

PSI POSITION PAPER ON DECENT WORK IN GLOBAL SUPPLY CHAINS

About Public Services International

Public Services International (PSI) is the Global Trade Union Federation bringing together more than 20 million workers, represented by 659 unions in 152 countries and territories. We are dedicated to promoting quality public services in every part of the world. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water, electricity and solid waste.

About this position paper

The 105th Session of International Labour Conference in June 2016 is featuring a general discussion on “Decent Work in Global Supply Chains”¹. This represents a major opportunity for PSI to highlight and advocate for the key role of public services such as labour inspection, tax justice and public procurement to realize decent work in global supply chains. This paper is meant to be a resource and guidance for PSI representatives in this discussion.

1. The link between Global Supply Chains (GSCs), Multinational Enterprises (MNEs), Public Services and Decent Work

The world economy is increasingly characterised by the rise and dominance of **Global Supply Chains² (GSCs)**, principally controlled by Multinational Enterprises (MNEs). GSCs imply processes of conception, design, production and service delivery, trade and transportation that have become increasingly fragmented in recent decades and cut across borders, moving from country to country.

The **spread of GSCs** is facilitated by the spread of new information, communication, production and sharing technologies, and by the consequent digitalization of services such as administrative work and intermediation services.

GSCs not only encompass the process of the transnational manufacturing goods and products, but also increasingly **the transnational delivery of services** traditionally deemed under public control, such as utilities (e.g. energy), health care and social services. This process can encompass violations of human and labour rights and poor working conditions in their GSC, as in the case of manufacturing.

¹ The background report for this discussion is available on the ILO website at

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_468097.pdf

² ILO 2016, Report IV, Decent work in global supply chains, p. 1, par. 5: “The term ‘global supply chains’ refers to the cross-border organization of the activities required to produce goods or services and bring them to consumers through inputs and various phases of development, production and delivery. This definition includes Foreign Direct Investment (FDI) by Multinational Enterprises (MNEs) in wholly owned subsidiaries or in joint ventures in which the MNE has direct responsibility for the employment relationship. It also includes the increasingly predominant model of international sourcing where the engagement of the lead firm is defined by the terms and conditions of contractual or sometimes tacit arrangements with their suppliers and subcontracted firms for specific goods, inputs and services”.

The features of GSCs are used by MNEs to access the most advantageous labour and environmental costs for their production and service delivery arrangements. When left unregulated and in the absence of effective supranational regulatory regimes, these practices result into a downward spiral of competition and benchmarking among countries and national social, fiscal and environmental regulations (*'race to the bottom'*).

2. The conditions for MNEs and GSCs to generate economic and social development

GSCs can contribute to *economic and social development*, can lead to job creation and labour market access for women and young workers and can generate added value for local communities in a variety of ways, as long as they fulfil some required conditions. Among these are the fact that GSCs should be adequately regulated and monitored and, as a minimum, abide by international human and labour standards, such as respecting freedom of association and engaging in good faith collective bargaining with legitimate trade unions.

These conditions include adequately contributing to the financing of local public services, social security, health care and social services, utilities and infrastructures; generating higher value added, boosting productivity and decent employment; and promoting clean, efficient technology. The role of GSCs can also be positive when they provide goods and services that are truly needed and accessible by the communities and people; and their provision is done through a sustainable, responsible use of resources and in a transparent and inclusive manner, including through genuine democratic right holder and stakeholder dialogue. Under such conditions, GSCs can unlock their potential to contribute to local economic and social development. The reality is often very different.

3. The role of public sector companies and workers in GSCs

Public sector workers take part in GSCs in four main ways:

- 1) When *wholly, majority or partially state-owned companies* are global MNEs and take part in GSCs, as is the case in energy and other utilities or in health and social services. Such global companies invest, source, create joint-ventures, set up subsidiaries, subcontract and outsource in other countries or can recruit mobile and migrant workforces at home.
- 2) Public sector workers play a critical role in the design and implementation of *public procurement policies and practices*. The public sector is among the key contractors for building and infrastructure development and a major buyer of products and services, often manufactured and delivered through GSCs such as uniforms, IT and healthcare equipment, food, furniture and stationery, etc.
- 3) Through the *delivery of quality public services*, public sector workers are necessary to the creation of a socio-economic environment in which business can settle and thrive.
- 4) Public institutions and their workers are key to any effective governance and regulation of MNEs and GSCs: *national labour and OSH inspection, labour administrations, security and the judicial systems* are especially critical for the governance of GSCs.

4. Asymmetric power relations, the bending of national social, fiscal and environmental legislation and the capture of the State

When MNEs and their GSCs are in a system of *asymmetric power relations* with local communities, suppliers and their subcontracts or governments - such as in the case of single buyers (monopsony), typical of some commodity markets or in the case of abuse of a dominant market position - the positive development potential that GSCs can unleash is jeopardised. It is the dominant business and its champions that reap the benefits, whereas the local people and communities often lose out, remaining locked into dependency and poverty.

Also, when labour-intensive MNEs and GSCs actively lobby governments and state regulators to achieve labour cost savings, strike bans, tax breaks and relaxed social and environmental legislation, GSC production, services and sourcing activities end up in **Export Processing Zones (EPZs)** that do not lead to sustainable, long-term, organic social and economic development and do not favour the move to higher value-added activities. In fact, social and labour law deregulation often results in ghettos of low-paid workers (with a majority of young migrant women workers) locked into precarious contracts, forced overtime and excessive workload, where employers are authorized to 'legally' waive major human rights obligations such as freedom of association, collective bargaining and OSH regulations; or where public institutions do not have the resources, the capacity or the goodwill to implement good legislation. In addition, outsourcing and subcontracting practices stretch supply chains well beyond direct suppliers, which have a direct contractual relationship with the lead firm, to sub-suppliers, whose contractual and employment relationship to the lead firm becomes hard to track or is lost. GSCs encompassing long and complex subcontracting chains substantially increase the risk that the GSC becomes associated with forced labour, child labour and human trafficking and other human and labour rights violations.

GSCs and MNEs deliberately running on social, fiscal and environmental advantages or lax regulatory systems harm development and should be held accountable for the damage they make to workers, communities, public services and the environment that have to bear the burden of the free-riding conduct of irresponsible global corporations. Such arrangements create a profoundly **unfair imbalance in the distribution of the value generated in GSC**, of which workers and the public only get a tiny share.

MNEs and GSCs especially lead to development-unfriendly outcomes and unfair deals for workers, people and local communities **whenever democracy is broken and institutions are corrupt and 'captured' by vested interest**, including some global corporations that lobby for relaxing national and international social, fiscal and environmental legislation, push for labour market deregulation and advocate for the liberalization and privatization of public services in a view to access new markets and profit opportunities. The ability of business interest to influence politics and interfere with democracy becomes apparent when looking at the fact that the turnover of several MNEs has overtaken the GDP of many states.

5. The role of the state, public institutions and services in the governance of GSCs

In order generate decent work, MNEs and all the actors involved in GSCs must respect and realize the **fundamental principles and rights at work** set by the ILO Conventions C. 87 (freedom of association), C.98 (collective bargaining); C 100 (equal remuneration) C. 111 (non-discrimination), C. 29 (forced labour) and C. 182 (elimination of the worst forms of child labour), which are the first pillar of the decent work framework. Besides, they must contribute to the other three pillars (generate productive employment, secure social protection and engage in social dialogue at the workplace). For GSCs to be sustainable, business must also provide a safe and healthy working environment as a minimum, in line with ILO OSH standards, and a living wage to workers.

In the case of the ILO standards, governments have to report on denounced violations mainly to the Committee of Experts, Tripartite Committee and the Committee on Freedom of Association.

In the case of the instruments that draw on ILO Standards and other UN human rights instruments - such as the [OECD Guidelines for Multinational Enterprises](#) (OECD Guidelines) and the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#) - specific responsibilities on human right violations, including fundamental labour rights, rest on companies and business. Yet, neither of these instruments are self-sufficient, as the OECD Guidelines relies on the government-based National Contact Points (NCPs) of adhering countries for their implementation, while the UNGPs remain of a voluntary nature.

Among the supranational social instruments and governance frameworks for the governance of GSCs, **Global Framework Agreements (GFAs)** negotiated between social partners, MNEs and Global Union Federations (GUFs) – and more rarely governments - are the most legitimate and ultimately most effective social instrument when it comes to ensuring decent working conditions within MNEs, as they represent a permanent

monitoring system of global labour relations along the supply chain of a specific MNE. GFA implementation has been successful in many cases. However it is not uncommon that a noticeable gap and variations exist between what is on paper and the practice of their implementation, reach and impact.

Over the last couple of decades, MNEs and business have increasingly developed a large, fragmented number of **audit-based, private social compliance initiatives**, codes of conducts, standards, corporate social responsibility (CSR) and reporting initiatives. Such initiatives have created parallel structures that have occupied the space of the state in the regulation and governance of corporate conduct and have pre-empted state regulation through 'self-governance'. In many cases, this trend has contributed to a drastic weakening of the role and resources of public labour inspection, including in GSCs, thus meeting the interests of private business and detracting from the public interest.

6. The link between tax justice and the realization of Decent Work along GSCs

Global corporations' fulfilment of tax obligations in each of the countries where they operate is an integral part of the social responsibility of business and is key to secure decent work and the respect of human rights along GSCs. By paying their fair share of taxes, multinational corporations give back to the country and to the communities that provide the natural resources, the workforce, as well as the products and public services they need for operating and for generating profits.

However, the resources needed by public institutions to guarantee the effective surveillance and remediation of decent work breaches in GSCs are much too often stripped by systematic tax avoidance. This undermines the ability of the state to uphold human and labour rights and to address violations. The respect for decent work and a sustainable improvement in the conditions of workers engaged in GSCs cannot occur as long as MNEs are allowed - under the currently broken taxation system - to circumvent their fundamental responsibility of paying taxes. If Decent Work along GSCs is to be realistically achieved, it is imperative that the UN takes on a systemic reform of the current international taxation system.

7. Migrant workers, private employment agencies and GSCs

By providing the workforce needed for manufacturing and service delivery, national and global private employment agencies are major agents and drivers of the GSCs. However, due to their employment practices, when left unregulated and unchecked, private employment agencies can be major obstacles to the realization of decent work in GSCs. Migrant workers employed in GSCs through recruitment services can face particularly severe problems related to the recruitment process, from employment relation-based and ethnic discrimination all the way to – in the worst cases - human trafficking for forced labour.

ILO Conventions that protect migrant workers' rights all encompass crucial protection for the human rights of those employed in GSCs. However more specific language, wider ratification, effective implementation and international cooperation are necessary to curb the widespread abuse of migrant workers in GSCs, so often intertwined with human trafficking, forced labour and organized crime.

8. Policy options to enhance the governance of GSCs

In the light of the above considerations, when it comes to last resorts to resolve conflict - even within the GFA framework - and when all grievance mechanisms and extrajudicial avenues are exhausted, it is again **national governments, their rule of law and their judiciary that have the responsibility to uphold the governance of GSCs and the realization of Decent Work**. It is still ultimately the state and its national, regional and local public institutions that have to ensure that business, MNEs and GSCs comply with minimum international human and labour standards. The **ratification and implementation of [ILO C. 151 on Employment Relations in the Public Service](#)**, which protects the right of public sector workers to organize and bargain collectively, is paramount to achieve those decent working conditions that are a prerequisite to implement an effective

governance on GSCs and MNEs. C. 151 should therefore be considered as part of the fundamental set of standards necessary for the realization of decent work along GSCs.

Only strong, well-funded, independent public institutions with well-trained and capacitated workers, themselves working in decent conditions, can ensure that decent work is realized along GSCs: such institutions include national labour and OSH inspection, labour administration, environmental agencies, security and the judicial, among the most critical actors for the respect of human and worker rights. Institutional capacity-building and strengthening of such public institutions must be prioritized. In particular, strengthening and ensuring adequate resources for the effective functioning of **national labour inspection** is absolutely essential to achieve decent working conditions along GSCs.

As GSCs are structured and fuelled by global trade and investment systems, the taxation system must follow and be adjusted to this global reality. Therefore, an inclusive and comprehensive global tax cooperation system is needed to address the complex financial engineering and tax avoidance schemes designed by MNEs. The [2015 Declaration of the Independent Commission for the Reform of International Corporate Taxation \(ICRICT\)](#) offers the opportunity to address this issue and could work as a roadmap to follow suit.

Decent work cannot be sustainably brought to GSCs without an **integrated fight against corruption**. Corruption in both the public and the private sector creates the conditions for the state to be taken hostage and exacerbates the imbalance of power between regulation in the public interest and corporate pursuit of profit. This includes the need for effective transparency frameworks and rules regulating the relations and interactions between private and corporate interests and public institutions, including lobbying activities. Corruption cannot be seriously addressed without the protection of those who stand up against it. The **protection of whistle blowers** is therefore necessary to realistically fight corruption in the public administration and protect democracy.

Also, given the intrinsic transnational nature of GSCs and the impact of their operations in many interdependent realms, including human rights and the environment, there clearly is an urgent need to equip public institutions with **trans-border jurisdiction and capacity** to protect human and labour rights in the context of the global economy.