left in which to raise the missing USD9 million and close the Rana Plaza compensation scheme, before the two-year anniversary.** The G7 should *use its collective leverage* and:

- **call on the CEOs of brands** from G7 countries that source from Rana Plaza or Bangladesh to make a significant contribution to the Trust Fund ahead of the two-year anniversary on the 24th April 2015;
- call on the **Alliance Fund** to make a significant contribution (USD 4 million) to the Trust Fund, ahead of the two-year anniversary on the 24th April 2015;
- call on **Accord members** to follow with a USD 1 million contribution to the Trust

Fund, ahead of the two-year anniversary on the 24th April 2015;

- **send a joint letter to the Government of Bangladesh** urging it to make a significant contribution (USD 3 million) from the Prime Minister’s Fund to the Trust Fund, ahead of the two-year anniversary on the 24th April 2015;
- **raise the funds to close the Rana Plaza** compensation scheme if there are still monies outstanding, before the two-year anniversary on the 24th April 2015.

BOX 3: RANA PLAZA: G7 SHOULD USE COLLECTIVE LEVERAGE³

Nearly one month away from the 2nd anniversary of the collapse of the Rana Plaza building, which killed 1134 workers and injured hundreds more, there is a \$9 million deficit in the Rana Plaza Donors Trust Fund, which means that the:

- victims will only get 70% of their compensation award;
- lowest paid workers will not receive agreed supplementary payments;
- long-term injured will not receive agreed payments to cover their medical costs.

In line with the Ministerial Statement signed on the occasion of the OECD informal Ministerial on Responsible Business Conduct (June 2014) and the Draft Strategy of the ‘Declaration Group Plus’ group of governments (February 2015)⁴, ***G7 governments should use their collective leverage to close the Rana Plaza Trust Fund.***

- *Fire and building safety*: in Bangladesh it is not clear who will pay for building repairs identified under the National Effort, for factories that are not covered by either the Accord or the Alliance. This would be a valuable use of the G7 Fund;
- *Independent inspections*: there is a need for financial support to establish robust, independent and credible inspection regimes with public reporting;
- *G7 rights-based initiative on workers right to health and safety*: there is a need for a G7 initiative on workers’ right to safety and health: the right to know about hazards and to be trained in how to do work safely; the right to refuse or shut down unsafe work; and the right to fully participate in the design and implementation of workplace health and safety policies, programmes and procedures. Training of social partners should represent a central component; trade union-run health and safety training programmes and networks should form a central part.
- *Small and Medium-sized Enterprises (SMEs)*: support the capacity of SMEs to participate in the Bangladesh Accord or to pay for preventative building repairs.

4. SMEs in G7 Countries: Guidance and Support

18. Trade unions recognise the need to address the specific issues of G7 SMEs, including the problem of Unfair Trading Practices (UTPs). UTPs arise from power imbalances and are defined by the European Commission as “*practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner*”.⁵ These abusive practices affect SMEs in different GSCs – not just food supply chains. They often create a climate of fear and result in adverse impacts on the rights and working conditions of workers in supply chains.

19. However, it is also important that SMEs understand their *responsibilities*. Under the

³ In Pakistan, there has similarly been no settlement for the victims of Ali Enterprise.

⁴ Closing the Funding Gap for Compensating the Victims of Rana Plaza – a Collective Strategy, The Declaration Plus Group, February 2015.

⁵ http://ec.europa.eu/internal_market/retail/docs/140715-communication_en.pdf

UNGPs SMEs have the responsibility to respect the human rights of workers, including in their supply chain and to undertake human rights due diligence. This corporate responsibility to respect human rights extends to all internationally-recognised human rights – SMEs cannot pick and choose which rights they respect. Moreover, the responsibility of a SME to respect human rights is determined by its adverse impacts – not by its sphere of influence.

20. The G7 could usefully support SMEs with regard to:

- *Unfair Trading Practices*: putting in place appropriate (regulatory) measures for eliminating UTPs, including:
 - establishing a national independent enforcement authority with the power to launch investigations and to accept confidential complaints;
 - facilitating access of SMEs to judicial remedy.
- *Sourcing relationships*: changing the business model so as to move to longer sourcing relationships;
- *Human rights due diligence*: providing guidance on undertaking human rights due diligence including on the right to freedom of association and collective bargaining;
- *Non-financial reporting*: training on reporting on adverse impacts in the supply chain⁶ and an assessment of measures to be used to improve the level of reporting by G7 SMEs.

5. Public Procurement: Promoting Respect for Human Rights in the Supply

21. Under the UNGPs “*States should promote respect for human rights by business enterprises with which they conduct commercial transaction*” (Guiding Principle 6). Public procurement is one of the main types of commercial transaction through which States are able to promote respect for human rights. States can create a competitive advantage for enterprises that pay a living wage and respect the rights of workers in their supply chains.

22. G7 governments should undertake a review of measures by which to promote the respect for human rights in supply chains in public procurement.

6. G20 Policy Work on Global Value Chains

23. To date, in their analysis of Global Value Chains (GVCs) policy-makers have focused on the conditions for economic upgrading, neglecting to a large extent the social dimension.⁷

24. Studies produced by the research network “*Capturing the gains: Economic and social upgrading in production networks*” have identified a range of impacts of GVCs on the quality of jobs with regard to: freedom of association, collective bargaining, working time, safety and health, the direct employment relationship/precarious work, and gender.

25. The G7 should take the lead in identifying the conditions for achieving both economic and social upgrading – social upgrading can be understood as the process of improving workers’ rights, living standards, wages, working conditions, social protection, and gender equality.

⁶“Ready to Report, Introducing Sustainability Reporting for SMEs” <https://www.globalreporting.org/resourcelibrary/Ready-to-Report-SME-booklet-online.pdf>

⁷ For example, the report undertaken for the G20 by the OECD, WTO and World Bank Group, “*Global Value Chains: Challenges, Opportunities and Implications for Policy*”.

26. The content of a G7 initiative in this regard would:

- Identify the conditions under which economic upgrading maximises the opportunities for social upgrading;
- Analyse the quality of jobs, including wages and social protection, that are being created in GVCs;
- Work with the ILO to identify ways to promote all aspects of the decent work agenda in GVCs, including ensuring the respect of fundamental workers' rights, and health and safety standards throughout GVCs;
- Devise policies for reversing the growth in precarious and irregular work in favour of secure permanent employment;
- Promote the role of trade unions and industrial relations as the basis for achieving social upgrading;
- Foster the upgrading of skills, in particular of young workers and women;
- Tackle gender inequality, and particularly the segregation of women in low-paid and low-skilled jobs.