

the reporting period: Hungary (1996) and Poland (1996).<sup>93</sup> As a whole, FDI flows into Central and Eastern Europe increased for three consecutive years of the reporting period (1997-98), although mainly concentrated in the Czech Republic, Hungary, Poland and the Russian Federation. For transition economies in general, FDI inflows over the reporting period remained a part of the transition to a market-based economy and privatization programmes played a role in some of those countries in attracting FDI, especially from Western Europe.<sup>94</sup>

## II. Analysis of replies

### 1. Principles contained in the Declaration

#### 1.1. **Background and aim (paragraphs 1-7 of the Declaration: Survey questions 1, 2 and 3)**

*Q.1. Within the framework of development policies established by governments, MNEs can make an important contribution to the promotion of economic and social welfare, the improvement of living standards, satisfaction of basic needs, creation of employment opportunities and the enjoyment of basic human rights. In the above context, what has been the experience in your country?*

*Q.2 Has the way that MNEs organized their operations led to a concentration of economic power? If so, has this led to any abuse and to conflicts with national policy objectives and with the interests of workers in your country?*

*Q.3 Have any new laws, policies, measures and actions with regard to MNEs' activities been adopted by your government since 1996, to further the aim of the Declaration? If so, please explain briefly and specify if this was done in consultation with the employers' and workers' organizations.*

Total No. of respondents: 163/169 (30 of which responded in tripartite replies): <sup>95</sup>
<ul style="list-style-type: none"> <li>■ Governments from 71/75 countries (10 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 39/39 countries (10 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 53/55 countries (10 of which responded in tripartite replies)</li> </ul>



**30. Question 1.** A diversity of views were reported on experiences with multinational enterprises (MNEs). Many respondents took the view that MNEs had contributed to the

<sup>93</sup> Croatia (G, W), Hungary (TP), Poland (G, W). Regrettably, two other major FDI recipients among transition economies were not included in the sample: Czech Republic and the Russian Federation. idem, Slovakia, which is also in the sample, has subsequently become an OECD member.

<sup>94</sup> *WIR 2000*, pp. 64-67 (noting increases in FDI inflows and privatization programmes in, inter alia, Bulgaria, Croatia and Romania), figure II.29 (geographical sources of inward FDI stock), table B.1, pp. 283-287 (FDI inflows 1996-99 figures).

<sup>95</sup> See para. 8 *supra*.

creation of employment opportunities<sup>96</sup> and the promotion of economic welfare.<sup>97</sup> Relatively fewer respondents perceived MNEs as having contributed to social welfare,<sup>98</sup> or the improvement of living standards.<sup>99</sup> In comparison, a small number of respondents felt that MNEs contributed to the satisfaction of basic needs,<sup>100</sup> or the enjoyment of basic human rights;<sup>101</sup> almost no workers' organizations or respondents reporting in tripartite replies reflected such views. In each of the areas, a number of respondents stated MNE contributions had been negative.<sup>102</sup> As discussed below, some of the respondents saw both positive and negative effects in certain of the areas, while certain respondents took the view that MNE activities had brought no particularly positive effects in specific areas. Generally, more positive contributions were reported by governments and employers' organizations than by workers' organizations.

- 31.** Many reports generally emphasized the creation of employment opportunities as an area of positive contribution of MNEs, while a number of respondents reported negative effects of MNE activity in one or more of the areas.<sup>103</sup> Many respondents qualified their perceptions, both quantitative and qualitative in nature. For example, the level of reported impact on increased employment varied considerably.<sup>104</sup> A significant number of respondents

<sup>96</sup> 91 respondents: 38 governments, 22 employers' organizations, 17 workers' organizations, 14 respondents in tripartite replies. Some of these respondents qualified their views as noted in the following paragraphs. For a list of those respondents, see endnote 1.

<sup>97</sup> 71 respondents: 32 governments, 19 employers' organizations, 11 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 2.

<sup>98</sup> 56 respondents: 22 governments, 17 employers' organizations, 11 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 3.

<sup>99</sup> 48 respondents: 22 governments, 14 employers' organizations, 7 workers' organizations, 5 respondents in tripartite replies. For a list of those respondents, see endnote 4.

<sup>100</sup> 22 respondents: 10 governments, 8 employers' organizations, 4 workers' organizations. For a list of those respondents, see endnote 5.

<sup>101</sup> 19 respondents: 7 governments, 7 employers' organizations, 2 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 6.

<sup>102</sup> Employment opportunities: Austria (W), Bangladesh (W), Brazil (W), Cameroon (W), Croatia (W), France (W – CFE-CGC), Panama (W), Peru (W), Philippines (G – reporting workers' view), South Africa (W – COSATU), United States (W), Hungary (TP – workers' view); economic welfare: Belgium (G), Colombia (W), Ecuador (G), Republic of Moldova (G), Panama (W), United States (W); social welfare: Belgium (G), Cameroon (W), Colombia (W), France (W – CGT), India (G – reporting workers' view), Nepal (W), Panama (W), Peru (W), United States (W); living standards: Colombia (W), Dominican Republic (W), France (W – CGT), Hungary (TP – workers' view), Rwanda (W), Sri Lanka (W – LJEWU), South Africa (W – COSATU), United States (W); basic needs: Dominican Republic (W), United States (W); human rights: Belgium (G), Australia (W), Barbados (W), Dominican Republic (W), France (W – CGT), Madagascar (W), Mozambique (W), Nepal (W), Peru (W), Philippines (G – reporting workers' view), Spain (W), United Republic of Tanzania (W), United States (W).

<sup>103</sup> See notes 96 and 102 *supra*.

<sup>104</sup> Barbados (G) (20 per cent of overall employment), Belarus (G) (1.8 per cent of total employment), Ireland (W) (nearly 50 per cent of all manufacturing employment), Japan (W) (250,000 employed by majority-foreign-owned MNEs as compared to 56 million total employed), Philippines (G) (1 per cent of total workforce), Poland (G) (12.5 per cent of total employment).

expressed concern about the temporary nature of employment creation provided by MNEs, particularly in the context of job losses due to MNE relocations outside the country as a result of wage competition, international strategy of the MNE, or external factors like international commodity prices, or domestic financial crisis.<sup>105</sup> Two respondents commented on the general situation of competition and speculation as one in which “responsibility and human values [are] being wiped out”<sup>106</sup> and in which, “[d]ue to an increasingly competitive environment, exacerbated by the globalization of trade and financial markets, guided solely by profitability criteria regardless of sector or location of activity, MNEs now give priority to purely financial management criteria that are often short term and to production and procurement criteria ...”.<sup>107</sup> On the other hand, a government from one country reported positive results in a case of closure of operations in which consultation with the MNE and the workers’ and employers’ organizations led to re-employment or retirement for eligible workers.<sup>108</sup>

32. Some workers’ organizations expressed related concerns that the form of MNE employment is becoming more precarious and provisional, a condition characterized in some replies by references to increased outsourcing and contract work which tended to undermine employment security.<sup>109</sup> Some governments noted that the impact of MNEs had not been as positive as predicted or expected.<sup>110</sup> Some respondents who viewed the general impact of MNEs on employment opportunities as positive pointed to specific sectors in which negative effects had been experienced.<sup>111</sup> Still others reported that MNEs do not contribute substantially to direct job creation, or that the net effect was insignificant due to the transfer of jobs from domestic enterprises to foreign-owned MNEs through foreign acquisition of domestic companies.<sup>112</sup> One workers’ organization explained that, though FDI inflows had increased in the country, the increase did not result in more jobs

<sup>105</sup> The temporary nature of MNE-created employment was noted, for example, by Austria (W), Dominican Republic (W) (in certain sectors), and South Africa (W – FEDUSA). A government reporting on a private sector study of why MNEs relocate noted, in particular, the need to ensure competitiveness, inefficient infrastructure, bureaucracy, rigid labour environment and “capricious court system”. Philippines (G). For wage competition, see, e.g., Argentina (G) (noting devaluation of neighbouring currency), Austria (W), Barbados (E), Belgium (G), Finland (TP), France (W – CFE-CGC), Philippines (G). For adverse effects of MNEs’ internationalized approaches, see, e.g., Portugal (W); Spain (W). See also France (W – CFE-CGC). External commercial factors or domestic financial crises were noted, for example, by Burkina Faso (E) (dip in gold prices), Cameroon (W) (economic crisis), Colombia (W) (devaluation of domestic currency), Indonesia (G) (financial crisis from 1997 on reduced role of MNEs in economy); see also Malaysia (TP) (massive lay-offs).

<sup>106</sup> Belgium (G).

<sup>107</sup> France (W – CFE-CGC).

<sup>108</sup> Italy (G).

<sup>109</sup> E.g., Croatia (W), Democratic Republic of the Congo (W), India (G) (reporting on the view of a workers’ organization), Panama (W), Peru (W), Philippines (G) (reporting on the position of a workers’ organization), South Africa (W – COSATU) (energy sector).

<sup>110</sup> E.g., Argentina (G), Republic of Moldova (G), Philippines (G), Romania (G), Slovenia (G).

<sup>111</sup> E.g., Burkina Faso (E) (mining), Portugal (W) (automotive).

<sup>112</sup> See, e.g., Belgium (G), France (W – CGT), Japan (W), South Africa (W – COSATU) (no direct job creation – oil refining).

because much of it was due to speculative investment in financial markets.<sup>113</sup> Another workers' organization expressed the opinion that public procurement policy should provide preferences for MNE contracts that create more jobs.<sup>114</sup> For further details on MNEs' impact on employment, see *infra* discussion of replies to questions 5-9.

- 33.** In the context of economic welfare, many respondents explained specific ways in which MNEs were seen to make positive contributions, while a number of respondents reported negative effects. At the level of national and local impact, MNEs increased foreign currency reserves,<sup>115</sup> paid taxes,<sup>116</sup> invested in small and medium-sized enterprises,<sup>117</sup> developed service industries,<sup>118</sup> built health centres and schools and maintained road infrastructure.<sup>119</sup> Within the workplace, MNEs were seen to raise productivity levels,<sup>120</sup> “transform professions” to help them survive globalization,<sup>121</sup> conduct vocational training and upskilling of workers,<sup>122</sup> introduce new technology,<sup>123</sup> and, particularly among transition economies, instil a new industrial relations culture with higher standards for work and quality of work.<sup>124</sup> Concerns were raised in some reports with respect to the conduct of some MNEs which was seen to involve, inter alia, destabilizing choices that gave priority to purely financial management criteria at the expense of jobs,<sup>125</sup> failure to follow domestic and international customs and regulations on industrial relations, human rights or labour standards,<sup>126</sup> tax evasion,<sup>127</sup> privatization of the domestic economy that

<sup>113</sup> Republic of Korea (W).

<sup>114</sup> Croatia (W).

<sup>115</sup> Republic of Korea (G).

<sup>116</sup> Oman (E), South Africa (E).

<sup>117</sup> South Africa (E).

<sup>118</sup> Barbados (W) (telecommunications, banking, finance).

<sup>119</sup> Democratic Republic of the Congo (E).

<sup>120</sup> E.g., Brazil (E) (citing National Development Bank study for period 1995-97); Sweden (TP) (citing OECD and Swedish studies).

<sup>121</sup> Hungary (TP).

<sup>122</sup> E.g., Bulgaria (G), Canada (E), Egypt (G), Trinidad and Tobago (E). For details, see *infra* discussion of replies to questions 10 and 11 on “Training”, *infra*.

<sup>123</sup> E.g., Austria (G), Bangladesh (G), (E), Bulgaria (G) (more regional than national results), Egypt (G), Kenya (G), Republic of Korea (G).

<sup>124</sup> E.g., Bulgaria (G) (MNEs bring new industrial relations culture, but some seek quick profits and infringe labour legislation), Cyprus (W) (MNEs not reluctant to enter into collective bargaining agreements and find ways to solve industrial relations problems), Estonia (TP), Republic of Korea (G) (MNEs contribute to a transparent corporate culture).

<sup>125</sup> France (W – CFE-CGC).

<sup>126</sup> Republic of Korea (W) (customs and industrial relations regulations), Philippines (G – reporting workers' view) (human rights, ILO Conventions, national laws and regulations, and “ordinary standards of decency and equity”).

contributed to a limited domestic production as foreign products of better quality and at competitive prices “invaded” the market,<sup>128</sup> or the lack of major reforms to address phenomena involving the sale, lease or liquidation of most MNEs often financed by mixed public and private capital.<sup>129</sup>

34. With regard to improvement of living standards and social welfare,<sup>130</sup> positive and negative experiences of MNEs’ contributions in specific areas were perceived. On the issue of wages, some respondents felt satisfied with MNE wages while other respondents, particularly in transition economies in Europe, expressed dissatisfaction with the level of wages.<sup>131</sup> Several respondents considered that MNEs brought a lower standard of living<sup>132</sup> and another view was expressed that the standard of living was no higher as a result of MNE activities.<sup>133</sup> As for social welfare, the reports on the impact of MNEs ranged from positive contributions to social programmes<sup>134</sup> to limited or no effects.<sup>135</sup> The role of governments in leveraging,<sup>136</sup> or failing to leverage,<sup>137</sup> contributions of MNEs for the social welfare was pointed out.
35. Although some perceived positive contributions by MNEs in the area of the satisfaction of basic needs and the enjoyment of human rights,<sup>138</sup> this area was a cause for concern among other respondents.<sup>139</sup> With regard to human rights, one respondent registered a “big question mark”<sup>140</sup> and another respondent said that no contributions by MNEs were made

<sup>127</sup> Ukraine (G).

<sup>128</sup> Bulgaria (G) (some MNEs “only seek quick profits”).

<sup>129</sup> Togo (E).

<sup>130</sup> See notes 98 and 99 *supra*.

<sup>131</sup> E.g., satisfied: Bahamas (G), Mexico (G); dissatisfied: see, e.g., Austria (W) (wage reduction in extreme cases), Lithuania (W – LPSS), Poland (W – NSZZ Solidarność). See generally replies to question 12 on “Wages, benefits and conditions of work”, *infra*.

<sup>132</sup> E.g., France (W – CGT) (increase in poverty and homelessness), Panama (W) (alarming rise in poverty, citing privatization programmes and EPZs). National policy was blamed for a rise in the cost of living in another country, Angola (W).

<sup>133</sup> Sri Lanka (W – LJEWU) (workers in MNEs do not get a “fair deal”), United States (W).

<sup>134</sup> E.g., Barbados (W) (MNE sponsorship of sporting, cultural and other national events), Bulgaria (G) (new morale and work ethic), South Africa (E) (special social programmes and business created trust).

<sup>135</sup> E.g., Nepal (W) (MNEs do not assist social welfare), Zimbabwe (G) (limited).

<sup>136</sup> Oman (E) (taxes on MNEs diverted into social sectors).

<sup>137</sup> Pakistan (W – PLF) (MNEs’ contributions to government welfare fund not used to improve workers’ welfare).

<sup>138</sup> See *supra* notes 100 and 101.

<sup>139</sup> See note 102.

<sup>140</sup> United Republic of Tanzania (W) (no organizing allowed and some MNEs do not obey laws on wages, benefits and safety and health conditions). See also United States (W).

to human rights.<sup>141</sup> In some cases, the lack of contribution in this area was seen as related to the opposition to organizing and collective bargaining in MNEs,<sup>142</sup> or to less favourable working conditions.<sup>143</sup> One government reported taking steps to encourage MNEs toward positive contributions in this area,<sup>144</sup> while a workers' organization viewed the government role in this respect negatively.<sup>145</sup>

- 36.** *Question 2.* Responses relating to concentration and misuse of economic power by MNEs revealed several distinct patterns. First, some respondents felt that the way that MNEs organized their operations did not lead to a concentration of economic power.<sup>146</sup> Some of these reports illustrated the relevance of market or FDI diversification,<sup>147</sup> while some governments reported the role of competition laws and policy in preventing such concentration.<sup>148</sup> In the second type of response, the view was expressed that MNE operations did lead to concentration of economic power and to abuse or conflicts with national policy objectives and with the interests of workers.<sup>149</sup> The third type of pattern discussed below revealed situations in which there was no abuse of power despite a concentration of economic power.<sup>150</sup>
- 37.** Many respondents reported that the way MNEs organized their operations led to concentration of economic power, particularly in certain sectors.<sup>151</sup> Market concentration and effective monopolies were perceived by a number of respondents as leading toward a concentration of economic power.<sup>152</sup> There were cases in which M&As, some in the

<sup>141</sup> Nepal (W).

<sup>142</sup> E.g., Australia (W) (noting specific sectors), Barbados (W), Dominican Republic (W), Peru (W), Poland (W – NSZZ Solidarność), South Africa (W x 2), United Republic of Tanzania (W), United States (W). See also Uganda (TP).

<sup>143</sup> E.g., Poland (W – NSZZ Solidarność); South Africa (W – COSATU) (sweatshop conditions in certain MNEs from a particular country).

<sup>144</sup> Japan (G) (seminars on guidelines for overseas MNEs).

<sup>145</sup> Angola (W) (national policy lacks respect for basic human and workers' rights).

<sup>146</sup> 37 respondents: 19 governments, 7 employers' organizations, 3 workers' organizations, 8 respondents in tripartite replies. For a list of those respondents, see endnote 7.

<sup>147</sup> E.g., Bahrain (G) (diversification of origin and ownership of FDI), Bangladesh (G), (E), (MNEs hold no major market share in any one sector of economy), Malaysia (TP, with workers' view differing). See also Democratic Republic of the Congo (E) (concentration but no abuse, strategic sectors controlled by State).

<sup>148</sup> Bulgaria (G), Mexico (G), New Zealand (G), Panama (G) (anti-monopoly laws and policies). See also note 178 for role of law in preventing abuse arising from concentration.

<sup>149</sup> See paras. 37 and 38.

<sup>150</sup> See para. 40.

<sup>151</sup> 66 respondents: 17 governments, 11 employers' organizations, 29 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 8.

<sup>152</sup> E.g., Austria (W) (metal, mining and energy), Dominican Republic (W) (oligopoly in telecommunications and electricity), Rwanda (W) (energy and beverage sectors), Malaysia (TP)

context of privatization, were said to lead to a concentration of economic power.<sup>153</sup> The experience in one country involved a geographic concentration of economic power.<sup>154</sup> The concentration of economic power through foreign ownership and control of MNE operations in host countries was noted in several countries as well.<sup>155</sup>

- 38.** A number of respondents perceived that a concentration of economic power had led to abuse, or to conflict with national policy objectives and/or with the interests of workers in the country,<sup>156</sup> while others reported that, although MNE operations led to a concentration of economic power, no abuse and/or conflict was evident.<sup>157</sup> There were reported cases of the way MNEs used their economic power to seek to influence national policy or law; some perceived such abuse as more likely with larger MNEs and in particular sectors.<sup>158</sup> One workers' organization recalled the negative influence of an MNE in convincing the government to renounce its ratification of ILO Convention No. 89.<sup>159</sup> The importation of goods or services for use in MNE operations in the country was seen as creating various conflicts with workers' interests, including low wages and benefits and unequal treatment for women workers,<sup>160</sup> and increasing the power of management in negotiations on wages and conditions.<sup>161</sup> In the context of market concentration, adverse effects were also experienced in some cases on the price of goods and services or on general cost of living.<sup>162</sup> One government reported growing interregional discord in the country due to MNEs' preferences to operate in regions with the highest level of development.<sup>163</sup>
- 39.** In the context of M&As, some of which involved privatization, specific situations of abuse or conflict were reported, including direct job losses through employment cutbacks or

(views of workers' organization – major roles in electronics and other sectors of economy), New Zealand (W) (banking and telecommunications sectors), Sri Lanka (W – CWC) (energy sector).

<sup>153</sup> E.g., Austria (G) (mergers reflect trend toward concentration of market power which is likely to continue), Barbados (W), Cameroon (W), Finland (TP), France (W – CGT), Republic of Korea (G), Spain (W), Switzerland (E). See also Bulgaria (G) (process of economic concentration of activities with MNE participation in privatization).

<sup>154</sup> Bahamas (G) (concentration of investments and thus jobs on a few islands).

<sup>155</sup> E.g., Finland (TP), Guyana (G), Republic of Korea (W), South Africa (W x 2).

<sup>156</sup> 33 respondents: 8 governments, 5 employers' organizations, 20 workers' organizations. For a list of those respondents, see endnote 9.

<sup>157</sup> 15 respondents: 4 governments, 3 employers' organizations, 4 workers' organizations, 4 respondents in tripartite replies. For a list of those respondents, see endnote 10.

<sup>158</sup> E.g., France (W – CFE-CGC), Ireland (W), Republic of Korea (W), Malta (W), Nepal (W), Portugal (W), Zimbabwe (G).

<sup>159</sup> Malta (W) (MNE held 55 per cent of the country's total export revenue).

<sup>160</sup> E.g., Panama (W), Viet Nam (E).

<sup>161</sup> E.g., Madagascar (W). See also Poland (G) and Poland (W – NSZZ Solidarność) (using cheaper labour in other countries and Poland as primary market for product).

<sup>162</sup> Dominican Republic (W), Lithuania (W – LTUC), Panama (W), Rwanda (W), Sri Lanka (W) (CWC).

<sup>163</sup> Romania (G).

relocation of operations,<sup>164</sup> or indirectly through increased competition cutting out small producers.<sup>165</sup> In addition, one workers' organization took the view that M&As created conflicts of interests that exceeded the government's ability to intervene.<sup>166</sup> On the other hand, a government respondent which expressed concern at "fire-sale prices" and lay-offs in the context of M&As also noted positive effects in improved competition, technology transfer, transparency and financial structure.<sup>167</sup> Another government noted that M&As had led to saved jobs in some cases since direct state aid to rescue enterprises was not permitted under the governing regional regulatory structure.<sup>168</sup> One workers' organization considered that, despite the trend toward MNE concentration as a result of local level integration compelled by global M&As, MNEs strictly followed national law and policies, although national policy hampered workers' interests in some areas.<sup>169</sup>

40. Among those who reported that, although MNE operations led to a concentration of economic power, no abuse and/or conflict was evident, in particular certain governments reported that regulatory or other means were successful in resolving conflicts and abuses, even in situations where there was a concentration of economic power. There were cases in which statutory protections for workers, strong workers' and employers' organizations, and well-functioning dispute settlement mechanisms moderated the threat posed by the economic concentration of power.<sup>170</sup> Investment, competition and privatization laws also were seen by some respondents to prevent or moderate abuses and conflicts.<sup>171</sup> In one country, a law that restricted the number of job reductions in a specified period of time after privatization was noted.<sup>172</sup> Investment policies were also seen to be moderating influences where they encouraged investment in work-intensive sectors or required MNEs to develop technology and train workers in its use.<sup>173</sup> However, MNEs' failure to perform on their investment contracts was noted by one respondent as leading to long-term

<sup>164</sup> E.g., Austria (W), Cameroon (W) (in context of privatization and liberalization), Finland (TP), France (W – CGT) (providing specific examples), Sweden (TP) (concern over risk of relocation abroad from recent M&As), Switzerland (E) (fear of job reductions although balance of losses with newly created jobs has been positive recently).

<sup>165</sup> E.g., Barbados (W) (farmers). See also Bulgaria (G) (privatization and foreign products "invad[ing] the market").

<sup>166</sup> Spain (W).

<sup>167</sup> Republic of Korea (G).

<sup>168</sup> E.g., Belgium (G) (European competition rules prohibit certain direct state aid to enterprises).

<sup>169</sup> Compare Bangladesh (W) with comments of Bangladesh (G), at Appendix 2 of GB.280/MNE/1/2.

<sup>170</sup> E.g., Antigua and Barbuda (G), (E), Australia (W) (except in media industry), Ecuador (G), Zambia (E). See also note 178.

<sup>171</sup> E.g., Bahrain (G) (FDI origin and ownership rules require diversification), Bulgaria (G) (protection of free competition rules out economic concentration), Germany (E) (effective anti-trust laws and structure), Republic of Korea (G), Mexico (G), New Zealand (G) (laws discourage undesirable investment), Panama (G) (time limits in concession contracts in cases of privatization), Turkey (G).

<sup>172</sup> Latvia (W).

<sup>173</sup> Morocco (W), Portugal (G).



unemployment in that country.<sup>174</sup> One respondent felt that statutory mechanisms were too weak in the face of disinvestment decisions and international law was being bypassed in favour of flexible standards.<sup>175</sup> Another respondent was of the opinion that it was the State itself which was the major violator because it gave MNEs “free rein”.<sup>176</sup>

41. *Question 3.* Many respondents, particularly governments, reported that new laws, policies, measures or actions relevant to MNEs’ activities were adopted by the government during the reporting period to further the aim of the MNE Declaration.<sup>177</sup> Many of the reports focused on legislative steps relevant to the MNE Declaration<sup>178</sup> while a smaller number reported policies,<sup>179</sup> measures,<sup>180</sup> or other actions<sup>181</sup> taken to further the aim of the Declaration. In contrast, 41 respondents from 28 countries specifically considered that no new laws, policies, measures or actions relevant to the subject-matter were taken by the government during the reporting period.<sup>182</sup>
42. A number of respondents replied to the question’s focus on steps taken “with regard to MNEs’ activities” by noting that, rather than focusing on MNEs, employment laws and/or policies in the country either did not distinguish between the nationality of enterprises or applied to both MNEs and national enterprises.<sup>183</sup> Some respondents referenced the ratification of relevant ILO Conventions during the reporting period.<sup>184</sup> One government noted the ratification of several investment treaties.<sup>185</sup> Two respondents emphasized the

<sup>174</sup> Portugal (W).

<sup>175</sup> Belgium (G).

<sup>176</sup> Peru (W).

<sup>177</sup> See *infra* notes 178-181.

<sup>178</sup> 68 respondents: 32 governments, 9 employers’ organizations, 12 workers’ organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 11.

<sup>179</sup> 21 respondents: 12 governments, 3 employers’ organizations, 3 workers’ organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 12.

<sup>180</sup> 35 respondents: 15 governments, 3 employers’ organizations, 8 workers’ organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 13.

<sup>181</sup> 7 respondents: 5 governments, 1 employers’ organization, 1 workers’ organization. For a list of those respondents, see endnote 14.

<sup>182</sup> 41 respondents: 12 governments, 15 employers’ organizations, 8 workers’ organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 15.

<sup>183</sup> E.g., Belarus (G), Brazil (G), Burkina Faso (E), Cameroon (W), Canada (E), Côte d’Ivoire (G), Estonia (TP), Finland (TP), Turkey (G), United Kingdom (G).

<sup>184</sup> E.g., C. 111 – Bahrain (G – under consideration), Cyprus (W); C. 87 and 98 – Cyprus (W) and New Zealand (W – noting commitment of new government to ratify); C. 182 – Bahrain (G); C. 122 – Cyprus (W); C. 175 – Cyprus (G). See also Brazil (G) (general reference).

<sup>185</sup> Bahrain (G).

limitation of new laws in addressing the impact of MNE operations in the globalized economy.<sup>186</sup>

43. In general, the new laws, policies, measures and actions tended to cluster in two major areas: labour and employment relations, and promotion or regulation of foreign direct investment activities. As to the first category, a number of respondents, primarily governments, reported the enactment of general legislation on industrial relations;<sup>187</sup> of these, at least one recognized that the labour reforms were intended to ensure greater flexibility to cut labour costs and thus attract FDI.<sup>188</sup> One government reported the adoption of a new Constitution while another noted the extension of labour laws to employees in foreign-owned companies.<sup>189</sup>
44. New legislation in the area of employment and labour relations was reported on issues specific to the principles of the MNE Declaration. For example, a number of respondents reported laws promoting human rights and employment equality, addressing such issues as sexual harassment, discrimination, and equal pay for work of equal value.<sup>190</sup> Many respondents described new laws relating to employment security with regard to MNEs' and other enterprises' activities. These laws dealt notably with unemployment protection, severance pay, pension and other insurance, enterprise relocation, unfair dismissal, collective redundancies, and employment security in situations such as M&As.<sup>191</sup> A number of other legislative enactments addressed issues of working time, wages, leave and other benefits.<sup>192</sup> Several respondents described new laws relating to vocational training and national placement,<sup>193</sup> while others addressed occupational safety and health issues.<sup>194</sup> Legislation on workers' rights was noted by several respondents, including new or pending laws in one transition economy addressing such issues as voluntary negotiation and organization of workers and employers and, in another, a law establishing a tripartite

<sup>186</sup> Belgium (G), France (W – CFE-CGC).

<sup>187</sup> E.g., Australia (G) (New South Wales Act, compare Australia (W)), Egypt (G) (uniform labour law in process), Eritrea (G) (labour proclamation), Jordan (G), Nicaragua (G), Panama (G), Senegal (G) (pending), Slovakia (TP).

<sup>188</sup> Panama (G).

<sup>189</sup> Ecuador (G) (Constitution), Belarus (G) (extension).

<sup>190</sup> E.g., Australia (G) (New South Wales – sex harassment, transgender discrimination), Bahrain (G) (vocational rehabilitation for persons with disabilities to implement ILO Convention No. 159), Barbados (E) (draft legislation pending), Cyprus (G) (equal pay), South Africa (W) (FEDUSA) (employment equity), Switzerland (E).

<sup>191</sup> E.g., Brazil (G), Guyana (G), Republic of Korea (G), Republic of Moldova (G) (pending), Portugal (G) and (W) (parliamentary resolution), Barbados (E), Belgium (G), Hungary (TP) (employers' comment on amendments to Labour Code).

<sup>192</sup> E.g., Switzerland (E) (benefits and working hours), Lithuania (G) (working time and problems of payment or delayed payment), Ukraine (G) (enactment of a "minimum subsistence wage"), Cyprus (G) (maternity leave), Republic of Korea (G) (change to merit-based wage), Singapore (G) (reduction of wages after financial crisis by tripartite agreement).

<sup>193</sup> E.g., Republic of Moldova (G) (pending), Romania (G), South Africa (W – FEDUSA).

<sup>194</sup> E.g., Australia (G) (New South Wales – workplace injury compensation), Barbados (E) (pending), Brazil (G) (setting up a tripartite body for OSH regulation).

economic and social council.<sup>195</sup> One government noted a new law establishing a labour inspectorate while another government reported limiting the “intervention” of the labour inspectorate.<sup>196</sup>

45. General references were made by respondents in the EU and other countries to enacting laws in order to implement or conform to EU directives.<sup>197</sup> In particular, many European respondents made specific note of new laws implementing the EU directive on information and consultation in the workplace<sup>198</sup> and, in a few replies, the EU directive on employment contracts of temporarily posted workers.<sup>199</sup> One respondent noted that the results of the EU directive on information and consultation, now guaranteed by implementing legislation, would be worth evaluating in several years.<sup>200</sup>
46. As to the second category of laws, policies, measures and actions relating to FDI, some respondents generally referred to laws relating to foreign investment enacted during the reporting period.<sup>201</sup> Particular reference was made to laws establishing export processing or special economic zones, or providing for specific conditions in such zones.<sup>202</sup> Some respondents described new laws or regulatory measures on privatization and deregulation,<sup>203</sup> as well as free competition, dispute settlement, and social or fiscal incentives.<sup>204</sup> One government from a transition economy described a law on enterprise

<sup>195</sup> E.g., Australia (G) (New South Wales – workplace video surveillance), Barbados (E) (pending – trade union rights), Republic of Moldova (G) (pending), Romania (G) (tripartite council).

<sup>196</sup> Romania (G) (establishment), Panama (G) (limitation).

<sup>197</sup> E.g., Brazil (G) (inspirational), Cyprus (G), Finland (TP), Poland (W – OPZZ). See also Belgium (E) and (W).

<sup>198</sup> E.g., Austria (G), Cyprus (W), Denmark (TP), Finland (TP), France (W – CGT) (national scope reduced), Germany (G), Ireland (W), Norway (G), Portugal (G), Spain (G). See also Belgium (G) and (W).

<sup>199</sup> E.g., Austria (G), Finland (TP).

<sup>200</sup> Spain (W).

<sup>201</sup> E.g., Belarus (G), Brazil (G), El Salvador (G), Guatemala (G), Jordan (G), Republic of Korea (G), Mauritius (G), Nepal (W), Panama (W), Romania (G), Slovakia (TP), Togo (E).

<sup>202</sup> Ecuador (G) (pursuant to new Constitution), El Salvador (G), Republic of Moldova (G), Mozambique (W), United Republic of Tanzania (W) (limitations on labour law in EPZs), Nicaragua (G) (linking employment promotion, training, security and working conditions to free zone enterprise obligations).

<sup>203</sup> Cameroon (W), Canada (E), Guatemala (G), Lithuania (E) (no tripartite consultation on privatization reforms), Republic of Moldova (G), Panama (G), Peru (G), South Africa (W – COSATU).

<sup>204</sup> E.g., Brazil (G) (competition), Jordan (E) (anti-dumping law, customs law and procedures, financial trading, companies law), Panama (G) (concession contracts), Peru (G) (intellectual property protection), Slovenia (G) (foreign exchange law), Turkey (G) and (E) (disputes). For references to tax incentives or reductions, see Republic of Korea (G), Slovakia (TP), South Africa (E) and Togo (E). For efforts to equalize the rights and privileges of foreign and national owners of capital, see Jordan (E), Republic of Korea (G), Slovenia (G) and Zambia (E) (foreign investment law amended to equalize situation for local investors).

restructuring that applied to MNEs and local enterprises, requiring changes in sales policies, conversion of short- to long-term debt, and reduction of production costs.<sup>205</sup>

- 47.** Specific policies to liberalize foreign investment were mentioned, one of them with a view to the impact of FDI on development policy.<sup>206</sup> In one country, the government devised an Action Plan for promoting investment,<sup>207</sup> while other governments focused directly on EPZs,<sup>208</sup> and skills development and training.<sup>209</sup> One government reported that it was pursuing a policy to review labour laws to bring them into conformity with its structural adjustment programmes.<sup>210</sup>
- 48.** In a number of countries, governments were reported to have set up agencies to assist investors or oversee EPZs, or to have convened advisory committees to ensure against monopolies.<sup>211</sup> One respondent described a review board which was established to allow the purchase of local enterprises while preventing plant closures.<sup>212</sup> In another reply, a government reported its agreement with free zone enterprises to ensure respect for ratified international conventions relating to child labour.<sup>213</sup>
- 49.** A number of respondents reported attempts to strengthen SMEs, and linkages between MNEs and SMEs through laws, policies, or programmes, including facilities in research and development.<sup>214</sup> One government reported a policy, implemented in various ways, to inform and guide domestic MNEs in their activities abroad. The methods included an action plan, a practical manual, seminars and targeted studies and surveys.<sup>215</sup> Another government indicated it had established an institutional framework to promote employment.<sup>216</sup> On the other hand, several respondents noted the disparity between MNE activities and/or resources and those of local enterprises.<sup>217</sup>

<sup>205</sup> Republic of Moldova (G).

<sup>206</sup> E.g., Australia (G), Panama (G) (development policy).

<sup>207</sup> Slovenia (G).

<sup>208</sup> Eritrea (G).

<sup>209</sup> Romania (G), Singapore (G).

<sup>210</sup> Kenya (G).

<sup>211</sup> Australia (G), Brazil (G), Canada (E), Dominican Republic (W) (government established EPZ committee), Republic of Korea (G), Peru (G), Singapore (G), Slovenia (G).

<sup>212</sup> Canada (E).

<sup>213</sup> Nicaragua (G).

<sup>214</sup> E.g., Hungary (TP) (reporting employers' view), Singapore (G), Zambia (E), Ireland (W) (national tripartite partnership plan).

<sup>215</sup> Japan (G).

<sup>216</sup> Togo (G).

<sup>217</sup> E.g., Kenya (G), Nepal (W).

50. Consultation with employers' and workers' organizations in the adoption of new laws, policies, measures and actions was noted in responses representing 26 of the 45 countries in which such activities were reported.<sup>218</sup> A smaller number of respondents reported that consultations with workers' and employers' organizations had not occurred.<sup>219</sup> One workers' organization reported that consultations with the workers was purely formal,<sup>220</sup> while another considered that the tripartite commission was limited to labour matters and did not discuss MNE activities.<sup>221</sup> Other respondents reported experiences of tripartite agreement focusing on MNE operations and, in some cases, piloting social measures to exploit the potential offered by MNEs and improve linkages with indigenous companies.<sup>222</sup>

## 1.2. General policies (paragraphs 8-12 of the Declaration: Survey question 4 (a), (b), and (c))

*Q.4 The Tripartite Declaration calls for MNEs to take fully into account established general policy objectives and development priorities of the countries in which they operate.*

- (a) *Is this the case in your country? Please explain.*
- (b) *Are consultations on general policy objectives and development priorities held between the government and MNEs and, as appropriate, with the national employers' and workers' organizations?*
- (c) *Have there been cases in which consultations between host and home country governments have been held in order to promote good social practice in accordance with paragraph 12 of the Declaration? If so, please give details.*

Total No. of respondents: 143/169 (24 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 63/75 countries (8 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 34/39 countries (8 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 46/55 countries (8 of which responded in tripartite replies)</li> </ul>



51. *Question 4(a)*. Perceptions on whether MNEs take fully into account established general policy objectives and development priorities of the countries in which they operate exhibited several distinctive patterns. Many survey respondents perceived that MNEs took

<sup>218</sup> Compare generally para. 41 and accompanying notes *supra*. For example, consultation on legal reforms was reported by: 33 respondents: 17 governments, 3 employers' organizations, 4 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 16.

<sup>219</sup> For example, new laws were reported to have been adopted without consultation with employers' and workers' organizations by: 8 respondents: 2 employers' organizations, 6 workers' organizations. For a list of those respondents, see endnote 17.

<sup>220</sup> France (W – CFE-CGC).

<sup>221</sup> Republic of Korea (W).

<sup>222</sup> Ireland (W) (Partnership 2000), Norway (G) (tripartite reports on rights of employees of groups of companies), Singapore (G) (tripartite commission in financial crisis). See also Barbados (W) (social partner agreement against an MNE).

fully into account general policy objectives and development priorities; among these, governments and, to a lesser extent, employers' organizations reported more positive views than workers' organizations.<sup>223</sup> A number of respondents, primarily workers' organizations, considered that MNEs did not take fully into account established general policy objectives and development priorities in countries of operation; some of those expressed views that MNEs were guided by their own priorities, such as profit-making, or that MNEs did not share a common understanding of the aims of the MNE Declaration, or that national policy objectives or development priorities were not formulated or applied consistently with the aims of the MNE Declaration, or that such objectives or priorities had been influenced by MNEs.<sup>224</sup> Other respondents considered that MNEs took fully into account established general policy objectives and development priorities only within particular companies or sectors of operation,<sup>225</sup> or when national policy corresponded with MNE interests.<sup>226</sup> Some governments noted that their own policies and priorities were in compliance with key ILO Conventions referenced in paragraph 9 of the MNE Declaration.<sup>227</sup> Several respondents from developing countries noted that there was no information available for them to adequately respond to the question.<sup>228</sup>

- 52.** A number of responses revealed divergent experiences and views on the roles of law and policy in the context of MNE operations. Some respondents, particularly governments, stressed that harmony between MNE operations and national policies resulted because MNEs were subject to the same laws and regulations as other entities in the country.<sup>229</sup> References were made to various legal tools that facilitated MNEs' compliance with policy objectives, including bilateral investment and technical cooperation promotion treaties, administrative and statutory penalties, governmental investigation prior to approval of start-up of operations by MNEs in the country, and the promotion of particular social policies within installation or operating agreements between MNEs and the government.<sup>230</sup> In contrast, one workers' organization considered that, although MNEs abided by the law, they did not take into account development priorities and general

<sup>223</sup> 63 respondents: 32 governments, 17 employers' organizations, 8 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 18.

<sup>224</sup> 23 respondents: 3 governments, 2 employers' organizations, 15 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 19.

<sup>225</sup> E.g., Netherlands (G) (referring to reply given in previous survey), Peru (G).

<sup>226</sup> E.g., Hungary (TP) (employers' view), Romania (G), Belgium (G), Burkina Faso (E). One workers' organization considered that MNEs support some policy objectives while disregarding workers' rights. South Africa (W – FEDUSA).

<sup>227</sup> E.g., Argentina (G), Colombia (G), Côte d'Ivoire (G), Ecuador (G) (referring to human rights framework), El Salvador (G), Netherlands (G) (referring to past survey responses), Norway (G), Senegal (G), Switzerland (G).

<sup>228</sup> E.g., Angola (W), Democratic Republic of the Congo (W), Rwanda (G).

<sup>229</sup> E.g., Antigua and Barbuda (G) and (E), Austria (G), Colombia (G), Costa Rica (G), Denmark (TP), El Salvador (G), Eritrea (G), Gabon (E), New Zealand (G) and (E), Switzerland (W), Togo (G). See also Netherlands (G) (referring to past survey responses which noted certain exceptions).

<sup>230</sup> E.g., Turkey (G) and (E), Australia (G), Bahamas (G), Barbados (G), Democratic Republic of the Congo (E) and (W), Gabon (E), Indonesia (G), Oman (E), Republic of Korea (G), Sri Lanka (E) and (W – CWC).

policies; the respondent queried whether this was the role of MNEs in any event and, if so, what tools governments had to ensure such policy compliance.<sup>231</sup>

- 53.** *Question 4(b).* Some respondents reported that consultations on general policy objectives and development priorities took place between the government and MNEs; governments more frequently reported such consultations than did employers' or workers' organizations.<sup>232</sup> Among the respondents who reported that government consultations with MNEs took place, a number affirmed that national employers' and workers' organizations were included in such consultations, as appropriate.<sup>233</sup> Some of these respondents had also reported that MNEs took fully into account established general policy objectives and development priorities of the countries in which they operate;<sup>234</sup> none of the remaining respondents reporting that consultations were held indicated the opposite. Some respondents, particularly workers' organizations, reported that no consultations on general policy objectives and development priorities took place between the government and MNEs.<sup>235</sup> A number of respondents reported that there were no consultations involving employers' and workers' organizations.<sup>236</sup> Several European respondents noted that direct consultations between employers' and workers' representatives were required by law in specific situations such as enterprise transfers, collective redundancies or the working environment.<sup>237</sup>
- 54.** Some respondents reporting consultations referenced tripartite consultative frameworks that enabled regular tripartite consultations to take place.<sup>238</sup> Others reported that consultations on general policy objectives and development priorities took place between the government, together with employers' and workers' organizations, without specifically mentioning MNEs.<sup>239</sup> A number of respondents reported that consultations with MNEs

<sup>231</sup> France (W – CFE-CGC). See also Malta (W).

<sup>232</sup> 39 respondents: 19 governments, 9 employers' organizations, 3 workers' organizations, 8 respondents in tripartite replies. For a list of those respondents, see endnote 20.

<sup>233</sup> Argentina (G), Bahamas (G), Bangladesh (G), (E), Barbados (E), Cyprus (G), Egypt (E), El Salvador (G), Ghana (W), Guyana (G), Italy (W), Jordan (E), Kenya (G), Mauritius (G), Republic of Moldova (G), Netherlands (G), Philippines (G), Romania (G), Singapore (G), Slovakia (TP), Spain (E), Togo (G), (W – CSTT), Ukraine (G), (E)

<sup>234</sup> E.g., Argentina (G), Bahamas (G), Bangladesh (G), (E), Barbados (E), Cyprus (G), El Salvador (G), Ghana (W), Guyana (G) Jordan (E), Mauritius (G), Togo (G), (W – CSTT), Ukraine (G), (E).

<sup>235</sup> 22 respondents: 5 governments, 2 employers' organizations, 11 workers' organizations, 4 respondents in tripartite replies. For a list of those respondents, see endnote 21.

<sup>236</sup> 40 respondents: 3 governments, 4 employers' organizations, 23 workers' organizations, 10 respondents in tripartite replies. For a list of those respondents, see endnote 22.

<sup>237</sup> Norway (G), Switzerland (G) and (W). See also Republic of Moldova (G).

<sup>238</sup> E.g., Brazil (G), Burkina Faso (E), Colombia (G) (labour issues), El Salvador (G), Republic of Korea (G), New Zealand (G) and (E), Portugal (G), Barbados (E) (Protocol III of social partnership agreement requires regular consultations), Hungary (TP), Senegal (G). See also Lebanon (G) (may use new tripartite framework for this in future), Mexico (G) (participation of all social sectors in National System for Democratic Planning).

<sup>239</sup> E.g., Austria (W), Burkina Faso (E), Estonia (TP), Greece (E), Guatemala (G), Republic of Korea (G), Mexico (G), Nicaragua (G), Portugal (G), Senegal (G), Turkey (G), Zambia (E). One

took place indirectly through employers' organizations<sup>240</sup> or other business associations such as chambers of commerce or sectoral associations.<sup>241</sup> Others indicated that government consultations took place alone with MNEs, normally at enterprise level, through meetings, conferences, seminars or programmes.<sup>242</sup> A number of respondents, particularly employers, indicated that, although consultations with employers' and workers' organizations took place in the context of government and MNE consultations, the consultations were inadequate or not sufficiently meaningful.<sup>243</sup> Some indicated that government consultations with MNEs and, as appropriate, employers' and workers' organizations took place on specific issues or brought about exemplary results.<sup>244</sup> A few indicated that consultations occurred between two or more of those entities.<sup>245</sup>

- 55. Question 4(c).** A number of respondents reported that consultations were held between host and home governments to promote good social practice,<sup>246</sup> while more respondents reported that no such consultations were held.<sup>247</sup> Many respondents did not reply<sup>248</sup> or noted that they were unaware of any such consultations.<sup>249</sup> Some respondents qualified their reports by indicating that such consultations were held infrequently or only under certain circumstances.<sup>250</sup> Others specified the timing of the consultations as occurring

government explicitly mentioned that it did not consult with MNEs but did consult with employers' and workers' organizations. Colombia (G).

<sup>240</sup> E.g., Barbados (G), Italy (G), Spain (E), Norway (G), Bangladesh (G) and (E), Ireland (W), Netherlands (G) (referring to past survey responses), Philippines (G), Slovenia (G), South Africa (E), Ukraine (G) and (E), Zambia (E).

<sup>241</sup> E.g., Australia (G), Bulgaria (G), Canada (E), Ecuador (G), Italy (G), Philippines (G), Slovenia (G), South Africa (E), Spain (E).

<sup>242</sup> E.g., Guatemala (E), Lithuania (W – LPSS), Malaysia (TP) (workers' view that workers are not included, conflicting with government and employers' view), Poland (G), Singapore (G) (programmes), South Africa (W – FEDUSA – sometimes alone), Togo (W – CSTT).

<sup>243</sup> E.g., Burkina Faso (E) (dossier arrives too late for full contribution), Jordan (E), Portugal (W) (after the fact consultations), Guyana (G) (not always detailed enough), Uganda (TP) (weak effect because MNEs do not accept laws on unionization).

<sup>244</sup> E.g., Egypt (E) (employment and public services), Italy (W) (income policies), Kenya (G) (draft legislation affecting MNEs), Togo (W – CSTT) (development programme of private sector).

<sup>245</sup> Switzerland (W) (workers and MNE on change of operations), Viet Nam (E) (some MNEs consult the Government and employees' representatives).

<sup>246</sup> 25 respondents: 9 governments, 7 employers' organizations, 3 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 23.

<sup>247</sup> 35 respondents: 11 governments, 6 employers' organizations, 12 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 24.

<sup>248</sup> 95 respondents: 40 governments, 15 employers' organizations, 25 workers' organizations, 15 survey respondents in tripartite replies. For a list of those respondents, see endnote 25.

<sup>249</sup> Mozambique (W), Portugal (W), Spain (W).

<sup>250</sup> E.g., Austria (W) (rarely), Malaysia (TP) (workers' view, rarely include social practice), Ireland (W) (only in change of operations).



prior to initial investments.<sup>251</sup> Several respondents indicated that bilateral agreements concerning investment or cooperation had resulted from such consultations, or mediation of investment-related conflicts.<sup>252</sup> Tripartite respondents in one country reported a framework for tripartite conferences on MNEs' industrial relations and working conditions held with home and host country ministers of labour.<sup>253</sup> One employers' organization described such consultations within a home country in one field of FDI activity, crediting the efforts of workers' organizations,<sup>254</sup> while a government reported that it conducted missions to home countries to attract MNE investments.<sup>255</sup>

### 1.3. Employment

#### 1.3.1. Employment promotion (paragraphs 13-20 of the Declaration: Survey questions 5, 6 and 7)

*Q.5 (a) What has been the impact, qualitative and quantitative, of the technologies used by MNEs on employment, including employment in the various industrial sectors?*

*(b) Have there been any studies of the impact of MNEs on employment, including employment in different industrial sectors? If so, please provide a brief summary.*

*Q.6 To what extent do the operations of MNEs have backward and forward linkages with national/indigenous enterprises (e.g., suppliers and distributors)? Please explain.*

*Q.7 What has been the impact of MNE activities on employment opportunities and standards in your country? Please describe briefly both general and specific aspects.*

Total No. of respondents: 153/169 (30 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 67/75 countries (10 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 37/39 countries (10 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 49/55 countries (10 of which responded in tripartite replies)</li> </ul>

- Governments from 67/75 countries (10 of which responded in tripartite replies)
- Employers' organizations from 37/39 countries (10 of which responded in tripartite replies)
- Workers' organizations from 49/55 countries (10 of which responded in tripartite replies)

**56.** *Question 5(a).* Many respondents reported a positive qualitative impact of technology used by MNEs on employment,<sup>256</sup> while a small number perceived that MNE technology had a negative qualitative impact.<sup>257</sup> Notably fewer perceived the quantitative impact of MNE

<sup>251</sup> E.g., Jordan (G), Guyana (G).

<sup>252</sup> E.g., Bulgaria (G), Cape Verde (G). See also South Africa (W – FEDUSA).

<sup>253</sup> Hungary (TP).

<sup>254</sup> Guatemala (E) (*maquiladoras*).

<sup>255</sup> Sri Lanka (G).

<sup>256</sup> 61 respondents: 26 governments, 15 employers' organizations, 11 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 26.

<sup>257</sup> Belgium (G), Guyana (G).

technology as positive,<sup>258</sup> and a greater number of respondents reported a negative impact on the quantitative side.<sup>259</sup> In a number of countries, respondents perceived a positive qualitative impact at the same time as a negative quantitative impact as reported by one or more respondents in the same country.<sup>260</sup> Other respondents considered it difficult to assess the impact of technology on employment due to lack of data and/or absence of studies on the subject of MNE technology and employment.<sup>261</sup>

- 57.** The qualitative benefits of technology used by MNEs were reported to include improved quality of work in certain sectors, research and development centres, heightened productivity, increased skills, better job opportunities, especially for youth, introduction of new technology, more modern equipment, management techniques and working methods, and cost-cutting.<sup>262</sup> One workers' organization considered that technology had enhanced tripartite consultation and respect for employment equality and security.<sup>263</sup> However, one respondent expressed concern that a research and development centre had been closed as a result of closure of operations of an MNE.<sup>264</sup>
- 58.** Many replies described the quantitative impact of technologies used by MNEs as negative or mixed (see footnotes 259 and 260). Some of the reports of negative effects specified

<sup>258</sup> 21 respondents: 13 governments, 6 employers' organizations, 2 workers' organizations. For a list of those respondents, see endnote 27.

<sup>259</sup> 34 respondents: 11 governments, 4 employers' organizations, 16 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 28.

<sup>260</sup> E.g., Barbados, Ecuador, France, Indonesia, Latvia, Lithuania, Mozambique, New Zealand, Pakistan, Poland, South Africa, Sri Lanka, Togo, Turkey, Zambia.

<sup>261</sup> E.g., Brazil (G), Colombia (G), Democratic Republic of the Congo (E) and (W), Guatemala (G) and (E).

<sup>262</sup> E.g., Panama (G) (improved quality of work for MNE service providers), Romania (G) (improved quality of work), Turkey (G) (improved HRM), Turkey (E) (new technologies and production systems), New Zealand (G) (increased skills), Philippines (G) (technology and skills transfer in high technology and electronics manufacturing), South Africa (E) (some skills improvement), Saint Vincent and the Grenadines (TP) (information technology transfer but no significant skills transfer), Uganda (TP) (technology transfer), Switzerland (E) (MNE technology contributes to competitiveness), Singapore (G) (change from low to high value added jobs), Hungary (TP) (MNEs represented 75 per cent of all R&D investments in 1997); Austria (W) (technological "clusters" formed with cooperation of government in science and research – metal, mining and energy); Austria (G) (productivity), Bangladesh (G) and (E) (productivity), Burkina Faso (E) (productivity), Indonesia (G) (productivity); Egypt (E) (increased skills in one MNE in petroleum sector), France (W – CFE-CGC) (increased skills), Ghana (W) (increased skills), Hungary (TP – employers' view) (revitalized some white-collar jobs), Jordan (G), Kenya (G) (skills training through assignment of local employees to expatriate staff), Republic of Korea (G) (training and education), Australia (G) (better jobs and increased skills), Barbados (G) (better jobs in information services sector), Canada (E) (better jobs as a result of increased skills), China (G) (better jobs), Jordan (E) (better jobs), Bangladesh (W) (cost-cutting and higher quality products), Bulgaria (G) (services sector), Burkina Faso (E), Australia (W), Bahamas (G) (banking and e-commerce), Ghana (W), Hungary (TP – government and employers' views), Republic of Moldova (G), Pakistan (G), Poland (W), Portugal (W), Romania (G), Saint Vincent and the Grenadines (TP), Togo (G), (E), Turkey (E), Uganda (TP), Zambia (E), Zambia (E) (productivity improvement).

<sup>263</sup> Ghana (W).

<sup>264</sup> Belgium (G).

particular sectors which experienced a decline in direct jobs created by MNEs.<sup>265</sup> Technology used in the context of privatization of particular industries was also noted as a factor in the decline of employment opportunities.<sup>266</sup> Several respondents pointed to the effect of technology on women workers, noting that the sectors in which dismissals occurred were often characterized by low-skilled workers, the majority of which were women.<sup>267</sup> A few governments expressed concern that advanced levels of technology could be inappropriate in the context of lower skilled labour forces.<sup>268</sup> One workers' organization took the view that reductions due to technology were at the same level in MNEs and national enterprises.<sup>269</sup>

- 59.** Other respondents indicated that job losses from MNEs' use of technology had been offset by other benefits, such as the preservation or creation of local jobs or enterprises and an increase in the prevailing level of technology in the country.<sup>270</sup> Government policies encouraging training or reskilling programmes were seen to be helpful in preventing the reduction of jobs due to MNE use of technology or diverting jobs to new growth industries.<sup>271</sup> One respondent perceived that the use of technology had overcome a labour shortage in one sector, while noting the opposite in some MNEs.<sup>272</sup>
- 60.** Among the small number of respondents which reported that more jobs had been created by technology used by MNEs (see footnote 260), some stressed sectoral particularities.<sup>273</sup> One government described its criteria for approval of foreign investment to include the introduction of new technologies, increased processing of primary products and increased

<sup>265</sup> E.g., Austria (W) (construction sector but increase in certain regions), Barbados (G) and (W), Bulgaria (G) (food industry and services sectors), Dominican Republic (W) (textile sector in EPZs, telephone services automation lost 3,000 jobs), Ecuador (G), France (W – CFE-CGC) (total industrial employment decreased), Hungary (TP – employers' view that less skilled workers lost jobs during transition to market economy, workers' view of losses in textile, apparel, mining and food), Philippines (G) (manufacturing), Slovakia (TP) (mechanical/electrical engineering).

<sup>266</sup> E.g., Senegal (G), Turkey (W). See also Panama (G) (temporary reductions in telecommunications sector).

<sup>267</sup> E.g., Barbados (G), (E); France (W – CGT).

<sup>268</sup> Kenya (G). See also Guyana (G).

<sup>269</sup> Latvia (W).

<sup>270</sup> For effects on local jobs or enterprises, see, e.g., Barbados (G) (job losses in one area made up by newly established companies in other or by higher paying jobs in information services sector), Malta (W), Bulgaria (G), Croatia (W) (downsizing of less skilled, hiring of higher skilled), Hungary (TP) (losses in some regions, gains in others; privatization lay-offs but MNEs saved enterprises and some jobs), Lithuania (G) and (W – LPSS) (initial reductions but more highly skilled workers and vocational training resulted). See also Hungary (TP – workers' view, energy, iron and steel), Ireland (W). For increase in the prevailing level of technology, see, e.g., Ireland (W), Kenya (G), Latvia (W), Lithuania (G), (W), Mozambique (W), Philippines (G).

<sup>271</sup> E.g., Mexico (G), Singapore (G) (growth in knowledge industry jobs to mitigate 10,000 jobs lost in hard-disk drive industry from 1997 to 1999). See also Guyana (G) (stressing need to train local workers).

<sup>272</sup> Barbados (W) (sugar industry).

<sup>273</sup> Burkina Faso (E) (agri-food industry), Canada (E) (software industry), Hungary (TP) (workers' view on machine and auto industry). See also China (G).

job opportunities and productivity.<sup>274</sup> Others related the use of technology by MNEs to indirect job creation through linkages and collateral activities.<sup>275</sup>

**61.** *Question 5(b).* A limited number of survey respondents reported studies of the impact of MNEs on employment.<sup>276</sup> Most of the studies focused on the impact of MNEs, or FDI, in particular sectors or regions; of these, some found positive results on employment, productivity and/or competitiveness,<sup>277</sup> while others reported mixed results.<sup>278</sup> One respondent described a study concluding negative effects caused by MNEs on employment.<sup>279</sup> In several replies, the nature of research focus was highlighted, ranging from labour market forecasts<sup>280</sup> and the industrial relations climate in “foreign capital affiliated enterprises”<sup>281</sup> to the impact of economic free zones on economic development.<sup>282</sup> One respondent described a study (no reference given) which reported that it cost approximately US\$1,400 for an MNE to create one job in contrast to US\$750 for national enterprises and US\$150 for cottage or small-scale industries.<sup>283</sup> ILO-sponsored studies were mentioned by a few respondents.<sup>284</sup> Other respondents made reference to planned or ongoing studies or to studies that partly covered the information requested in the question.<sup>285</sup>

**62.** Many respondents replied that they knew of no studies of the impact of MNEs on employment, including employment in different industrial sectors.<sup>286</sup> Data was not easily

<sup>274</sup> New Zealand (G).

<sup>275</sup> E.g., Panama (G), Nicaragua (G).

<sup>276</sup> 14 respondents: 4 governments, 3 employers’ organizations, 4 workers’ organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 29.

<sup>277</sup> E.g., Finland (TP) (effect on employment of trade and investment relations between Finland and Estonia), Germany (E) (German institute study on foreign MNEs in eastern Germany).

<sup>278</sup> E.g., Hungary (TP) (publicly funded studies showed less employment-related tensions with higher FDI, but negative effects on development of local enterprises), Mexico (G) (government study on electronic export sector found favourable employment impact but a need to overcome traditional manual and intellectual obstacles to be competitive).

<sup>279</sup> France (W – CFE-CGC) (university research).

<sup>280</sup> Cyprus (W).

<sup>281</sup> Japan (G) (“survey of industrial relations at foreign capital affiliated enterprises” every four years, most recently in 1996).

<sup>282</sup> Costa Rica (G).

<sup>283</sup> Nepal (W).

<sup>284</sup> Barbados (E) (ILO study on employment and working conditions in Barbados and Jamaica), Madagascar (W) (country study on the social dimensions of globalization).

<sup>285</sup> E.g., El Salvador (G), Japan (G) (year 2000 quadrennial survey on effects of M&As, inter alia, on the workforce).

<sup>286</sup> 73 respondents: 31 governments, 10 employers’ organizations, 17 workers’ organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 30.

available, in some instances, due to crises or war in the country.<sup>287</sup> In others, the relevant data did not take enterprise nationality into account or statistical difficulties in comparing available data.<sup>288</sup> Respondents from one industrialized country indicated that there was no difference between technology used by national enterprises and by MNEs so measuring the direct impact was not possible.<sup>289</sup>

- 63.** *Question 6.* Many respondents reported backward and forward linkages between MNEs and national/indigenous enterprises in the country.<sup>290</sup> A small number, primarily workers' organizations, stated that there are no forward or backward linkages between MNEs and national enterprises in the country;<sup>291</sup> one government reported that linkages had not increased over the reporting period.<sup>292</sup> A few respondents said they had insufficient data on linkages to fully address the question.<sup>293</sup> In one developed country, respondents considered that a high number of acquisitions over greenfield investments showed linkage activity.<sup>294</sup> As discussed below, the responses addressed the positive growth of linkages as well as adverse consequences for local enterprises where linkages were absent.
- 64.** In general, linkages between MNEs and national/indigenous enterprises were considered to constitute important tools for the economic environment, but responses rarely distinguished them as backward or forward. Certain respondents reported forms of backward linkages, such as supply of raw materials, components and/or finished products from national enterprises, including publicly held corporations.<sup>295</sup> However, several respondents noted that, although the number of domestic suppliers had increased, the linkages did not represent long-term contracts or formal relationships<sup>296</sup> and such linkages failed to provide stable employment opportunities.<sup>297</sup> Linkages that created a fully local domestic production cycle were reported along with other situations in which MNEs chose

<sup>287</sup> E.g., Angola (W), Bulgaria (G) (lack of statistical data on privatized enterprises), Democratic Republic of the Congo (E) and (W).

<sup>288</sup> E.g., Brazil (G), Guatemala (G), Hungary (TP), Japan (G).

<sup>289</sup> Denmark (TP).

<sup>290</sup> 90 respondents: 31 governments, 19 employers' organizations, 16 workers' organizations, 24 respondents in tripartite replies. For a list of those respondents, see endnote 31.

<sup>291</sup> 8 respondents: 1 government, 7 workers' organizations. For a list of those respondents, see endnote 32.

<sup>292</sup> Peru (G).

<sup>293</sup> E.g., Austria (G), Cameroon (W).

<sup>294</sup> Sweden (TP).

<sup>295</sup> E.g., Bangladesh (W) (MNEs "required" to procure raw materials locally), Ghana (W), Hungary (TP – employers' view), Latvia (W) (food and woodworking), New Zealand (G), Pakistan (G) but Pakistan (W) (indicating minimal linkages), Philippines (G), South Africa (E), Togo (W – CSSTT), Turkey (E).

<sup>296</sup> E.g., Guatemala (E) (backward and forward), Hungary (TP).

<sup>297</sup> Portugal (W).

to use domestic suppliers or to import products as needed.<sup>298</sup> In several countries where MNEs were reported to source raw materials from outside the host country, backward and/or forward linkages were perceived to be minimal.<sup>299</sup> One workers' organization observed negative effects of the purchasing strategy of MNEs: their "great dependence on imports" led to the destruction of indirect employment as national suppliers were replaced by foreign suppliers, and their exclusive contracts with foreign and national suppliers were said to be decisive for the suppliers' survival.<sup>300</sup>

- 65.** A number of respondents reported both backward and forward linkages between the operations of MNEs and local suppliers and distributors.<sup>301</sup> Other respondents focused on forms of forward linkages, such as distribution and franchise contracts or promotional advertising and retail services.<sup>302</sup> In some countries, MNEs were reported to produce locally for export, adding value to the host country through the consumption of national goods and services<sup>303</sup> or the development of joint ventures between MNEs and local enterprises.<sup>304</sup> In other countries, MNEs targeted locally produced goods for both export and domestic sales,<sup>305</sup> with more emphasis on domestic market sales reported by some respondents, particularly in transition economies.<sup>306</sup> In one country, the export orientation of MNEs was perceived to be related to the lack of backward and forward linkages with local enterprises.<sup>307</sup>
- 66.** Some respondents pointed out that the extent of linkages with local enterprises varied depending on sector of operation.<sup>308</sup> One employers' organization reported, for example, that the level of linkage and cooperation was rather high in automotive, electronics and other industries relying on local material sources, while in consumer goods and other areas relying on high-technology and foreign markets, linkage was at a lower level or decreasing

<sup>298</sup> E.g., Cyprus (W) (as needed), Finland (TP) (production cycle fully local in electronics sector but raw materials brought in for processing in metal, oil and chemicals sectors).

<sup>299</sup> Barbados (G) (electronics manufacturing and information services), Cape Verde (G), France (W – CFE-CGC) (linkages now determined on basis of lowest cost in global sourcing), Guyana (G).

<sup>300</sup> Spain (W) (more than 90 per cent imports in some cases, depending on sector).

<sup>301</sup> E.g., Burkina Faso (E), Ecuador (G), Greece (E), Jordan (E), Togo (G).

<sup>302</sup> E.g., Colombia (G), Democratic Republic of the Congo (G), Kenya (G), Latvia (W), Togo (E), Trinidad and Tobago (E), Sri Lanka (G), (E), (W – CWC).

<sup>303</sup> E.g., Cape Verde (G), Hungary (TP – employers' view of one main trend in agricultural sector).

<sup>304</sup> E.g., Jordan (G). See also Indonesia (G) (joint operations), Turkey (G) (partners with national enterprises in telecommunications sector).

<sup>305</sup> E.g., Australia (W).

<sup>306</sup> E.g., Republic of Moldova (G), Romania (G) (domestic market sale of goods produced with local raw materials), Ukraine (G) (MNEs seen to help integrate country into international trading community).

<sup>307</sup> Slovenia (G).

<sup>308</sup> Finland (TP), Hungary (TP – employers' view), Spain (W), Switzerland (E), Viet Nam (E). See also Hungary (TP – workers' view that proportion of domestic suppliers used by MNEs varied from 20 to 70 per cent).

as MNEs sought to reduce the contribution rate and share of benefit on the local side.<sup>309</sup> Some respondents specified sectors in which they perceived linkages had developed with positive effects. See box 1.3.1: *Linkages between MNEs and national/indigenous enterprises by sector of operation: Selected examples*. Sectors characterized by few linkages were noted in a limited number of cases.<sup>310</sup>

<b>Box 1.3.1</b> <b>Linkages between MNEs and national/indigenous enterprises</b> <b>by sector of operation: Selected examples</b>	
<b>Industry</b>	<b>Public and private services</b>
<i>Agriculture and food; drink; tobacco</i>	<i>Commerce</i>
Austria (W)	Austria (W)
Bahamas (G)	Burkina Faso (E)
Egypt (E)	Hungary (TP) (employers' view, certain sectors)
Hungary (TP) (employers' view – some MNEs)	Latvia (W)
Kenya (G)	New Zealand (G)
<i>Transport equipment manufacture</i>	United Kingdom (G)
Austria (G)	<i>Postal and other communications services</i>
Egypt (G) (one MNE with 150 suppliers)	Latvia (W)
Hungary (TP)	Nicaragua (G)
Viet Nam (E)	Panama (G)
<i>Construction</i>	Turkey (G)
Bulgaria (G) (cement)	<i>Financial services; professional services</i>
Togo (G) (cement)	Egypt (E) (medical, office)
<i>Construction (buildings and public works)</i>	Senegal (G) (cleaning, security)
Burkina Faso (E)	<b>Maritime and transport</b>
Panama (G) (infrastructure)	<i>Transport services</i>
Viet Nam (E)	Latvia (W)
<i>Mechanical and electrical engineering</i>	
Viet Nam (E)	
<i>Oil and gas production; oil refining</i>	
Bulgaria (G),	
Egypt (E)	
<i>Textiles; clothing; leather; footwear</i>	
Hungary (TP) (employers' view)	

- 67.** A significant number of respondents perceived that linkages with MNE operations brought benefits to national enterprises. Benefits included skills training, technology transfer, recruitment upgrading, new product design, and assistance in meeting internationally accepted or required standards.<sup>311</sup> MNE support to SMEs, through programmes of technical know-how and partnerships or other activities, were described in diverse

<sup>309</sup> Viet Nam (E).

<sup>310</sup> E.g., Barbados (E) (computer science industry), Hungary (TP) (employers' view – transport, electronic and chemical industries and handicrafts), Republic of Korea (W) (transportation), Viet Nam (E) (consumer goods and high-technology areas).

<sup>311</sup> E.g., Bulgaria (G), Canada (E), Cyprus (W), Hungary (TP), South Africa (E) United Kingdom (G), Venezuela (E), Viet Nam (E).

contexts.<sup>312</sup> Programmes to encourage linkages by building the capacity of local enterprise networks were reported in a number of cases, and involved various actors, including governments, employers' organizations and other business associations, and international development banks.<sup>313</sup> In one country, linkages developed by MNEs were said to have helped privatized enterprises to stay in business and avoid some job reductions.<sup>314</sup>

- 68.** Particular needs or problems with linkages were also discussed. MNEs were said to resort to linkages depending on such factors as availability, cost and quality, and a few respondents noted that it was difficult for MNEs to find suppliers and distributors that observed international standards.<sup>315</sup> Several respondents from European countries reported that competition from MNEs adversely affected and even destroyed existing local enterprises and/or prevented new enterprises,<sup>316</sup> and that linkages with local enterprises made closure of MNEs' operations felt more widely.<sup>317</sup> One respondent perceived that the national economy benefited from the diversified investment of MNEs, which extended even to sectors in which they were not directly operating.<sup>318</sup> However, the purchase of local enterprises by MNEs presented negative experiences<sup>319</sup> and one respondent considered that MNEs' contracts with local enterprises were used to avoid direct responsibility under national law.<sup>320</sup> In one country, MNE operations were reported to use foreign linkages to produce and sell goods in the domestic market, thus eliminating products manufactured by local enterprises.<sup>321</sup> Along these lines, another respondent stated that the competitiveness of MNEs jeopardized many small stores, threatened job security, and produced "long-hour and low-wage working conditions".<sup>322</sup>
- 69.** *Question 7.* Overall, the responses to question 7 depict a positive experience with regard to the impact of MNE activities on employment. Many survey respondents considered that

<sup>312</sup> E.g., Kenya (G) (R&D activities of MNEs benefit SMEs), Singapore (G) (30 MNEs and 11 large local enterprises partner with 670 SME vendors, attributing incentive to desire to outsource in order to reduce overhead), Turkey (E), Zambia (E) (some MNEs provide technical support to local business). See also Morocco (W).

<sup>313</sup> E.g., Costa Rica (G) (various programmes involving public sector, employers' organizations and MNEs, including new IADB-financed project to develop SME producers for high-tech MNE linkages), Guatemala (G) (employers' programme), Ireland (W) (National Linkage Programme), Malaysia (TP) (government-launched programme in 1999), Mauritius (G) (Subcontracting Exchange of Mauritius).

<sup>314</sup> Hungary (TP).

<sup>315</sup> E.g., France (W – CFE-CGC) (global sourcing on cost), Barbados (G), Bulgaria (G).

<sup>316</sup> E.g., Hungary (TP), Lithuania (W), Poland (W x 2), Portugal (W), Slovakia (TP).

<sup>317</sup> Belgium (G) (example in auto industry given).

<sup>318</sup> Gabon (E).

<sup>319</sup> Belgium (G) (examples given).

<sup>320</sup> Philippines (G) (relaying workers' view).

<sup>321</sup> Poland (W) (OPZZ and NSZZ Solidarność).

<sup>322</sup> Republic of Korea (W).



MNEs had a positive impact on employment opportunities in the country.<sup>323</sup> A number of respondents reported that the activities of MNEs had a negative impact on employment opportunities.<sup>324</sup> Still others considered the activities of MNEs to be of little to no significance in light of the employment situation in the country.<sup>325</sup> See box 1.3.2: *Employment opportunities and MNE activities: Selected country experiences*. Loss of employment opportunities was attributed in a few cases to the relocation of MNEs outside the country<sup>326</sup> and, in some cases, to privatization.<sup>327</sup> One government observed that negotiation can help mitigate the adverse employment effect of restructuring.<sup>328</sup>

- 70.** The sectoral dependency of a positive or negative impact of MNE activities was noted by a few respondents.<sup>329</sup> Some respondents specified sectors of activity where the positive impact of MNE activities on employment opportunities was observed, while others identified sectors of declining opportunity. A few respondents indicated that skilled job opportunities increased as a result of MNE activities, and others noted the growth of job opportunities in particular geographical areas.<sup>330</sup> One respondent noted that international jobs were available to its nationals as a result of MNE activities.<sup>331</sup> A number of respondents expressed concern about the lack of employment of host country nationals by MNEs at management or skilled levels in the country.<sup>332</sup> A few noted salutary local employee practices.<sup>333</sup> Several respondents, particularly in western Asian countries, noted

<sup>323</sup> 63 respondents: 28 governments, 14 employers' organizations, 10 workers' organizations, 11 respondents in tripartite replies. For a list of those respondents, see endnote 33.

<sup>324</sup> 15 respondents: 3 governments, 11 workers' organizations, 1 respondent in tripartite replies. For a list of those respondents, see endnote 34.

<sup>325</sup> Angola (W) (formal sector unemployment at 75 per cent; informal sector employment high), Democratic Republic of the Congo (W) (many jobs lost due to war and crisis), Kenya (G) (increasing unemployment as rate of growth of labour force too high), Latvia (W) (unemployment rate of 9.1 per cent in 2000; demand for jobs in information technology sector exceeds supply).

<sup>326</sup> E.g., Colombia (W), France (W – CGT), Israel (W).

<sup>327</sup> E.g., Bulgaria (G). See *infra* para. 160.

<sup>328</sup> Belgium (G).

<sup>329</sup> Bulgaria (G), Cyprus (W).

<sup>330</sup> E.g., Switzerland (E) (skilled labour), Bulgaria (G) (skilled job opportunities in line with EU standards), Slovenia (G) (less developed areas), Philippines (G) (countryside).

<sup>331</sup> Denmark (TP).

<sup>332</sup> E.g., Côte d'Ivoire (G) (percentage of nationals employed in MNEs is lower than in national enterprises), Democratic Republic of the Congo (E) (90 per cent of MNE employment is local staff but not at management levels), South Africa (W – FEDUSA) (MNEs tend to hire skilled workers from own country rather than train local workers but when MNEs leave country, skilled local employees leave too).

<sup>333</sup> E.g., Egypt (E) (95 per cent of employment opportunities offered to local citizens in one MNE), Philippines (G) (MNEs provide local employees with opportunities to manage business in countryside).

the use of regulatory quotas and other legal means to ensure the employment of local staff in MNE operations in the country.<sup>334</sup>

<b>Box 1.3.2</b> <b>Employment opportunities and MNE activities: Selected country experiences</b>	
Austria (G)	378,400 persons working in MNEs in 1997
Barbados (G)	Electronics industry declined from 2,000 to 1,000 jobs, mostly women workers affected
Cape Verde (G)	3 MNEs account for 106, 270, 160 jobs respectively
China (G)	MNEs account for 2,930,000 jobs in 1998, a doubling from 1991
Costa Rica (G)	EPZs brought 30,000 more jobs in 1999
Côte d'Ivoire (G)	MNEs account for 30 per cent of all jobs in industrial and commercial sectors
Dominican Republic (W)	Loss of 3,000 jobs in telecommunications
France (W – CGT)	Electronics industry MNE dropped from 635 to 250 women workers; 147 jobs lost in appliance manufacturing MNE
Germany (W)	Postal and telecommunications sector lost one-third jobs over 10 years due to privatization; 10 per cent of jobs on short-term contracts now
Ireland (W)	MNEs account for almost 50 per cent of all manufacturing jobs
Malta (W)	3.4 per cent of total workforce employed by MNEs
Mexico (G)	MNE employment averages more than 1,200,000 jobs, representing 10 per cent of employment in formal economy
Nicaragua (G)	Direct employees in MNEs totalled 2,620 in 1995 and 4,452 in 1999; number of workers in free zones totalled 16,000 in 1998 and 23,052 in 1999
Saint Vincent and the Grenadines (TP)	Less than 5 per cent of labour force employed by MNEs
Singapore (G)	In high-technology sector, research scientists and engineer jobs increased from 4,329 in 1990 to 12,655 in 1998; in hard-disk drive sector, decrease in jobs from 30,000 in 1997 to 20,000 in 1999
Slovenia (G)	5.3 per cent of labour force employed by MNEs in 1994, rose to 8.8 per cent in 1998
South Africa (W – COSATU)	Jobs in oil refining sector declined from 17,000 to 14,000 in 1997
Spain (W)	Purchasing strategy of MNEs results in replacement of national suppliers with foreign suppliers; special mention made in this regard of 1,100,000 workers employed by MNEs in automobile sector
Sweden (TP)	Foreign enterprises employed 301,000 persons in Sweden in 1997 compared with 220,600 in 1990; altogether international enterprises (Swedish and foreign) employed 968,000 people, approximately 25 per cent of total employment, in 1997
United Republic of Tanzania (W)	Less than 10 per cent of 600,000 labour force entrants in formal sector, including MNEs
Viet Nam (E)	Direct employment by MNEs (including joint ventures, foreign capital investments and business cooperation contracts) accounts for 275,000 jobs

**71.** Some respondents who reported significant backward or forward linkages also reported some positive impact of MNEs on employment opportunities and/or standards.<sup>335</sup> Indeed,

<sup>334</sup> E.g., Bahrain (G) (20 per cent of workforce regardless of technology used), Oman (E) (MNEs expected to employ same percentage of nationals as do local companies), Switzerland (W) (current regulations require justification for exemption to prohibition on recruiting foreign personnel). See also Kuwait (TP) (laws and regulations needed to guarantee nationals a certain percentage of domestic employment in MNEs).

the positive effect on indirect employment through local enterprise affiliations with MNEs was explicitly observed by a few respondents.<sup>336</sup> However, others reported the loss of indirect employment through competition between MNEs and local enterprises.<sup>337</sup>

- 72.** Most respondents did not reply to the part of the question relating to employment standards. Among those who did reply, some reported that MNEs had a positive impact on employment standards.<sup>338</sup> A number of respondents considered the activities of MNEs to have a negative impact on employment standards.<sup>339</sup> Notably, some respondents interpreted the term “standards” to refer to enterprise policies or practices while others used it to refer to labour laws, regulations or standards.
- 73.** Respondents observed various positive effects of the activities of MNEs on employment standards, including better wages and social security benefits,<sup>340</sup> workplace practices leading to higher productivity,<sup>341</sup> and skills and technology transfer.<sup>342</sup> In general, social benefits to MNE activities were noted in the form of reshaping of academic and technical training centres to meet MNE demands,<sup>343</sup> and economic advancement and the reduction of poverty.<sup>344</sup> MNEs were said to raise local enterprise and/or workplace practices to international standards, particularly in quality assurance management systems.<sup>345</sup>
- 74.** Among those who observed a negative impact of MNE operations on standards, references were made to subcontracting practices, which were perceived as leading to job insecurity, precariousness, and casual work situations and difficulty in applying labour standards.<sup>346</sup>

<sup>335</sup> E.g., Angola (G), Australia (W), Bahamas (G), Bangladesh (G), (E), Canada (E), Colombia (G), Costa Rica (G), Egypt (E), Guatemala (E), Hungary (TP), India (G), Indonesia (G), Ireland (W), Italy (G), Jordan (E), Kenya (G), Republic of Korea (G), Mozambique (W), Nepal (W), New Zealand (G), Philippines (G), South Africa (E), South Africa (W – FEDUSA), Sri Lanka (G), Sweden (TP), Turkey (E), Uganda (TP), Ukraine (G), Ukraine (E), Viet Nam (E), Zambia (E).

<sup>336</sup> E.g., New Zealand (G) (positive), Nicaragua (G) (positive).

<sup>337</sup> Bangladesh (W) (“alarming rate” of decline), Cyprus (W) (negative), Republic of Korea (W) (negative). See also Lithuania (W – LPSS) (negative).

<sup>338</sup> 23 respondents: 6 governments, 7 employers’ organizations, 1 workers’ organization, 9 respondents in tripartite replies. For a list of those respondents, see endnote 35.

<sup>339</sup> 13 respondents: 3 governments, 1 employers’ organization, 9 workers’ organizations. For a list of those respondents, see endnote 36.

<sup>340</sup> E.g., China (G) (social security), Hungary (TP) (for non-skilled workers). See also Nepal (W) (“a little higher pay but no job security”).

<sup>341</sup> E.g., Bahamas (G), Brazil (E) (citing a study), Costa Rica (G).

<sup>342</sup> E.g., Austria (W), Bulgaria (G).

<sup>343</sup> E.g., Croatia (W), Costa Rica (G). See also Cameroon (W) (higher school attendance).

<sup>344</sup> Australia (W), Kenya (G), respectively.

<sup>345</sup> E.g., Bulgaria (G), Ecuador (G) (ISO 9000), Ukraine (G), Egypt (E), Hungary (TP), Latvia (W), Saint Vincent and the Grenadines (MNE operations as benchmarks).

<sup>346</sup> E.g., Nepal (W), Philippines (G), Portugal (G) and (W), South Africa (W – COSATU), Trinidad and Tobago (E). See also China (G) (some MNEs do not guarantee adequate social security for

In addition, compared to national enterprises which proceed to closure only in most dire situations, MNEs were perceived by a few respondents as lowering standards by relocating elsewhere simply to increase their benefits, even though they were usually in a financially healthy state.<sup>347</sup>

- 75.** Some respondents perceived that the impact of MNEs' activities on employment opportunities and/or standards could not be easily generalized. A workers' organization observed that the impact on employment standards differed depending on the MNE.<sup>348</sup> In one country, MNEs were seen to have an impact on employment opportunities and standards equal to national enterprises; in another, MNEs were said to have a more positive impact than national enterprises.<sup>349</sup> One government reported that MNEs brought lower working hours but also lower levels of wages for women employees.<sup>350</sup> Several governments reported that MNEs had a neutral impact on standards (even though they increased employment opportunities),<sup>351</sup> while an employers' organization in one of those countries considered that cross-sectoral changes due to technology, not MNE activities themselves, was the determinative factor in the adaptation of labour standards.<sup>352</sup>

### 1.3.2. Equality of opportunity and treatment (paragraphs 21-23 of the Declaration: Survey question 8)

*Q.8 Has the government pursued policies designed to promote equality of opportunity and treatment with a view to eliminating all forms of discrimination in employment? If so, please explain briefly.*

*In the event of an affirmative reply, did the government pursue such policies in consultation with employers' and workers' organizations and multinational enterprises?*

Total No. of respondents: 147/169 (27 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 69/75 countries (9 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 32/39 countries (9 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 46/55 countries (9 of which responded in tripartite replies)</li> </ul>

- Governments from 69/75 countries (9 of which responded in tripartite replies)
- Employers' organizations from 32/39 countries (9 of which responded in tripartite replies)
- Workers' organizations from 46/55 countries (9 of which responded in tripartite replies)

- 76.** *Question 8.* Respondents from many countries reported that, during the reporting period, the government had pursued policies designed to promote equality of opportunity and treatment with a view to eliminating one or more forms of discrimination in

temporary workers); Dominican Republic (W) (development of subcontracting enterprises in special economic zones has created some jobs, but it is difficult to apply labour standards, especially unionization); Republic of Korea (W) (excessive competitiveness of MNEs produces "long-hour and low-wage working conditions").

<sup>347</sup> E.g., Belgium (G). See also Israel (W).

<sup>348</sup> South Africa (W – FEDUSA).

<sup>349</sup> Compare Jordan (G) with Bangladesh (G) and (E).

<sup>350</sup> Japan (G).

<sup>351</sup> E.g., Peru (G), Spain (G), Slovenia (G).

<sup>352</sup> Spain (E).

employment.<sup>353</sup> Many focused on the enactment of legal measures,<sup>354</sup> some on the adoption of policies,<sup>355</sup> others on the launching of programmes,<sup>356</sup> and a number on ratification of ILO Conventions.<sup>357</sup> However, some respondents, particularly workers' organizations pointed out gaps between theory and practice, such as situations in which discrimination persisted in fact but was prohibited by law.<sup>358</sup> Some workers' organizations viewed the government's policies, or lack of policies in this area with dissatisfaction.<sup>359</sup> Several respondents, primarily employers' organizations, considered that non-discrimination and equality were not an issue because no cases of discrimination were evident.<sup>360</sup>

77. Respondents emphasized gender equality and non-discrimination as a priority in legal measures and/or government policies addressing equal employment.<sup>361</sup> Other grounds of prohibited discrimination reported to be the focus of laws, policies and/or programmes during the reporting period included race and/or national or ethnic origin,<sup>362</sup>

<sup>353</sup> 71 countries: For a list of those respondents, see endnote 37.

<sup>354</sup> 82 respondents: 33 governments, 12 employers' organizations, 19 workers' organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 38.

<sup>355</sup> 46 respondents: 23 governments, 10 employers' organizations, 7 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 39.

<sup>356</sup> 36 respondents: 21 governments, 4 employers' organizations, 5 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 40.

<sup>357</sup> 9 respondents: 6 governments, 2 employers' organizations, 1 workers' organization. For a list of those respondents, see endnote 41.

<sup>358</sup> E.g., Democratic Republic of the Congo (E) and (W), Republic of Korea (W), Latvia (W), Mozambique (W), Nepal (W), Norway (G), Pakistan (W – PLF), Poland (W – OPZZ), Portugal (W), Togo (W – GSA).

<sup>359</sup> E.g., Angola (W), Bangladesh (W), Malta (W), Peru (W), Spain (W).

<sup>360</sup> E.g., Burkina Faso (E), Cape Verde (G), Gabon (E), Venezuela (E). See also Egypt (G) (constitutional protection so no need to pursue policies).

<sup>361</sup> E.g., Australia (G), Austria (G), Bahamas (G), Bahrain (G), Belgium (G), Brazil (G), Bulgaria (G), China (G), Cyprus (G), (W), Ecuador (G), El Salvador (G), Estonia (TP), Finland (TP), France (W), Germany (G), Greece (G), Hungary (TP), Ireland (W), Italy (G), (W), Japan (G), Kenya (G), Republic of Korea (G), (W), Kuwait (TP), Lithuania (G), (W), Mauritius (G), Mexico (G), (W), Republic of Moldova (G), Nicaragua (G), Norway (G), Panama (G), Peru (G), Philippines (G), Portugal (G), Romania (G), Singapore (G), Slovakia (TP), Slovenia (G), Spain (G), (E), Switzerland (G), (E), (W), Thailand (G), Trinidad and Tobago (E), Turkey (G), Ukraine (G), (E), United Kingdom (G), Zambia (E).

<sup>362</sup> E.g., Australia (G) (racism), Bahrain (G) (race), Belgium (E) and (W) (national origin), Brazil (G) (race), Bulgaria (G) (race and foreign workers), El Salvador (G) (race and national origin), Estonia (TP) (race), Finland (TP) ("origin"), Hungary (TP) (ethnic origin), Ireland (W) (race and "members of travelling community"), Italy (G) (race and ethnic origin), Kenya (G) (tribal origin and ethnic affiliation), Kuwait (TP) (national origin), Lithuania (G) (race), Mexico (G) (race), Nicaragua (G) (race), Norway (G) (race, national origin and colour of skin), Peru (G) (race, national origin, colour of skin and social origin), Portugal (G) (race and land of origin), Rwanda (G) ("ethnic identification has been abolished"), Singapore (G) (race, descent and place of birth), Turkey (G) (race and national origin), Ukraine (G) and (E) (race), United Kingdom (G) (race).

nationality,<sup>363</sup> disability,<sup>364</sup> religion,<sup>365</sup> age (including youth),<sup>366</sup> social status,<sup>367</sup> sexual orientation,<sup>368</sup> political opinion,<sup>369</sup> language,<sup>370</sup> xenophobia<sup>371</sup> and state of health.<sup>372</sup> A number of respondents addressed issues relating to discriminatory effects of family responsibilities on employment, including pregnancy and maternity, and parental leave for fathers and foster parents.<sup>373</sup> Others concentrated on part-time workers.<sup>374</sup> Particular vulnerable groups were noted, such as those living in less developed areas or previously disadvantaged groups.<sup>375</sup>

- 78.** Some respondents reported the ratification of ILO Conventions to eliminate discrimination during the reporting period, and one noted ratification of a relevant UN convention.<sup>376</sup> In addition to ratifications themselves, references were made to legislation adopted during the reporting period which was inspired by ratified ILO Conventions.<sup>377</sup> Several respondents referred to reports submitted to the ILO under article 22 or in the context of the follow-up to the Declaration on Fundamental Principles and Rights at Work.<sup>378</sup> One government

<sup>363</sup> E.g., Bahrain (G), Cameroon (W), Italy (G), Lithuania (G), Mexico (G), Ukraine (G), (E).

<sup>364</sup> E.g., Australia (G), Brazil (G), China (G), Costa Rica (G), Egypt (E), Finland (TP), Ireland (W), Jordan (G), (E), Republic of Korea, (G), (W), United Kingdom (G).

<sup>365</sup> E.g., Bahrain (G), Bulgaria (G), El Salvador (G), Estonia (TP), Finland (TP), Ireland (W), Italy (G), (W), Kuwait (TP), Lithuania (G), Mexico (G), Nicaragua (G), Peru (G), Portugal (G), Singapore (G), Turkey (G), Ukraine (G), (E).

<sup>366</sup> E.g., Australia (G), Finland (TP), Ireland (W), Kenya (G), Korea, Republic of (G) (W), Mexico (G), Peru (G), Portugal (G), United Kingdom (G).

<sup>367</sup> E.g., Mexico (G), Nicaragua (G), Peru (G), Turkey (G), Ukraine (G) (E).

<sup>368</sup> E.g., Denmark (TP), Ireland (W), Norway (G).

<sup>369</sup> E.g., El Salvador (G), Italy (G), (W), Kenya (G), Lithuania (G), Mexico (G), Nicaragua (G), Peru (G), Portugal (G), Ukraine (G), (E).

<sup>370</sup> E.g., Bahrain (G), Finland (TP), Singapore (G).

<sup>371</sup> E.g., Belgium (E), (W).

<sup>372</sup> E.g., Finland (TP).

<sup>373</sup> E.g., Australia (G), Cyprus (G), Japan (G), Spain (G), Republic of Moldova (G), Portugal (W).

<sup>374</sup> E.g., Cyprus (G) (ratification of ILO Convention), Germany (G) (EU standards).

<sup>375</sup> E.g., Costa Rica (G), Jordan (E) and South Africa (W – FEDUSA).

<sup>376</sup> Convention No. 100: Republic of Korea (G), Trinidad and Tobago (E); Convention No. 111: Bahrain (G), Indonesia (G), Republic of Korea (G), Sri Lanka (G), Zimbabwe (G); Convention No. 98: Switzerland (W), Zambia (E); Convention No. 87: Zambia (E); Convention No. 175: Cyprus (G); UN Convention (unspecified): Switzerland (W).

<sup>377</sup> E.g., Denmark (TP), Republic of Korea (G), Slovenia (G) (draft laws).

<sup>378</sup> E.g., article 22 reports under Convention No. 100 (Argentina (G) and New Zealand (G) and (W)) and Convention No. 111 (Argentina (G), Belgium (G), New Zealand (G), but see New Zealand

indicated that it had released a number of reports since 1996 canvassing discrimination issues in light of ILO Conventions, following wide consultation.<sup>379</sup> In another country, respondents described a Gender and Race programme, launched following the lodging of a complaint by the workers' representative regarding failure to comply with Convention No. 111.<sup>380</sup>

- 79.** Overall, the replies reflected diverse strategies adopted during the reporting period for the pursuit of employment equality. Legal measures ensuring equality or non-discriminatory treatment appeared in the form of constitutional provisions; provisions in general labour legislation; and/or specific laws on human rights and equal opportunity, sex discrimination, disability discrimination, or racial discrimination.<sup>381</sup> One government referenced measures granting preferences in public contract bids to enterprises with active policies for the advancement of women.<sup>382</sup> Another stated that its law on foreign investment contained clauses addressing non-discrimination.<sup>383</sup>
- 80.** In a number of countries, laws or regulations were aimed at particular causes or effects of discrimination, such as discriminatory job advertisements, wage disparity and social security measures.<sup>384</sup> A few respondents mentioned the incorporation of affirmative action and employment equity as well.<sup>385</sup> Collective agreements embodying the principle of non-discrimination were cited by a number of respondents.<sup>386</sup> Other respondents mentioned EU directives and European court rulings, as well as efforts at legal harmonization with EU legislation.<sup>387</sup>
- 81.** A number of respondents – primarily governments – provided examples of specific institutions established and measures taken to address equal opportunity and treatment issues. The institutions, established within government ministries or constituted as independent bodies, included labour inspectorates, ombudsmen, human rights and equal

(W)). See also CEACR: Individual observations concerning Convention No. 111 (New Zealand), 1998; Individual observations concerning Convention No. 100 (New Zealand), 1999.

<sup>379</sup> Australia (G).

<sup>380</sup> Brazil (G) and (E). The programme included a campaign increasing mediator awareness, statistical analyses for discrimination in the labour market, monitoring with the participation of women staff, and occupational guidelines and training projects, including a technical cooperation project with the ILO.

<sup>381</sup> See, e.g., note 377 *supra*.

<sup>382</sup> Austria (G).

<sup>383</sup> Bulgaria (G).

<sup>384</sup> E.g., Singapore (G) (guidelines), Slovakia (TP), Zimbabwe (G) (discriminatory job advertisements); Belgium (G), Mauritius (G) (wage regulation or review); Finland (TP), United Kingdom (social security).

<sup>385</sup> E.g., Malaysia (TP) (“social engineering”), South Africa (W – FEDUSA) (redress wrongs of past), South Africa (W – COSATU) (legislation on employment equity), Ukraine (G) and (E) (5 per cent reserved placement for population groups in need of social protection).

<sup>386</sup> E.g., Belgium (E) and (W) (national origin), Finland (TP) (incomes policy), Italy (W), Lithuania (W), Saint Vincent and the Grenadines (TP), Togo (G), (E) and (W), Ukraine (G) and (E).

<sup>387</sup> E.g., Belgium (G), Cyprus (G), Germany (G), Switzerland (W).

opportunity commissions, anti-discrimination boards, advisory units, research centres, and tripartite bodies.<sup>388</sup> Some respondents referred to publicly sponsored initiatives that concentrated on building capacity and incentives within the private sector. These included granting awards to enterprises that achieved gender equality, consulting and exchanging information with the business community, issuing guidelines, codes of practice or good business practice guides on non-discrimination, offering training and information services for businesses, visiting companies to discuss promotion of equal employment opportunity or conduct training programmes, and promoting women-owned enterprises.<sup>389</sup> Other government-sponsored measures comprised: studies and reports;<sup>390</sup> awareness campaigns to educate the social partners, public authorities, or the general public;<sup>391</sup> electronic databases and websites for information on relevant laws and programmes;<sup>392</sup> placement services for discriminated groups and hotlines for women at work,<sup>393</sup> financial aid for programmes aimed at gender equality,<sup>394</sup> and national action plans on the advancement of women.<sup>395</sup>

- 82. Question 8(bis).** In approximately half the countries with activity on employment equality issues, it was reported that the government pursued consultations with employers and workers in its pursuit of employment equality.<sup>396</sup> A much smaller number indicated that governments pursued such consultations with MNEs, either directly or through employers' organizations.<sup>397</sup> Also relevant to the issue of consultations are the various references made by respondents to collective bargaining agreements and initiatives with the private sector targeting employment equality and non-discrimination.<sup>398</sup>

<sup>388</sup> E.g., Australia (G) (Human Rights and Equal Opportunity Commission, National Committee on Human Rights Education, NSW: Anti-Discrimination Board), Austria (G) (Equal Treatment Council, Equal Treatment Commission), Brazil (G) (International Advisory Unit), Colombia (G) (labour inspectorate), Ecuador (G) (National Council for Women), Finland (TP) (Ombudsman for Aliens), Greece (G) (Research Centre for Equality), Latvia (W) (Tripartite Professional Education and Employment Sub-Council), United Kingdom (G) (Disability Rights Commission).

<sup>389</sup> E.g., Australia (G), Austria (G), Bahamas (G), Belgium (G), Costa Rica (G), Greece (G), Hungary (TP), Philippines (G), Portugal (G), (W), Singapore (G) (tripartite guidelines), Slovenia (G), United Kingdom (G).

<sup>390</sup> E.g., Australia (G), Finland (TP), Greece (G).

<sup>391</sup> E.g., Australia (G), Bahamas (G), Belgium (G), Ecuador (G), Greece (G), Malta (G).

<sup>392</sup> E.g., Australia (G), Ecuador (G), Greece (G).

<sup>393</sup> E.g., Costa Rica (G), Hungary (TP), respectively.

<sup>394</sup> E.g., Switzerland (G), (E) and (W).

<sup>395</sup> E.g., Austria (G), Panama (G).

<sup>396</sup> 60 respondents: 29 governments, 9 employers' organizations, 13 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 42.

<sup>397</sup> 11 respondents: 3 governments, 2 employers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 43.

<sup>398</sup> See notes 385 and 386 and accompanying text.



### 1.3.3. Security of employment (paragraphs 24-28 of the Declaration: Survey question 9)

*Q.9 Have any specific measures been taken by MNEs to provide secure and stable employment, as advocated in the Tripartite Declaration? If so, what are they?*

Total No. of respondents: 116/169 (24 of which responded in tripartite replies):	
■	Governments from 45/75 countries (8 of which responded in tripartite replies)
■	Employers' organizations from 29/39 countries (8 of which responded in tripartite replies)
■	Workers' organizations from 42/55 countries (8 of which responded in tripartite replies)

**83.** Some respondents, primarily governments and employers' organizations, perceived that MNEs had taken specific measures during the reporting period to supply secure and stable employment<sup>399</sup> or guaranteed stable employment through favourable terms or conditions.<sup>400</sup> A number of the respondents who specified that measures were taken by MNEs indicated that the measures were prescribed by law.<sup>401</sup> Some respondents, primarily workers' organizations, considered that MNEs had not taken such measures.<sup>402</sup> A number of respondents indicated that they had insufficient information to answer the question or were unaware of any such measures.<sup>403</sup> Still others believed the matter was specific to certain MNEs' social policy, or to specific sectors of operation.<sup>404</sup> One employers' organization believed that employment in MNEs was no less stable than that in national enterprises.<sup>405</sup>

**84.** The measures taken by MNEs to promote employment security were described in some of the replies. Some respondents, including a number of respondents from west Asian countries, pointed to higher wage levels, better social security and other benefits, fixed-term or indefinite contracts, and in-house training programmes.<sup>406</sup> However, one workers'

<sup>399</sup> 44 respondents: 17 governments, 15 employers' organizations, 4 workers' organizations, 8 respondents in tripartite replies. For a list of those respondents, see endnote 44.

<sup>400</sup> The following respondents specifically indicated that MNEs guarantee stable employment through favourable employment conditions (wages; long-term contracts): Bahrain (G), Egypt (E), Jordan (G), Jordan (E).

<sup>401</sup> 15 respondents: 7 governments, 4 employers' organizations, 1 workers' organization, 3 respondents in tripartite replies. For a list of those respondents, see endnote 45.

<sup>402</sup> 42 respondents: 8 governments, 2 employers' organizations, 22 workers' organizations, 10 respondents in tripartite replies. For a list of those respondents, see endnote 46.

<sup>403</sup> E.g., Australia (W), Barbados (E), Finland (TP), Hungary (TP – workers' view), Ireland (W), Romania (G), United Republic of Tanzania (W), Ukraine (G).

<sup>404</sup> E.g., Senegal (G) (social policy of MNE), Togo (W – CSTT) (only a few MNEs), Bulgaria (G) (sector-specific), Cyprus (G) (petroleum and banking sectors stable, tourism not), Hungary (TP) (employers' view that agricultural sector not stable), Slovakia (TP) (banking sector stable).

<sup>405</sup> E.g., Germany (E).

<sup>406</sup> E.g., Angola (G) (open-ended contracts), Bahrain (G) (MNEs offer "good and adequate" wages), Bangladesh (G) and (E) (MNEs provide better wages, incentives and facilities for workers), China (G) (MNEs generally apply the labour contract system); Egypt (E) (an MNE in the food industry provides employment contracts that ensure the interests of its staff, in accordance with

organization indicated that, though wages were higher, there was no job security.<sup>407</sup> Other MNE measures were reported to promote employment security during restructuring, such as small business start-up assistance to those taking early retirement, generous pension schemes, and notice of intention to close operations or compensation for non-provision of notice.<sup>408</sup>

- 85.** In contrast, a number of respondents gave examples of MNE relocation that were reported to negatively affect job stability.<sup>409</sup> Some others, mainly workers' organizations yet also employers' organizations, viewed MNEs as contributing to job flexibility or precariousness through practices that included subcontracting, contract or temporary labour, and daily wages employment.<sup>410</sup> One workers' organization considered that profit and economic survival were enterprise priorities, not stability of employment.<sup>411</sup> Another pointed to armed conflict as the fundamental cause of instability of employment in the country.<sup>412</sup>
- 86.** The significance of the collective bargaining agreement in incorporating employment security clauses was underscored by a number of respondents.<sup>413</sup> A few workers' organizations also emphasized the importance of the role of trade unions in assuring employment stability in MNEs.<sup>414</sup> On a cautious note, one workers' organization emphasized that collective bargaining agreements do not protect workers who must be flexible to constantly changing work conditions.<sup>415</sup>
- 87.** Although the survey question did not request such information, a number of respondents reported that the Government had taken measures to promote secure and stable

labour legislation; most contracts of employment with MNEs in petroleum sector are of indefinite duration; generous end-of-service compensation), Hungary (TP) (MNEs hire their employees for an indefinite period which offers security of continuous employment, although employers note that level of employment remains dependent on business results), Jordan (G) and (E) (social security, life insurance, health insurance, savings funds and housing facilities), Lebanon (G) (definite or indefinite contracts with the latter subject to statutory termination provisions), Sri Lanka (E) (in-house skills development training).

<sup>407</sup> Nepal (W).

<sup>408</sup> E.g., Kenya (G), Gabon (E). See also Republic of Korea (MNEs required to consult workers in lay-offs).

<sup>409</sup> E.g., Latvia (W), South Africa (W – COSATU). See also Belgium (G).

<sup>410</sup> E.g., India (G – conveying workers' view), Pakistan (W – NLF), Portugal (W) (unskilled labour), Philippines (G – conveying workers' view), Republic of Korea (W), Trinidad and Tobago (E) (contracts for employment, not of employment), Spain (W), Uganda (TP), Viet Nam (E).

<sup>411</sup> Lithuania (W – LPSS).

<sup>412</sup> Democratic Republic of the Congo (W).

<sup>413</sup> E.g., Barbados (G), Colombia (G), Italy (G) and (W), Kenya (G), Venezuela (E), Poland (W – OPZZ) (social pacts in privatized or acquired enterprises), Togo (G) and (E).

<sup>414</sup> E.g., South Africa (W – FEDUSA), Spain (W).

<sup>415</sup> Latvia (W).

employment.<sup>416</sup> In several cases, respondents referred to specific legislation that sought to protect workers from job instability or to mitigate its effects, particularly in situations of redundancies, whether they involved multinational or national enterprises. Those measures to mitigate effects included requirements for MNEs to give adequate notice or compensation for lay-offs, publicly sponsored training or retraining programmes, and public assistance programmes to welfare recipients or aspiring small business entrepreneurs.<sup>417</sup> In some countries, government efforts to limit unemployment caused by dismissals included consultation with the social partners and/or MNEs, in some cases resulting in action plans and commitments among those concerned.<sup>418</sup>

#### 1.4. Training (paragraphs 29-32 of the Declaration: Survey questions 10 and 11)

*Q.10 What role do MNEs have in human resources development and training, in particular in strengthening the training policies and systems in the host country at the national, sectoral and enterprise levels, and in the delivery of training?*

*Q.11 In the context of MNEs, are training policies elaborated, goals set and programmes implemented on a tripartite basis, where appropriate?*

Total No. of respondents: 152/169 (27 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 68/75 countries (9 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 37/39 countries (9 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 47/55 countries (9 of which responded in tripartite replies)</li> </ul>

- Governments from 68/75 countries (9 of which responded in tripartite replies)
- Employers' organizations from 37/39 countries (9 of which responded in tripartite replies)
- Workers' organizations from 47/55 countries (9 of which responded in tripartite replies)

88. *Question 10.* Overall, many respondents indicated that MNEs played a positive role during the reporting period in strengthening HRD and training policies and systems and/or in the delivery of training.<sup>419</sup> Others perceived that MNEs contributed to HRD or training of workers within their own enterprises but did not strengthen training policies and systems in the country generally.<sup>420</sup> A number of respondents considered that MNEs did not play a positive role in HRD and/or training in any respect.<sup>421</sup> Other respondents described HRD

<sup>416</sup> 26 respondents: 18 governments, 6 employers' organizations, 2 workers' organizations. For a list of those respondents, see endnote 47.

<sup>417</sup> E.g., Bahamas (G), Belarus (G), Kenya (G), Lebanon (G), Mexico (G), Peru (G), Portugal (G) (parliamentary resolution), Singapore (G), South Africa (E), Switzerland (E).

<sup>418</sup> E.g., Philippines (G) (discussions with MNEs and social partners on how to reconcile government's full employment policy with increasing subcontracting and other flexible labour arrangements), South Africa (E) (involving MNEs in a social plan aimed at minimizing and mitigating social costs of retrenchments), Spain (G) (tripartite umbrella agreement for employment stability).

<sup>419</sup> 115 respondents: 48 governments, 21 employers' organizations, 25 workers' organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 48.

<sup>420</sup> China (G), Ecuador (G); Barbados (W), France (W – CFE-CGC), Nepal (W); Estonia (TP), Finland (TP), Slovakia (TP).

<sup>421</sup> Belarus (G), Republic of Moldova (G), Romania (G), Ukraine (G); Lithuania (E), Ukraine (E), Zambia (E); Dominican Republic (W), Germany (W), Lithuania (W – LPSS), Pakistan (W – PLF), Peru (W), Togo (W – GSA); Saint Vincent and the Grenadines (TP).

and/or training activities of MNEs in the country without stating whether their role was positive or not.<sup>422</sup> Several respondents indicated that MNEs took advantage of existing locally skilled workers without investing adequately in training in the country.<sup>423</sup> In countries in which the government had not developed HRD and training policies, the role of MNEs in HRD and training was reported to be limited or non-existent.<sup>424</sup> However, a few respondents reported that MNEs had stimulated the development of national policies in HRD and/or training.<sup>425</sup> Comparisons of MNE contributions in HRD and training to those of their national counterparts spanned opinions that MNEs' roles were similar,<sup>426</sup> more involved,<sup>427</sup> or less active than national enterprises.<sup>428</sup>

- 89.** The responses presented a diversity of legal and policy frameworks within which MNEs contributed to HRD and training policies and systems and delivered training. A few governments referred to the country's obligations under the Human Resources Development Convention, 1975 (No. 142) or to reports submitted to the ILO thereunder.<sup>429</sup> Some respondents noted that HRD and training activities of MNEs were statutorily required under specific laws on HRD or training and/or education, or labour laws with provisions aimed at enhancing HRD or skills training.<sup>430</sup> A number of respondents, particularly in developing countries, reported that MNEs made compulsory contributions to funds or authorities established under law to promote HRD and/or training in the country, sometimes in the context of unemployment.<sup>431</sup> MNEs' contributions to general tax revenues were also considered supportive of HRD and training systems;<sup>432</sup> a

<sup>422</sup> E.g., Ghana (W), Morocco (W).

<sup>423</sup> See, e.g., Republic of Moldova (G), Romania (G), Togo (W – GSA), South Africa (W – COSATU) (“poach” skilled labour), Viet Nam (E) (some MNEs attract skilled workers from local enterprises by unfair means). See also Turkey (E).

<sup>424</sup> Nepal (W), Rwanda (W), Zambia (E).

<sup>425</sup> E.g., El Salvador (G), Venezuela (E).

<sup>426</sup> E.g., Australia (W), Cyprus (W), Eritrea (G), Germany (E), Guatemala (E), Spain (W), Switzerland (W), Turkey (G).

<sup>427</sup> E.g., Lithuania (G), Morocco (W) (MNEs), Canada (E) and Finland (TP) (MNEs included generally in comparison of larger and smaller enterprises, whether national or multinational).

<sup>428</sup> Austria (G), Switzerland (G).

<sup>429</sup> E.g., Cyprus (G), Lithuania (G), and Netherlands (G) (report).

<sup>430</sup> E.g., Antigua and Barbuda (G) and (E), Bahrain (G), Canada (E), Colombia (G), Kuwait (TP), Mexico (G) (including reporting and registration by MNEs on technology training), Netherlands (G), Norway (G), Panama (G), Thailand (G), Turkey (G), South Africa (E) and (W – COSATU) (prospective law).

<sup>431</sup> Brazil (G), Bulgaria (G), Côte d'Ivoire (G), Cyprus (W), Kenya (G), Republic of Korea (G), Malaysia (TP), Mauritius (G), Nicaragua (G), South Africa (E), Switzerland (G), United Republic of Tanzania (W).

<sup>432</sup> E.g., South Africa (E), Uganda (TP).

few respondents reported the use of incentives such as tax deductions for training expenses.<sup>433</sup>

- 90.** In a number of countries, tripartite framework agreements addressed HRD and/or training policies and systems.<sup>434</sup> Various respondents described a range of tripartite mechanisms that were established to direct HRD and training policy and systems. See box 1.4.1: *HRD and training policies, goals and programmes: Selected experiences in tripartism*. A number of respondents noted that collective bargaining agreements incorporated HRD and/or training commitments.<sup>435</sup> Several respondents reported that, in the context of investment contracts with host governments, MNEs undertook obligations to support HRD and training activities in money or in kind.<sup>436</sup>
- 91.** The reports described MNEs' activities in relation to a variety of institutional mechanisms addressing HRD and training policies. In some countries, MNEs held consultations with public authorities on training policies and systems.<sup>437</sup> Various respondents reported that MNEs collaborated with national or local-level educational institutions and/or participated in HRD and training plans and programmes.<sup>438</sup> A number of respondents, primarily governments, reported that MNEs participated in apprenticeship programmes.<sup>439</sup> Several respondents reported that MNEs and public authorities jointly administered HRD and/or training programmes<sup>440</sup> or that MNEs joined in publicly sponsored programmes that were funded by multilateral organizations.<sup>441</sup> One respondent indicated that MNEs delivered nationally recognized training as publicly approved registered training organizations; registration provided eligibility to receive government funding.<sup>442</sup> A number of respondents noted that MNEs' participation in training policies, systems and delivery was

<sup>433</sup> E.g., Mauritius (G), Philippines (G).

<sup>434</sup> E.g., Australia (G) (New South Wales), Bulgaria (G), Italy (G), Netherlands (G), Spain (G) and (W).

<sup>435</sup> E.g., Bahamas (G), Germany (W), Italy (W), Mexico (G) (by law, collective agreements must address training), Spain (E), United Republic of Tanzania (W), Venezuela (E).

<sup>436</sup> E.g., Angola (G) (oil and gas), Egypt (E) (oil and gas), Nicaragua (G) (infrastructure and technology used in training), Portugal (G).

<sup>437</sup> E.g., Cape Verde (G), Kenya (G), Philippines (G).

<sup>438</sup> E.g., Argentina (G), Barbados (E), Jordan (G), Nicaragua (G), Panama (G), Singapore (G) (exchange of HRD and skills expertise in context of award programmes and on-the-job training plan), Trinidad and Tobago (E).

<sup>439</sup> E.g., Bahamas (G) (sectoral and enterprise level), Brazil (G) (sectoral focus), El Salvador (G) (legally recognized label to stimulate apprenticeships), Guatemala (G), Indonesia (G), Mauritius (G), Netherlands (G), Panama (G), Philippines (G), Switzerland (G) and (E), Turkey (G), Zimbabwe (G).

<sup>440</sup> E.g., Australia (G), Costa Rica (G) (MNEs and government with academic and employers' groups), Egypt (E) (MNE staff with national petroleum company staff), Italy (G) (MNEs co-finance EU-funded training), Thailand (G) (joint ventures between MNEs and state enterprises in HRD and cooperation between MNEs and government in skills development).

<sup>441</sup> E.g., Madagascar (W) (World Bank), Italy (G) (European Social Fund), Portugal (W) (EU), Hungary (TP) (EU Phare), Kenya (G) (ILO/UNDP).

<sup>442</sup> Australia (G – Victoria).

pursued in the context of relevant activities of employers' organizations.<sup>443</sup> MNEs were also reported to contribute to training policies and operations influenced by European Works Councils in certain countries, including a respondent from one African country which indicated that training policies, goals and programmes were set and carried out within MNEs on a bipartite basis, without government intervention, based on the example of European Works Councils.<sup>444</sup>

<b>Box 1.4.1</b> <b>HRD and training policies, goals and programmes: Selected experiences in tripartism</b>	
<i>Respondent(s)</i>	<i>Tripartite mechanism(s)</i>
Australia (G)	Industrial advisory boards at provincial levels (New South Wales, Victoria)
Barbados (G) and (E)	MNEs represented as members of employers' organizations in training council
Brazil (G) and (E)	Municipal and state-level employment and earnings commissions directing public employment and earnings policies, including allocation of compulsory funds to employment
Cyprus (W)	Industrial Training Authority funded by MNE and national enterprise payroll contributions subsidizing training courses at social partners' training centres
Ecuador (G)	Vocational Training Department designed to meet needs of MNEs and country as a whole
India (G)	National tripartite bodies that steer and manage vocational training programmes
Indonesia (G)	National Training Council (training policy) and regional training commissions (delivery of training services)
Italy (G), (W)	Conciliation, policy and guidance centres with geographic and sectoral approach based on tripartite agreements
Republic of Korea (G)	Vocational Training Deliberation Committee (training policy)
Latvia (W)	National-level council for training programme design
Lithuania (G), (W – LPSS)	Training policy and programmes in two tripartite bodies but, according to Lithuania (W – LPSS), not specific to MNEs
Mexico (G)	Consultation on training strategies in Modernization and Integral Quality Programme
Netherlands (G)	Policy agenda and practical training courses and certification based on tripartite agreement and partnerships
Nicaragua (G)	Oversight of vocational training through the Vocational Training Management Board with national and multinational enterprise representatives
Philippines (G)	Government training authority steered by tripartite board "dominated by private sector"
Romania (G)	Tripartite council for adult vocational training
Singapore (G)	Skills Redevelopment Programme as partnership among trade unions, government and companies
Spain (G, W)	Definition and management of training based on national agreements in which some MNEs participate by obtaining approval of their enterprise training plans and receiving financing, so long as bilateral (employer-worker) cooperation is involved.

**92.** Several respondents expressed dissatisfaction with the level of cooperation between MNEs and public authorities in the area of HRD and training; a few of these took the view that

<sup>443</sup> E.g., Bangladesh (G) and (E), Barbados (G) and (E), Bulgaria (G) (business association), Finland (TP), Gabon (E), Ireland (W).

<sup>444</sup> E.g., Austria (G), Belgium (G) (potential), Burkina Faso (E), Hungary (TP – workers' view), Denmark (TP).

MNEs assumed the public sector should be responsible for training or retraining.<sup>445</sup> In contrast, one respondent believed that, since training was funded by the State, MNEs preferred involvement in training policies and planning over in-house training.<sup>446</sup>

- 93.** Some respondents, primarily governments, noted, generally, the role of MNEs in HRD and training at sectoral level.<sup>447</sup> One government reported that MNEs had introduced industry-wide HRD models;<sup>448</sup> in contrast, another expressed the need for MNEs to operate at national and sectoral level as well as enterprise level.<sup>449</sup> Other respondents gave examples of industries which required specific skills in which MNEs were reported to provide sectorally based training. See box 1.4.2: *MNEs, HRD and training: Sectoral applications*. One respondent noted that, where no specific skills were needed, no training was given.<sup>450</sup> One respondent reported that the training situation had deteriorated in the postal and telecommunications sector but a collective agreement on training was recently concluded.<sup>451</sup>
- 94.** A number of survey respondents reported that MNEs provided training to their own workers.<sup>452</sup> Some respondents reported that MNEs used in-house or on-the-job training.<sup>453</sup> A number of respondents reported that MNEs sent their staff abroad for training purposes and/or to local institutions or courses.<sup>454</sup> Specific subject-areas included management skills, foreign languages, quality assurance and environmental standards, and advanced technology, including computers.<sup>455</sup> Examples were given of the level of MNE training of

<sup>445</sup> E.g., Estonia (TP), Finland (TP), Switzerland (G) but see Switzerland (E) (training is decision of enterprise alone).

<sup>446</sup> Turkey (E).

<sup>447</sup> E.g., Australia (G), Canada (E) (MNEs participate in industry associations), Mauritius (G), Singapore (G), United Kingdom (G) (employer-driven network of national training organizations), Singapore (G), Philippines (G).

<sup>448</sup> Spain (G).

<sup>449</sup> Bulgaria (G).

<sup>450</sup> Hungary (TP – workers' view) (textile and apparel industry).

<sup>451</sup> Germany (W).

<sup>452</sup> 87 respondents: 35 governments, 16 employers' organizations, 18 workers' organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 49.

<sup>453</sup> 83 respondents: 31 governments, 16 employers' organizations, 18 workers' organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 50.

<sup>454</sup> E.g., Bulgaria (G), Cameroon (W), Guatemala (G), Kenya (G), Philippines (G), Lebanon (G), Lithuania (W – LPSS), Malaysia (TP), Oman (E), Sri Lanka (G), Trinidad and Tobago (E), Viet Nam (E).

<sup>455</sup> E.g., Bulgaria (G) (software training), Croatia (W) (computer applications and foreign languages), Hungary (TP) (ISO 9002, 14001 and QS 900), Philippines (G) (quality management), Thailand (G) (advanced technology) and United Kingdom (G) (assessment certification).

direct employees.<sup>456</sup> One respondent noted indirect training which occurred through MNEs' supplier networks.<sup>457</sup>

Box 1.4.2 MNEs, HRD and training: Selected sectoral applications		
Sector	Respondent	Applications
<i>Industry</i>		
Construction	Latvia (W)	Training offered
	Switzerland (G)	Programme jointly funded and managed by social partners for vocational training
Food, drink, tobacco	Latvia (W)	Training offered
Mechanical and electrical engineering	Singapore (G)	DVD technology
Mining	Hungary (TP)	Training limited to jobs requiring (workers' view) specialized knowledge
Oil and gas production, oil refining	Angola (G)	MNE-employed engineers teach local classes
	Egypt (G)	Industry seminars
Textiles, clothing, leather, footwear	Madagascar (W)	HRD programme
	Thailand (G)	MNE/government agreement to train and then employ workers
Transport equipment manufacture	Hungary (TP) (workers' view)	Professional and language training
<i>Public and private services</i>		
Financial services, professional services	Burkina Faso (E)	Financial services
	Bahrain (G)	Enterprise-level training programmes
Hotels, tourism, catering	Bulgaria (G)	Vocational training on bilateral basis
	Turkey (G)	Activities to transfer know-how

95. *Question 11.* Some respondents reported that HRD and/or training policies were elaborated, goals set and programmes implemented on a tripartite basis, where appropriate.<sup>458</sup> Tripartite collaboration in HRD and/or training policies, goals and programmes occurred in various forms, including framework agreements and councils, boards or other entities which directed HRD and training policies on a tripartite basis. See discussion above, and box 1.4.1: *HRD and training policies, goals and programmes: Selected experiences in tripartism.*

<sup>456</sup> E.g., Mexico (G) (training of some 2 million workers in 1999), Australia (G) (over 80 per cent of large enterprises provided training to employees in 1996), Hungary (TP – employers' view) (3-8 per cent of annual wage costs go to training), Hungary (TP – workers' view) (30 per cent of MNEs have training policies but content is not defined with workers' organizations), Singapore (G) (many MNEs exceed national training budget average of 3.6 per cent of annual payroll).

<sup>457</sup> Canada (E).

<sup>458</sup> 48 respondents: 24 governments, 9 employers' organizations, 9 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 51.



96. A number of respondents expressed the opposite view – that HRD and training policies, goals and programmes were not pursued on a tripartite basis.<sup>459</sup> In this respect, one workers' organization wondered whether the capitalism driving globalization could ever accommodate tripartism.<sup>460</sup> Others indicated that no tripartite approach was used by MNEs in pursuing their corporate HRD and/or training policies.<sup>461</sup> However, several respondents noted that MNEs and workers' organizations negotiated or collaborated on training matters at enterprise level.<sup>462</sup>

## 1.5. Conditions of work and life: Survey questions 12, 13, 14, and 15

### 1.5.1. Wages, benefits and conditions of work (paragraphs 33-35 of the Declaration: Survey questions 12, 13, 15)

*Q.12 Are wages, benefits and conditions of work in MNEs not less favourable than those offered by comparable employers in your country?*

*Q.13 Please describe measures, if any, taken by the government to enable lower income groups and less developed areas to benefit from MNE activities.*

*Q.15 Are wages and working conditions determined through collective agreements? In the event of a negative reply, why not?*

Total No. of respondents: 161/169 (30 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 72/75 countries (10 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 38/39 countries (10 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 51/55 countries (10 of which responded in tripartite replies)</li> </ul>

- Governments from 72/75 countries (10 of which responded in tripartite replies)
- Employers' organizations from 38/39 countries (10 of which responded in tripartite replies)
- Workers' organizations from 51/55 countries (10 of which responded in tripartite replies)

97. *Question 12.* Many respondents reported that wages, benefits<sup>463</sup> and/or conditions of work<sup>464</sup> in MNEs were equal to or better than those of comparable employers in the country, some with qualifications discussed below. A comparatively small number of respondents indicated wages, benefits<sup>465</sup> and/or conditions of work in MNEs<sup>466</sup> were less

<sup>459</sup> 46 respondents: 11 governments, 5 employers' organizations, 18 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 52.

<sup>460</sup> Cameroon (W).

<sup>461</sup> E.g., Hungary (TP), Malaysia (TP).

<sup>462</sup> E.g., Bulgaria (G), Burkina Faso (E), Croatia (W), Italy (W), Jordan (E), Mauritius (G), Poland (W – NSZZ Solidarność), Switzerland (W), Venezuela (E). See also Spain (G) (tripartite review and funding of MNE training plans with bipartite cooperation).

<sup>463</sup> 115 respondents: 44 governments, 20 employers' organizations, 24 workers' organizations, 27 respondents in tripartite replies. For a list of those respondents, see endnote 53.

<sup>464</sup> 104 respondents: 41 governments, 18 employers' organizations, 24 workers' organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 54.

<sup>465</sup> 5 respondents: 1 employers' organization, 4 workers' organizations. For a list of those respondents, see endnote 55.

favourable than those of comparable employers in the country. However, one respondent indicated there were no comparable employers in the country<sup>467</sup> and another referred to organizations operating under the UN system as comparable employers in the country.<sup>468</sup> A number of respondents indicated that no distinctions between MNEs and national enterprises were made in their workplace relations systems or data collection,<sup>469</sup> or that laws involving wages, benefits and/or conditions of work applied equally to MNEs and national enterprises.<sup>470</sup>

- 98.** Some respondents qualified their views about MNE practices relating to wages, benefits and working conditions in comparison with those of comparable local employers. A number of the experiences were said to be sector-specific.<sup>471</sup> A workers' organization indicated that wages and conditions varied from workplace to workplace with some "very positive examples" as well as "negative phenomena";<sup>472</sup> examples of company-specific problems were provided by another workers' organization.<sup>473</sup> Yet another stated that better wages were given by MNEs to 10 per cent of the "trusted elite" while 90 per cent of the workers received precarious pay.<sup>474</sup> Two others indicated that, while wages were higher, piece-rate systems or reduced working hours created reduction in overall wage payments.<sup>475</sup> Respondents from two countries noted that, while wages and conditions of work were better in MNEs, pressure was greater in the MNE workplace; a government in a third country was said to have endorsed a bonus payment system for "hard work conditions".<sup>476</sup> One government mentioned that the payment of higher wages in MNEs made their relocation all the more painful.<sup>477</sup>
- 99.** Factors influencing the conclusion of agreements on wages, benefits and conditions of work were pointed out by a number of respondents. These conditions included size or

<sup>466</sup> 5 respondents: 1 government, 1 employers' organization, 3 workers' organizations. For a list of those respondents, see endnote 56.

<sup>467</sup> Dominican Republic (W) (mining sector).

<sup>468</sup> Burkina Faso (E).

<sup>469</sup> E.g., Australia (G), Sweden (TP), Brazil (G) and (E).

<sup>470</sup> E.g., Austria (G), Madagascar (W), Mauritius (G), Netherlands (G), Spain (G) and (E), Turkey (G).

<sup>471</sup> E.g., Austria (W), Barbados (W), Bulgaria (G), Egypt (E), Guatemala (G), Hungary (TP), South Africa (W – COSATU), United Republic of Tanzania (W), Togo (W), Turkey (W).

<sup>472</sup> Poland (W – NSZZ Solidarność).

<sup>473</sup> France (W – CGT).

<sup>474</sup> Peru (W).

<sup>475</sup> Austria (W) and France (W – CGT) (attaching examples), respectively.

<sup>476</sup> Hungary (TP – employers' and workers' views), Republic of Korea (W), Lithuania (E) (bonus payment system).

<sup>477</sup> Belgium (G).

resource base of enterprise,<sup>478</sup> sector of operation,<sup>479</sup> and country of operation, including its labour market conditions or foreign exchange rates.<sup>480</sup> Several respondents indicated that higher productivity or more qualified staff in MNEs brought higher wages.<sup>481</sup> Some noted that laws on minimum wage or conditions of work provided at least a floor for wages and working conditions.<sup>482</sup> In two countries, respondents differed as to the level of increased wages provided by MNEs compared with comparable employers in the country.<sup>483</sup>

- 100. Question 15.**<sup>484</sup> Some respondents reported that wages are determined through collective agreements in general; others specifically indicated that was the case where unions existed.<sup>485</sup> A number stated that wages were not determined by collective agreement for reasons discussed in the following paragraph.<sup>486</sup> Working conditions were treated similarly to wages in collective agreements,<sup>487</sup> with a number of respondents indicating that conditions of work were not determined through collective agreements,<sup>488</sup> as

<sup>478</sup> E.g., Brazil (E) (more determinative than nationality of enterprise; noting also position in sector as factor and citing research), Bangladesh (G) and (E) (study by employers' organization in 1998 showed wage increases below rate of inflation but offset by profit-sharing schemes), Bulgaria (G), Italy (G), South Africa (W – FEDUSA) (larger resource base brings better wages and conditions of work), Switzerland (E).

<sup>479</sup> E.g., Australia (W), Barbados (W), Bulgaria (G), Egypt (E), Guatemala (G), Senegal (G), South Africa (W – COSATU), United Republic of Tanzania (W), Turkey (W).

<sup>480</sup> E.g., Bulgaria (G) (same MNEs pay higher wages elsewhere), Mozambique (W) (MNEs in same sector pay more elsewhere), Senegal (G) (local labour market conditions), South Africa (W – FEDUSA) (local cost of labour, foreign exchange rates), Togo (W – GSA) (wages conform to national employment conditions), Zimbabwe (G) (market wages not paid due to high unemployment).

<sup>481</sup> E.g., Italy (G) and (W), Peru (W) (management "elite"), Slovenia (G) (more qualified employees), United Kingdom (G) (inward investors – productivity and skilled workers).

<sup>482</sup> E.g., Belgium (E) and (W) (EU directives on part-time and fixed-term work and collective agreement on stress at work), Kuwait (TP) (national laws set minimum working conditions), Lithuania (G) (law on wages sets minimum wage standards and labour conditions), Mauritius (G), New Zealand (G) (wages, benefits and working conditions minimum standards are set out in employment legislation), Thailand (G), Trinidad and Tobago (E) (minimum wage law), Switzerland (G), Zambia (E).

<sup>483</sup> Hungary (TP – government, employers' and workers' views differ), Philippines (G – reporting conflicting workers' view).

<sup>484</sup> Question 15 is taken with Question 12 due to their closely connected subject matter.

<sup>485</sup> 105 respondents: 41 governments, 18 employers' organizations, 25 workers' organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 57.

<sup>486</sup> 12 respondents: 4 governments, 1 employers' organization, 4 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 58.

<sup>487</sup> 97 respondents: 35 governments, 18 employers' organizations, 23 workers' organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 59.

<sup>488</sup> 13 respondents: 6 governments, 1 employers' organization, 3 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 60.

discussed in the following paragraph. Several respondents noted that enterprise-level collective bargaining agreements did not cover all workers; for example, temporary or contract workers were reported to not be covered, even where a collective bargaining agreement existed in the workplace, nor were professional and management workers.<sup>489</sup> Similarly some respondents specified the number or percentage of workplaces covered by collective bargaining agreements in the country.<sup>490</sup> A number also indicated variation by sector of operation of MNE.<sup>491</sup>

- 101.** Some respondents explained that MNE wages, benefits and/or working conditions were subject to or supplemented by sectoral, branch, or inter-occupational agreements negotiated at bipartite or tripartite levels.<sup>492</sup> Others indicated that the legal regulation of minimum wages<sup>493</sup> or conditions of work<sup>494</sup> served as the floor for the negotiation of collective agreements on the subject; one workers' organization indicated that legal minimum wage rates placed workers at a disadvantage in negotiating since MNEs stuck to the legal rate.<sup>495</sup> Another noted that collective sector agreements, even if not directly applicable to an MNE, could be applied to MNEs through the issuance of government order.<sup>496</sup> Individual contracts between employer and employee were said to be used by some along with and/or in competition with collective bargaining.<sup>497</sup> One respondent took the view that collective bargaining agreements in at least one sector of MNE operation offered more benefits than those in individual contracts.<sup>498</sup> A respondent from one country noted that a union role in negotiating wages was disappearing as a result of more flexible

<sup>489</sup> E.g., South Africa (W – FEDUSA), Venezuela (E).

<sup>490</sup> E.g., Morocco (W) (only 40 enterprises covered), Switzerland (G) (about half of Swiss workers covered), Turkey (E) (a majority of MNEs participate in collective bargaining).

<sup>491</sup> On the positive side, see, e.g., Lebanon (G) (banking), Mexico (G) (chemicals and pharmaceuticals; *maquilas*). On the negative side, see, e.g., Barbados (W) (offshore workers), Dominican Republic (W) and United Republic of Tanzania (W) (economic zones). See also Belgium (G) (good social dialogue in paper industry).

<sup>492</sup> E.g., Belgium (G) (negotiated inter-trade minimum wage may be wiped out if unfavourable employment trend is sustained), Burkina Faso (E), Ecuador (G), Finland (TP), Greece (E), Mauritius (G), Portugal (W), Slovenia (G), South Africa (E), Switzerland (E), Togo (G), (W x 2), Ukraine (G) and (E), Germany (E), Italy (G) and (W).

<sup>493</sup> 16 respondents: 13 governments, 3 respondents in tripartite replies. For a list of those respondents, see endnote 61.

<sup>494</sup> 19 respondents: 15 governments, 1 employers' organization, 3 respondents in tripartite replies. For a list of those respondents, see endnote 62.

<sup>495</sup> Sri Lanka (W – LJEWU).

<sup>496</sup> Portugal (W).

<sup>497</sup> Australia (G), New Zealand (G) and (E) (49 per cent covered by individual contracts, 49 per cent by collective agreements), Norway (G) (but wages for most workers covered by collective agreements), Singapore (G). See also Pakistan (W – PLF) (labour contracts used in place of collective agreements increasingly).

<sup>498</sup> Lebanon (G) (banking sector).

labour law provisions,<sup>499</sup> and in another, a workers' organization noted that some MNEs interfered with the collective bargaining by seeking to undermine labour legislation.<sup>500</sup>

- 102.** *Question 13.* Some survey respondents reported that measures were taken by the government during the reporting period to enable less developed areas and/or lower income groups to benefit from MNE activities.<sup>501</sup> A number of others indicated that the government had not taken such measures.<sup>502</sup>
- 103.** The types of measures taken by the government to enable less developed areas and/or lower income groups to benefit from MNE activities were described as including government incentives offered to MNEs to locate in disadvantaged areas, such as tax or customs duty exemptions, grants and loans, reduced insurance fees, and other fiscal incentives.<sup>503</sup> Governments were also reported to seek a strengthening of infrastructure in remote areas, such as improved access and communications facilities,<sup>504</sup> and to set up industrial parks or free zones in disadvantaged areas.<sup>505</sup> Other measures were said to include a job-creation fund to provide public services and infrastructure, provision of land, deregulation, and the establishment of targeted government programmes.<sup>506</sup> Several mentioned promoting linkages with national enterprises, including by ensuring a market for local goods and services.<sup>507</sup>
- 104.** Three respondents questioned the wisdom of some of these measures. One mentioned that such incentives involved the government paying a high price without returns, and were "very risky and may lead to government-generated distortions in the market as well as undesirable consequences such as tax wars".<sup>508</sup> Two employers' organizations indicated that the incentive schemes had not been successful, one explaining that MNEs are not

<sup>499</sup> Peru (G).

<sup>500</sup> South Africa (W – COSATU).

<sup>501</sup> 55 respondents: 27 governments, 9 employers' organizations, 10 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 63.

<sup>502</sup> 32 respondents: 5 governments, 5 employers' organizations, 13 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 64.

<sup>503</sup> E.g., Estonia (TP), France (W – CFE-CGC), Guyana (G), Italy (G) and (W), Jordan (G) and (E), Romania (G) (tax exemptions conditions on creation of new jobs), Slovakia (TP), Sri Lanka (G), (E) and (W – CWC), Spain (W), Turkey (G), United Kingdom (G), Zimbabwe (G).

<sup>504</sup> E.g., Kenya (G), Mexico (G).

<sup>505</sup> Barbados (G), accord Barbados (E), Belarus (G), Costa Rica (G), El Salvador (G), Nicaragua (G), South Africa (E), Sri Lanka (G), Philippines (G) (notably combined with efforts to enhance linkages, skills, employment facilities and infrastructure services), Poland (G).

<sup>506</sup> Australia ("Invest Australia"), South Africa (E) (job creation fund), Spain (W) (provision of land among other measures of competing regions), Mexico (G) (deregulation), New Zealand (G) and (E) (regional commissioners).

<sup>507</sup> E.g., Bahamas (G), Hungary (TP – employers' view), Latvia (W), Philippines (G).

<sup>508</sup> Brazil (G).

“charitable organizations” and it was “understandable that they should not have a particular fondness for lower income groups and less developed areas”.<sup>509</sup>

**105.** One respondent expressed the wish that local communities were consulted prior to establishment of measures to encourage industrial establishment in lower developed areas.<sup>510</sup> Specific measures targeting lower income job candidates included providing access to vocational training, educational, rehabilitation and social welfare facilities, dealing with crime and health obstacles, and wage subsidies to business, including MNEs, to assist long-term and disadvantaged jobseekers.<sup>511</sup>

#### 1.5.2. Safety and health (paragraphs 36-39 of the Declaration: Survey question 14(a), (b), (c))

*Q.14 (a) Have the activities of MNEs caused any safety or health problems? If so, please identify them and indicate what is or is not being done by MNEs.*

*(b)(i) Do MNEs maintain high standards of safety and health in conformity with national standards?*

*(ii) Is their practice in this regard less favourable or better than that of comparable employers in the country?*

*(c) Have matters related to safety and health been incorporated, where appropriate, in agreements with the representatives of workers and their organizations in your country?*

Total No. of respondents: 157/169 (30 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 69/75 countries (10 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 38/39 countries (10 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 48/55 countries (10 of which responded in tripartite replies)</li> </ul>



**106.** *Question 14(a).* Many respondents indicated that the activities of MNEs had not caused any particular safety or health problems.<sup>512</sup> In contrast, a number of respondents reported particular problems resulting from MNE operations, which are detailed below.<sup>513</sup> Environmental problems affecting the health and safety of workers, residents and communities were mentioned by various respondents, particularly in developing countries.<sup>514</sup> Preventive and/or remedial measures in response to the reported problems

<sup>509</sup> Burkina Faso (E), Venezuela (E).

<sup>510</sup> Malaysia (TP – workers' view).

<sup>511</sup> E.g., Bahrain (G), Jordan (G), Bangladesh (G) and (E), Ireland (W), Oman (E), New Zealand (G), United Kingdom (G).

<sup>512</sup> 66 respondents: 26 governments, 16 employers' organizations, 15 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 65.

<sup>513</sup> 18 respondents: 8 governments, 1 employers' organization, 9 workers' organizations. For a list of those respondents, see endnote 66.

<sup>514</sup> 14 respondents: 6 governments, 5 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 67.

were discussed in some of the cases reported.<sup>515</sup> A few respondents noted that they had insufficient information to answer the question, either because distinctions between MNE operations and other enterprises were not observed or statistical data was not collected specific to OSH problems in MNEs.<sup>516</sup> One respondent took the view that OSH problems depended on the size of the company involved, as well as the level of resources available and activity of the labour inspectorate in the country.<sup>517</sup>

**107.** Some respondents, particularly governments and workers' organizations, reported problems involving OSH and the environment caused by MNE activities, either in general or by specific sector of operation.<sup>518</sup> General comments noted the long hours and pressured work rates required by some MNEs, which were said to cause illnesses such as headaches, fatigue, flu and muscular disorders.<sup>519</sup> Some problems were attributed to poor ventilation and sanitary facilities, outdated machinery, exposure to hazardous substances, and lax monitoring of the environment.<sup>520</sup> Pollution of the environment resulting in damage to health and work was noted in a number of responses.<sup>521</sup> Several workers'

<sup>515</sup> 13 respondents: 7 governments, 2 employers' organizations, 4 workers' organizations. For a list of those respondents, see endnote 68.

<sup>516</sup> E.g., Hungary (TP), Netherlands (G), Nepal (W).

<sup>517</sup> Spain (W).

<sup>518</sup> Agriculture; plantations, other rural sectors: Guatemala (G) (fungicide and lack of preventive measures; remedial measures: safety and health committees, enterprise strategies to prevent or control hazards, training, monitoring and reporting of accidents); Panama (G) (use of polluting substances with negative effects on workers); Basic metal production: Trinidad and Tobago (E) (accident(s), but OSH standards high in MNEs); Construction: Sri Lanka (G) (accidents attributed in part to some subcontractors); Chemical industries; oil and gas production: Bulgaria (G) ("totally insufficient" preventive measures); South Africa (W – FEDUSA) (exposure to asbestos); Kenya (G) (OSH problems); Sri Lanka (G) (workers reluctant to wear protective gear against ionizing radiation, benzene, with resulting occupational cancer); Trinidad and Tobago (E) (accident(s) causing loss of life and limb, but OSH standards higher in MNEs); United States (W) (lack of training to handle hazardous substances); Food; drink; tobacco: Hungary (TP – workers' view) (cover up of industrial accidents in one MNE); Mechanical and electrical engineering: Portugal (G) and (W) (tendonitis); Textiles; clothing; leather; footwear: Hungary (TP – workers' view) (OSH practice in MNEs is more favourable than national standards except in textile industry); Sri Lanka (G) (workers wilfully make protective guards inoperative, resulting in injuries); Mining: Burkina Faso (E) (gold-washing conditions); Dominican Republic (W) (discharge of toxic substances); Ghana (W) (tuberculosis; remedial measures: wells dug to provide potable water, frequent screening of individuals), Guyana (G) (cyanide spill causing health problems); South Africa (W – COSATU) (European company taken to court); Sector(s) unidentified: Philippines (G) (exposure to chemicals; dangerous manual processes; remedial measures: collaboration with authorities); Transport: Togo (W – CSTT) (OSH hazards inherent in sector); Hotels; tourism; catering: Sri Lanka (W – CWC) (toxic effluents).

<sup>519</sup> E.g., Barbados (G) and (W), Madagascar (W), Philippines (G), Sri Lanka (G), Mozambique (W).

<sup>520</sup> E.g., Madagascar (W), Philippines (G), Zimbabwe (G), Sri Lanka (G).

<sup>521</sup> E.g., Brazil (G), Malaysia (TP), Peru (W).

organizations pointed out safety, health and environmental problems in EPZs in particular.<sup>522</sup>

- 108.** Remedial and preventive measures were described in relation to reported problems or in general. Several respondents reported that MNEs had taken measures such as offering in-house exercise programmes for workers with repetitive strain injury, and physiotherapy to injured workers, recruiting and training safety officials and requiring the use of safety equipment, taking special precautions against hazardous occupational disease, and obtaining ISO certifications.<sup>523</sup> In a few cases, MNEs closed down operations in response to environmental problems.<sup>524</sup> Several governments from countries with transition economies considered that, because of greater financial resources, MNEs were able to prevent or resolve OSH problems more quickly than local enterprises could.<sup>525</sup> Several South-East Asian respondents noted that MNEs should conduct training with workers and consult with authorities to address the gap in local technical knowledge, and should apply the safety requirements inherent to the technologies used in corporate OSH programmes in their home countries rather than simply abiding by local OSH standards which may not reflect the necessary technological advances, hazardous risks and preventive measures.<sup>526</sup>
- 109.** *Question 14(b)(i).* MNEs were perceived by many respondents to maintain high standards of safety and health in conformity with or above national standards.<sup>527</sup> A relatively small number of respondents took the view that MNEs' OSH standards were lower than national standards.<sup>528</sup> For a few respondents, no statistical data or relevant information on OSH standards in MNEs was available.<sup>529</sup> Size of company or sector of economic activity of the MNE were identified as factors relevant to level of OSH standards.<sup>530</sup>
- 110.** A number of respondents commented on national OSH standards in the context of MNE operations. Some reported that there was no distinction between MNEs and local

<sup>522</sup> E.g., Dominican Republic (W) (environmental issues), United Republic of Tanzania (W) (safety problems because protective equipment is not given and employees are working longer than 8 hours a day), Togo (W – GSA) (OSH problems “widespread” in free trade zones; even assistance to sick workers has been refused).

<sup>523</sup> E.g., Bangladesh (G) and (E), Costa Rica (G), Egypt (E), Barbados (G), and Trinidad and Tobago (E).

<sup>524</sup> E.g., Croatia (G), Turkey (W).

<sup>525</sup> Republic of Moldova (G), Romania (G), Ukraine (E).

<sup>526</sup> Philippines (G) and Viet Nam (E).

<sup>527</sup> 100 respondents: 44 governments, 19 employers' organizations, 17 workers' organizations, 20 respondents in tripartite replies. For a list of those respondents, see endnote 69.

<sup>528</sup> Belgium (G), Kenya (G), Democratic Republic of the Congo (W), Dominican Republic (W). See also Slovakia (TP – workers' view on deterioration in standards observed).

<sup>529</sup> Austria (G), New Zealand (G) and (E) (no information on MNE performance collected separately), United Kingdom (G), Philippines (G – reporting workers' view). See also Cameroon (W).

<sup>530</sup> E.g., Peru (G) (sector), Brazil (E) (medium and large enterprises have less difficulty with OSH standards), United Kingdom (G) (larger size, lower fatalities and injuries). See also Zambia (E).



enterprises in OSH laws, regulations and/or enforcement.<sup>531</sup> A few concluded that a lack of *de jure* distinction led to no differences in standards between MNEs and local enterprises<sup>532</sup> while one noted that, although the law made no distinction between MNEs and local enterprises, stricter supervision of personal safety measures occurred in MNEs.<sup>533</sup> Several respondents in industrialized and transition economies noted that MNEs transferred production to other countries if the cost of implementing OSH standards was too great, or tended to apply OSH standards of their home countries; in one case, this practice was reported as not necessarily guaranteeing a better level of OSH protection.<sup>534</sup> Several comments reflected the influence on national standards of ILO Conventions relating to occupational health and safety which are named in or relevant to the MNE Declaration,<sup>535</sup> or EU directives.<sup>536</sup> A few respondents in developing countries found that, where national OSH standards or inspection systems were inadequate, MNEs did not maintain high standards.<sup>537</sup> Others noted the need to enhance national OSH standards,<sup>538</sup> or addressed the application of such standards to workers in EPZs.<sup>539</sup> A few noted programmes or campaigns to improve OSH policies and practice.<sup>540</sup>

- 111.** *Question 14(b)(ii).*<sup>541</sup> In comparing MNEs' OSH standards and practice with those of comparable employers in the country, many respondents found that MNEs' OSH performance was more<sup>542</sup> or equally<sup>543</sup> favourable to that of comparable employers. Other

<sup>531</sup> E.g., Australia (G) (Victoria), Colombia (G), El Salvador (G), Eritrea (G), Estonia (TP), Germany (G), Greece (G), Mauritius (G), Mexico (G), New Zealand (G) and (E), Rwanda (G), Sweden (TP), Switzerland (G) and (W) and (E), Thailand (G), Turkey (E), United Kingdom (G).

<sup>532</sup> E.g., Ireland (W), Jordan (G) and (E).

<sup>533</sup> Lithuania (G).

<sup>534</sup> Austria (W) (transfer), Belgium (G) (no guarantee of better level of protection), Hungary (TP) (EU, US and Japan standards applied).

<sup>535</sup> Bahrain (G), Belgium (G) and Belgium (NLC), Cyprus (G), Norway (G).

<sup>536</sup> Austria (G) (EU Works Councils make MNE more able to institute special OSH regulations, conditional on company agreements), Bulgaria (G) (EU Council Directive 89/391/EEC instrumental in defining workers' rights and obligations), Cyprus (G), Spain (G).

<sup>537</sup> E.g., Democratic Republic of the Congo (W), Kenya (G). See Peru (W).

<sup>538</sup> Malta (W), Barbados (G), France (W – CFE-CGC).

<sup>539</sup> E.g., Kenya (G) (exemption from OSH laws likely to be revoked), Norway (G).

<sup>540</sup> E.g., Bulgaria (G), Burkina Faso (E).

<sup>541</sup> Among the respondents who compared MNEs' "practice in this regard" to "that of comparable employers in the country" for purposes of question 14(b)(ii), some referred to corporate "standards", others to corporate "practices" and still others to OSH "conditions" or other such terms. For purposes of this discussion, the comparisons of OSH-related policies or conduct in MNEs with those in comparable employers in the country are treated jointly.

<sup>542</sup> 46 respondents: 15 governments, 8 employers' organizations, 11 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 70.

respondents perceived that, while certain MNEs had equally or more favourable practices, other MNEs did not.<sup>544</sup> One government noted that sector of activity and size of enterprise played determining roles in enterprise OSH conduct.<sup>545</sup> Another government said that MNEs' practices were higher than those of comparable employers but lower than national standards.<sup>546</sup> Some respondents reported that no information was available to answer the question.<sup>547</sup>

**112.** Among those that found MNE practices to be more favourable, some examples of contributions made by MNEs were offered. Specific mention was made of participating in industry association and educational programmes on OSH practices and systems, commenting on relevant draft legislation or regulations or ISO draft standards, operating workplaces with strong reporting, monitoring, prevention, and remedial systems, involving staff actively in safety issues, and offering health and accident insurance to employees.<sup>548</sup> One government considered MNEs to be leaders in encouraging active labour inspection service to ensure OSH standards.<sup>549</sup> In the context of linkages, the MNEs' OSH standards were introduced and assistance provided to national enterprises in implementing such standards, and a "ripple effect" on the business community was attributed to MNE-sponsored awareness programmes and pioneering of OSH facilities and education, and proactive workplace measures related to HIV/AIDS.<sup>550</sup> However, one workers' organization noted that more care should be taken to control OSH conditions in the context of outsourcing.<sup>551</sup>

**113.** *Question 14(c).* Some respondents reported that safety and health matters had been incorporated, where appropriate, in agreements with the representatives of workers and their organizations in the country, or that such was the case in MNEs where unions existed.<sup>552</sup> A comparatively small number stated that collective agreements did not include such matters.<sup>553</sup> A number of respondents clarified that health and safety matters could be incorporated in collective agreements but that such incorporation was not mandatory; several respondents noted that law and regulation dictated a minimum threshold of safe

<sup>543</sup> 31 respondents indicated that the practice of OSH in MNEs conforms with comparable employers: 15 governments, 7 employers' organizations, 3 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 71.

<sup>544</sup> Barbados (W), Mozambique (W), Senegal (G), South Africa (W – FEDUSA).

<sup>545</sup> Senegal (G).

<sup>546</sup> Zimbabwe (G).

<sup>547</sup> E.g., Angola (W), Peru (G), Rwanda (W).

<sup>548</sup> Bulgaria (G), Canada (E), Gabon (E), Latvia (W), Lithuania (W – LPSS), United Kingdom (G).

<sup>549</sup> Brazil (G).

<sup>550</sup> Bulgaria (G), South Africa (W – FEDUSA) (ripple effect).

<sup>551</sup> Spain (W) (noting industrial accidents on site of companies subcontracted by MNEs). See also Sri Lanka (G) (accidents in subcontracting in construction sector).

<sup>552</sup> 39 respondents: 23 governments, 11 employers' organizations, 13 workers' organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 72.

<sup>553</sup> Croatia (G), Cyprus (G), Kenya (G), Nepal (W), Pakistan (W – PLF), Sri Lanka (E).

working conditions or were referenced in the collective agreements.<sup>554</sup> One government indicated that OSH standards higher than the legal minimum were generally negotiated in collective agreements with MNEs.<sup>555</sup>

- 114.** A number of respondents specified that collective agreements incorporating OSH standards were negotiated at industry level;<sup>556</sup> others indicated that enterprise-level agreements were common.<sup>557</sup> One workers' organization mentioned that collective agreements were based on sectorally specific models for OSH workplace policy developed by each union within specific sectors.<sup>558</sup>
- 115.** Other forms of agreement and consultation were discussed. Several respondents referred to comprehensive agreements coexisting with industry and enterprise-level agreements, including a "covenant approach", "social pacts" and "General agreement" containing OSH provisions.<sup>559</sup> Safety committees on working conditions within the workplace were the subject of varying opinions while tripartite mechanisms were reported to set or implement collective agreements with OSH standards.<sup>560</sup> Two respondents expressed dissatisfaction with the lack of full monitoring or implementation of OSH matters incorporated in collective agreements.<sup>561</sup>
- 116.** Reasons for not incorporating OSH matters in collective agreements were offered in a few instances. One respondent noted that MNEs did not allow workers to join trade union movements, especially in EPZs, and that the awareness of workers of the need for, and right to, occupational safety and health was just beginning to develop.<sup>562</sup> Another

<sup>554</sup> Croatia (G) (minimum standards set by law), Cyprus (W) (referenced in collective agreements), Singapore (G) (minimum threshold), Spain (G) and (E) (EU directives and Workers' Charter).

<sup>555</sup> Colombia (G).

<sup>556</sup> E.g., Hungary (TP – employers' view), Netherlands (G), Norway (G), Ukraine (G) and (E), Spain (W) (automotive industry).

<sup>557</sup> E.g., Guatemala (E), South Africa (E), Spain (W).

<sup>558</sup> South Africa (W – FEDUSA).

<sup>559</sup> Netherlands (G) (covenant approach), Poland (W – OPZZ) (social pact), Ukraine (G) and (E) (General agreement).

<sup>560</sup> Brazil (G) (Tripartite Joint Standing Committee participates in concluding collective agreements that highlight OSH standards), Bulgaria (G) (tripartite committees on working conditions barely justify their existence), Zimbabwe (G) (unqualified personnel or lack of safety committees altogether), Indonesia (G) (workers involved in OSH committees in companies with unions), Mexico (G) (federal labour law sets out criteria for establishment and functioning of safety and health committees and provides for tripartite committee on OSH), Sri Lanka (G) (safety committees in MNEs have inadequate coordination with authorities).

<sup>561</sup> Zambia (E), Zimbabwe (G) (adding that government is taking measures to ensure their implementation).

<sup>562</sup> Kenya (G). See also Panama (G) (OSH secondary to economic aspects in collective negotiation).

emphasized that employers were given a choice by law whether to enter into collective agreements.<sup>563</sup>

## 1.6. Industrial relations (paragraphs 40-58 of the Declaration: Survey questions 16, 17, 18, 19, 20 and 21)

### 1.6.1 Standards of industrial relations (paragraph 40 of the Declaration: Survey question 16)

*Q.16 How do standards of industrial relations in MNEs compare with those observed by comparable employers in the country?*

Total No. of respondents: 154/169 (30 of which responded in tripartite replies):	
■	Governments from 71/75 countries (10 of which responded in tripartite replies)
■	Employers' organizations from 36/39 countries (10 of which responded in tripartite replies)
■	Workers' organizations from 47/55 countries (10 of which responded in tripartite replies)

**117. Question 16.**<sup>564</sup> Many respondents considered MNE policies and/or practices to be the same as or comparable to those observed by comparable employers in the country,<sup>565</sup> while a number perceived MNE standards as more favourable than comparable local employers.<sup>566</sup> However, as discussed below, workers' organizations in particular shared examples of less favourable practices in specific sectors or situations (see para. 119 *infra*). One respondent indicated that standards of industrial relations in MNEs were "not comparable to" those observed by comparable domestic employers since, despite constitutional guarantees of freedom of association, the industrial relations system was "voluntarist" and no employer could be compelled to engage in collective bargaining.<sup>567</sup> Several indicated that they had insufficient data or were currently undertaking studies on the subject.<sup>568</sup>

<sup>563</sup> New Zealand (G) and (E).

<sup>564</sup> Responses to this question compared "standards of industrial relations in MNEs" with those observed by comparable employers in the country in several distinctive contexts. Some applied the phrase to MNE policies and/or practices; others compared laws and/or regulations applicable to MNEs with those applicable to comparable employers in the country; and some compared both law and practice in this regard.

<sup>565</sup> 60 respondents: 27 governments, 13 employers' organizations, 14 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 73.

<sup>566</sup> 33 respondents: 6 governments, 7 employers' organizations, 8 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 74.

<sup>567</sup> Ireland (W).

<sup>568</sup> E.g., Guatemala (E) (no data available), Hungary (TP – government view that no full data available but 50 per cent of MNE members of Association of Hungarian Multinational Companies were unionized which was better than average local rate; employers' and workers' views differed), Switzerland (G) (no data, only experience), Slovenia (G) (government analysing subject with European Trade Union Federation).

- 118.** Some responses, particularly from governments, focused on laws and regulations applicable to MNEs, without necessarily focusing on the application of those laws in practice in MNEs (see note 564 *supra*). A number of respondents simply reported that the law made no distinction between MNEs and comparable employers in the country, and drew no conclusion as to standards (that is, policies and/or practices) observed within MNEs or comparable employers.<sup>569</sup> Others, observing the lack of distinction in law, concluded that industrial relations standards in MNEs were not less favourable than those observed by comparable employers.<sup>570</sup> Still others noted that the law applied equally to MNEs and comparable employers and observed, on a separate basis, that labour relations in MNEs were more favourable than or similar to those in comparable employers.<sup>571</sup>
- 119.** A number of respondents indicated that standards of industrial relations in MNEs varied.<sup>572</sup> Some pointed to the determinative nature and size of the enterprise<sup>573</sup> or sector of operation.<sup>574</sup> A number of responses exemplified the role of the government as an influential factor in shaping the industrial relations climate: some examples highlighted the enabling industrial relations environment of laws and supervision of laws in conformity with international and regional standards;<sup>575</sup> others, particularly workers' organizations,

<sup>569</sup> E.g., Brazil (G) and (E), Côte d'Ivoire (G), Democratic Republic of the Congo (E) and (W), Denmark (TP), El Salvador (G), Eritrea (G), Germany (G), Guatemala (G), India (G), Jordan (G), Kenya (G), Republic of Korea (G), Mauritius (G), Moldova (G), Panama (G), Singapore (G), Slovakia (TP), Spain (G), Sri Lanka (E), Thailand (G), Ukraine (G).

<sup>570</sup> E.g., Australia (G) and (W), Bahrain (G), Canada (E), Zimbabwe (G).

<sup>571</sup> E.g., Austria (G), Colombia (G) (labour inspection showed compliance to be the case).

<sup>572</sup> Latvia (W) (positive and negative examples of social partnership), Lithuania (W – LPSS) (some MNEs are union friendly, most are not), United Republic of Tanzania (W) (some do comply, some do not), Uganda (TP) (some have good industrial relations, others are far behind).

<sup>573</sup> E.g., China (G) (large MNEs apply industrial relations standards better than some of the smaller ones, especially labour-intensive ones), Switzerland (G) (easier to conclude a collective agreement in an MNE than within an SME).

<sup>574</sup> Commerce: Israel (W) (banking sector generally organized); Hotel; tourism; catering: Israel (W) (collective agreements applicable to the whole sector); Israel (W) (local collective agreements); Latvia (W) (opposition to organizing and bargaining activities); Construction: United States (W) (avoidance of bargaining obligations through corporate restructuring); Food; drink; tobacco: Egypt (G) (MNE response: more freedom in MNEs than in comparable employers); Latvia (W) (elimination of trade union after privatization); Lithuania (W – LPSS) (individual contracts and preventing communication with union leaders); Uganda (TP) (unrest in MNE); Oil and gas production; oil refining: Angola (G) (MNE response: growth and development of trade union activities encouraged by oil companies); Angola (W) (government refusal to recognize federation); Textiles; clothing; leather; footwear: South Africa (W – COSATU) (underpayment by some MNEs, long hours); Transport equipment manufacture: United States (W) (legal ability to “permanently replace” striking workers).

<sup>575</sup> Ratifications of ILO Conventions: Colombia (G) (Nos. 87 and 98), Greece (G) (Nos. 87 and 98), Jordan (G) (unspecified), Norway (G) (No. 87, Article 5, and no freedom of association cases brought), Sri Lanka (G). See also Norway (G) (existing national legislation is in conformity with MNE Declaration). See Belgium (E) and (W) (MNEs are integrated into IR system based on EU collective agreements), Bulgaria (G) (collective bargaining agreements already in effect in an enterprise remain in force after privatization).

demonstrated the role governments played in hampering unionization in MNEs.<sup>576</sup> One employers' organization reported that no workers' unions were allowed in the country.<sup>577</sup> In contrast, another employers' organization considered that MNEs regularly renew collective agreements they have signed with workers' representatives.<sup>578</sup> A workers' organization expressed the view that decentralization of collective bargaining from sectoral to enterprise level was not compatible with the spirit of the aims of the MNE Declaration.<sup>579</sup>

- 120.** Other comments highlighted aspects of the enterprise environment as factors shaping industrial relations experiences. Precarious contracts of employment and individualization of work, such as working at home, were noted by several respondents as factors undermining the organization of workers in MNEs.<sup>580</sup> In addition, the decreasing number of trade unions functioning in MNEs was attributed to the profit motive affecting MNEs' willingness to negotiate with unions.<sup>581</sup> One workers' organization observed that codes of conduct had helped pressure MNEs to adopt better industrial relations standards,<sup>582</sup> and another linked membership of MNEs, whether foreign or domestic, in employers' organizations as leading to good industrial relations.<sup>583</sup> Changes in technology leading to potential changes in industrial relations, including the area of privacy of personal data, were noted as important to include in the ILO's future questionnaires and studies in order to produce a relevant picture of developments.<sup>584</sup>
- 121.** The interplay between home and host country laws and practices in industrial relations was noted by a few workers' organizations as follows. One workers' organization drew attention to the fact that MNEs that had positive industrial relations in their home country did not necessarily maintain those in the host country where legal requirements were

<sup>576</sup> E.g., Lithuania (W – LTUC) (Government does not stimulate collective negotiations), Pakistan (W – PLF) (“MNEs are favourite children of the Government” and work together with the Government to operate against workers' interests), New Zealand (W) (national standards breach ILO Conventions and lead to same de-collectivizing effect as with domestic enterprises), Philippines (G – reporting workers' view) (union-free environments as an informal incentive for location of MNEs), United States (W) (legal ability of MNEs to “permanently replace” striking workers is a “particularly effective weapon to destroy FOA and the right to CB”; MNEs can also avoid bargaining obligations through corporate restructuring such as merger – examples given), Cameroon (W) (if industrial relations laws violated by MNEs, authorities find it difficult to decide against non-compliant MNEs).

<sup>577</sup> Oman (E).

<sup>578</sup> Spain (E).

<sup>579</sup> Austria (W). See also Lithuania (W – LPSS) (collective bargaining is not widespread and remains predominantly at enterprise level).

<sup>580</sup> Belgium (G), Portugal (W). See also Peru (W).

<sup>581</sup> Hungary (TP – workers' view) (decrease in past five to six years; where unions do function in MNEs, there are very good industrial relations).

<sup>582</sup> Dominican Republic (W).

<sup>583</sup> Finland (TP – workers' view).

<sup>584</sup> Germany (W).

lower.<sup>585</sup> Conversely, according to another, where home country practice encouraged a “voluntarist” system, the MNE employer in the host country could not be compelled to engage in collective bargaining and applied lower standards despite host country laws protecting freedom of association and right to join a trade union.<sup>586</sup> In one country, MNEs’ practices of resolving all labour issues through legal means was predicted to result in more labour conflicts in the future.<sup>587</sup> Another viewed MNEs’ industrial relations practices as deficient because of conflicts with social expectations in the host country.<sup>588</sup>

#### 1.6.2. Industrial relations: Incentives and concessions (paragraph 45 of the Declaration: Survey question 17)

*Q.17 Have incentives offered and concessions made by governments to attract FDI limited in any way workers’ freedom of association and the right to organize and bargain collectively?*

Total No. of respondents: 131/169 (27 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 60/75 countries (9 of which responded in tripartite replies)</li> <li>■ Employers’ organizations from 33/39 countries (9 of which responded in tripartite replies)</li> <li>■ Workers’ organizations from 38/55 countries (9 of which responded in tripartite replies)</li> </ul>

- Governments from 60/75 countries (9 of which responded in tripartite replies)
- Employers’ organizations from 33/39 countries (9 of which responded in tripartite replies)
- Workers’ organizations from 38/55 countries (9 of which responded in tripartite replies)

**122.** Many respondents considered that incentives and concessions to attract FDI had not limited workers’ freedom of association<sup>589</sup> or the right to organize and bargain collectively.<sup>590</sup> A comparatively small number of workers’ organizations reported that incentives or concessions had limited workers’ freedom of association<sup>591</sup> or right to organize and bargain collectively,<sup>592</sup> and one workers’ organization reported a limitation on other workers’ rights.<sup>593</sup> A number of respondents explained that the laws protecting freedom of association and the right to collective bargaining made no distinction between MNEs and national enterprises.<sup>594</sup> In this regard, several respondents mentioned the

<sup>585</sup> United States (W).

<sup>586</sup> Ireland (W).

<sup>587</sup> Republic of Korea (W).

<sup>588</sup> Madagascar (W).

<sup>589</sup> 104 respondents: 46 governments, 20 employers’ organizations, 14 workers’ organizations, 24 respondents in tripartite replies. For a list of those respondents, see endnote 75.

<sup>590</sup> 104 respondents: 47 governments, 21 employers’ organizations, 15 workers’ organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 76.

<sup>591</sup> 7 respondents: 7 workers’ organizations. For a list of those respondents, see endnote 77.

<sup>592</sup> 5 respondents: 5 workers’ organizations. For a list of those respondents, see endnote 78.

<sup>593</sup> Colombia (W) (new laws relating to four-month contracts left workers whose contracts expire with no recourse).

<sup>594</sup> Argentina (G), Bangladesh (W), India (G) (national labour laws are uniformly applicable to FTZs/EPZs), Mexico (G), Peru (G), Sri Lanka (E).

relevant ILO Conventions referenced in the MNE Declaration.<sup>595</sup> Two respondents indicated that no incentives or concessions were offered to attract FDI.<sup>596</sup>

**123.** Some of the workers' organizations which linked incentives and concessions to limitations on workers' rights pointed to laws or actions taken by the government during the reporting period, such as government closure of a trade union in the telecommunications industry,<sup>597</sup> laws providing for temporary work,<sup>598</sup> and the relaxation of labour laws in EPZs giving enterprises power to hire and fire workers at will, and discouraging unionization of workers through human resource management practices.<sup>599</sup> Two other workers' organizations observed a gap between principle and practice in MNE operations; these organizations noted that incentives and concessions did not limit workers' rights in principle, but in practice MNEs had several means of "persuasion" (dismissal, company closure or transfer) to maintain control over workers who feared losing their job in a context where jobs are scarce,<sup>600</sup> and trade unions were very often non-existent in greenfield investments.<sup>601</sup> Two respondents in transition economies pointed out that, while no incentives restricted workers' rights, neither had the government offered any incentives to improve industrial relations.<sup>602</sup>

**124.** Examples of incentives and concessions which did not limit workers' rights were provided by some respondents. References were made to economic conditions of a concession contract,<sup>603</sup> subsidies,<sup>604</sup> exemptions from taxes on profits for limited periods of time,<sup>605</sup> establishing EPZs<sup>606</sup> and fiscal incentives.<sup>607</sup> One respondent indicated that incentives led

<sup>595</sup> Côte d'Ivoire (G) (Nos. 87 and 98), Cyprus (G) (Nos. 87, 98 and 135), Trinidad and Tobago (E) (No. 87), Ukraine (G) (Nos. 87 and 98).

<sup>596</sup> Belgium (G), Nepal (W) (but pressure to do so increasing on government).

<sup>597</sup> Dominican Republic (W) (noting, however, that most incentives or concessions offered are generally implicit not explicit).

<sup>598</sup> Colombia (W), Peru (W) .

<sup>599</sup> United Republic of Tanzania (W).

<sup>600</sup> Madagascar (W).

<sup>601</sup> Poland (W – OPZZ).

<sup>602</sup> Latvia (W) (citing an evaluation conducted by several branch trade union associations from communications, food and construction finding that MNEs have not supported collective bargaining, recognition and promotion of trade unions, or cooperation with social partners), Lithuania (E) (no evidence that profit tax reductions and other incentives have had a positive impact on workers' rights).

<sup>603</sup> Bulgaria (G).

<sup>604</sup> E.g., Austria (G) and (W).

<sup>605</sup> E.g., Belarus (G), Lithuania (E).

<sup>606</sup> Mexico (G), Panama (G), Togo (E) and (W x 2).

<sup>607</sup> Mauritius (G).



to increased productivity and strengthened collaboration between “production partners”.<sup>608</sup> Another noted that incentives were generally agreed upon a tripartite basis with each side meeting certain requirements aimed at achieving common objectives of development and increased employment, particularly in economically depressed areas of the country.<sup>609</sup>

1.6.3. Requests for information, and promotion of collective bargaining (paragraphs 46-51, 53-55 of the Declaration: Survey questions 18 and 19)

*Q.18 (a) Have MNEs responded positively to requests for information required for meaningful negotiations by workers’ representatives? If not, kindly elaborate.*

*(b) In the context of collective bargaining, have there been any instances of MNEs not responding constructively to government requests for relevant information on their operations?*

*Q.19 Please explain briefly what steps/measures may have been taken to implement the Governing Body’s previous recommendations “... to promote collective bargaining as a key element in industrial relations. Governments and the social partners should develop specific programmes to make their members and the public aware of the importance of collective bargaining for fostering peaceful industrial relations. Information and facilities for the negotiation and conclusion of collective agreements should be made available and those involved should be given the authority to make final decisions on the matters under discussion.”*

Total No. of respondents: 143/169 (30 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 62/75 countries (10 of which responded in tripartite replies)</li> <li>■ Employers’ organizations from 35/39 countries (10 of which responded in tripartite replies)</li> <li>■ Workers’ organizations from 46/55 countries (10 of which responded in tripartite replies)</li> </ul>

- Governments from 62/75 countries (10 of which responded in tripartite replies)
- Employers’ organizations from 35/39 countries (10 of which responded in tripartite replies)
- Workers’ organizations from 46/55 countries (10 of which responded in tripartite replies)

**125.** *Question 18(a).* Many respondents indicated that MNEs responded positively to requests for information required for meaningful negotiations by workers’ representatives,<sup>610</sup> while a number of others stated that MNEs responded negatively to most or all requests for information.<sup>611</sup> Still others considered that, while MNEs responded constructively some or much of the time, some of the responses were insufficient or delayed.<sup>612</sup> A few respondents indicated that the response varied from one company to another depending on size or relations established between management and workers.<sup>613</sup> Some others noted

<sup>608</sup> Bahrain (G).

<sup>609</sup> Italy (G), (W). See also Viet Nam (E) (Government takes workers’ rights into account when producing policies to attract FDI).

<sup>610</sup> 60 respondents: 21 governments, 12 employers’ organizations, 9 workers’ organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 79.

<sup>611</sup> 19 respondents: 3 governments, 2 employers’ organizations, 10 workers’ organizations, 4 respondents in tripartite replies. For a list of those respondents, see endnote 80.

<sup>612</sup> 21 respondents: 7 governments, 1 employers’ organization, 7 workers’ organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 81.

<sup>613</sup> E.g., Panama (W), Spain (W) (large companies supply information more freely and regularly). See also Zambia (E).

sector-specific experiences.<sup>614</sup> One respondent indicated that the issue did not generally arise because, rather than bargaining with unions directly, most MNEs were covered by collective agreements established for the sector.<sup>615</sup> Several workers' organizations indicated there was no information or data available on the subject.<sup>616</sup>

- 126.** Difficulties confronting workers requesting information from MNEs were described by some respondents. It was reported that MNEs provided or retained information strategically for their own negotiating advantage, and commonly cited "commercial secret" as the reason for refusal to provide information.<sup>617</sup> In some cases, MNEs were said to provide information that was superficial or not useful or credible.<sup>618</sup> Respondents from one EU country mentioned improvements in MNE responses since the European Works Council directive went into force.<sup>619</sup> In some situations, reported particularly by workers' organizations, MNE local management found it necessary to seek approval or authorization from a parent company to release information, and that process delayed or prevented delivery of information.<sup>620</sup> Some workers' organizations which reported little or no cooperation indicated that workers had to rely on publicly available information or obtain the necessary information secretly.<sup>621</sup> Several respondents referred to means for compelling MNEs to provide requested information, including legal or political recourse as well as publicity.<sup>622</sup>

<sup>614</sup> Positive experiences: Basic metal production: Hungary (TP – workers' view); Construction Austria (W); Food; drink; tobacco: Hungary (TP – workers' view); Forestry; wood; pulp and paper: Austria (W); Mining: Hungary (TP – workers' view); Transport equipment manufacture: South Africa (E); Negative experiences: Basic metal production: Austria (W); Food; drink; tobacco: Australia (W), Austria (W); Forestry; wood; pulp and paper: Costa Rica (G); Oil and gas production; oil refining: Dominican Republic (W); Transport equipment manufacture: United States (W); Postal and other communications services: Australia (W), Barbados (E); Financial services; professional services: Australia (W).

<sup>615</sup> Portugal (G).

<sup>616</sup> E.g., Angola (W), Belgium (G), Lithuania (W – LTUC), Peru (G), Rwanda (W), Ukraine (G) and (E), United States (W) (no data on overall trends).

<sup>617</sup> See generally replies in note 612 *supra* (insufficient or delayed responses).

<sup>618</sup> E.g., Austria (G) (while MNEs respond quite positively to requests for information, the quality of the information provided is questionable), Hungary (TP) (superficiality of information; MNEs keep wage data and wage-related information secret), Philippines (G) (MNEs provide "incredulous financial statements", frustrating any possibility of meaningful negotiations), Democratic Republic of the Congo (W) (real information not often given or only in "scraps"), Nepal (W) ("lip-service" responses), United Republic of Tanzania (W) ("dead information"). See also Dominican Republic (W) (no culture of exchange between the two sides).

<sup>619</sup> Finland (TP).

<sup>620</sup> E.g., Democratic Republic of the Congo (W), Hungary (TP – workers' view) (workers' representatives at the mercy of local management concerning relations between international headquarters and local company).

<sup>621</sup> E.g., Guyana (G) (workers compelled to rely on public annual reports of MNEs), Uganda (TP) (workers nearly always required to obtain necessary information "secretly").

<sup>622</sup> E.g., Bangladesh (E) (within 10 days of receipt of request, employers including MNEs are expected to arrange a meeting for meaningful negotiation), Kenya (G) (especially when information

**127.** *Question 18(b).* A significant number of respondents indicated that, in the context of collective bargaining, MNEs responded constructively to government requests for relevant information on their operations.<sup>623</sup> A few reported difficulties in receiving constructive responses to their requests.<sup>624</sup> Still others indicated that no such requests were made by the government; some referred to a policy of non-interference in the system of collective bargaining and one EU government mentioned that usually such requests go through employers' organizations.<sup>625</sup> Still others indicated that they did not have information available to answer the question.<sup>626</sup> Several respondents referred to general reporting obligations of MNEs which were not necessarily specific to the context of collective bargaining, and one mentioned information that might not have been "entirely constructive" supplied by MNEs in the context of a government survey.<sup>627</sup>

**128.** *Question 19.* Many respondents explained steps or measures taken during the reporting period to implement the Governing Body's recommendations<sup>628</sup> to promote collective bargaining as a key element in industrial relations.<sup>629</sup> In contrast, a number of others reported that no steps or measures had been taken in that regard.<sup>630</sup> Several respondents, particularly from EU countries, reported that no measures to promote collective bargaining had been taken because there was already a long-standing and extensive history of collective bargaining in practice in the country.<sup>631</sup> A number of respondents provided

is required to decide collective agreement disputes before industrial court), South Africa (W – FEDUSA) (publicity serves as compulsion), Peru (W) (the ability of MNEs to avoid providing information when it is requested was aided by a lack of sanctions in the national labour law for failure to comply with a request).

<sup>623</sup> 57 respondents: 25 governments, 9 employers' organizations, 5 workers' organizations, 18 respondents in tripartite replies. For a list of those respondents, see endnote 82.

<sup>624</sup> Bangladesh (W) (in some cases), France (W – CFE-CGC), Kuwait (TP), Spain (W) (in some cases).

<sup>625</sup> Guatemala (E), Republic of Korea (G), New Zealand (G), Netherlands (G) (employers' organizations). See also Philippines (G).

<sup>626</sup> E.g., Brazil (G), (E), Bulgaria (G), Nepal (W), Poland (W – OPZZ), Portugal (W), Romania (G), Rwanda (W), Thailand (G).

<sup>627</sup> E.g., China (G) (survey), Indonesia (G) (MNEs required to submit an annual report to the Ministry of Manpower regarding terms of employment and working conditions), Kenya (G) (MNEs have legal obligations to report on their trading performance on an annual basis and the Government has power to make the information available), Mexico (G) (MNEs required to provide confidential information to the Government, which the Government must keep confidential; no cases of refusals).

<sup>628</sup> See GB.268/MNE/1/2, para. 228.

<sup>629</sup> 78 respondents: 38 governments, 15 employers' organizations, 10 workers' organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 83.

<sup>630</sup> 18 respondents: 5 governments, 7 workers' organizations, 6 respondents in tripartite replies. For a list of those respondents, see endnote 84.

<sup>631</sup> E.g., Denmark (TP) (more than 100 years of development of national labour market model with tripartite cooperation and strong organizations on both sides of industry and a deference to collective agreements as the most important source of law in labour law matters), Finland (TP) (level of organization is 80 per cent and agreements cover approximately 95 per cent of wage and salary earners; labour market organizations act independently with supportive government

information on the number of collective agreements and/or organized enterprises, including MNEs, in the country, and/or scope of subjects covered by collective bargaining. See box 1.6.3.1: *Collective bargaining, organized workplaces, and MNEs: Selected experiences.*

<b>Box 1.6.3.1</b> <b>Collective bargaining, organized workplaces, and MNEs: Selected experiences</b>	
<i>Respondent(s)</i>	<i>Organized workplaces and/or collective bargaining agreements</i>
Brazil (G) and (E)	Increase of approximately 65 per cent in number of collective agreements concluded between 1997 and 1998
Finland (TP)	Level of organization at 80 per cent and agreements covering approximately 95 per cent of wage and salary earners
Hungary (TP – government view)	Declining rates of collective bargaining agreements (supported with data provided), 25 per cent of national and foreign-owned enterprises subject to collective agreements, constituting about 60 per cent of employees, collective agreements in companies with 100 per cent foreign ownership considered “below average” with 20 per cent of companies covered constituting 45 per cent of all employees, better coverage in local companies of any
Japan (G)	Labour union organization rate in Japanese enterprises at 24.1 per cent as compared to 23.2 per cent in MNEs (citing 1996 survey on industrial relations in foreign enterprises); 8.7 per cent of Japanese enterprises operating with no labour agreement compared to 25 per cent in MNEs
Japan (W)	Organizing rate for enterprises with more than 1,000 enterprises is 57 per cent
Mauritius (G)	20 per cent unionization rate, general lack of competence with heavy reliance on government intervention
Spain (E)	80 per cent of workers covered by collective agreements
Spain (G)	2,182 agreements as of May 1999, compared to 5,028 in 1996
<i>Respondent(s)</i>	<i>Scope of subjects covered by collective bargaining</i>
Brazil (G), (E)	More bargaining guidelines with contemporary issues brought into discussion of world of work
Japan (G)	Items discussed at labour management consultations in Japanese enterprises were “fairly extensive”; those discussed in MNEs “rather limited”
Senegal (G)	Strengthened workers’ freedom of expression (whether individual or collective); widened the scope “to allow a more fruitful dialogue in enterprises”
Spain (G)	“Incontestable improvement in autonomy” of the parties in establishing conditions of work, such as hours of work, structure of remuneration, appropriate procedure for the adoption of decisions affecting the organization of work in the enterprise

programmes), Germany (E) (rights of workers to organize and bargain collectively are key elements in Germany and no need for further promotion), Peru (G) (existing provisions already amply allow for peaceful IR or in any case possibility of finding solutions to disputes), Switzerland (G) (collective bargaining can be regarded as a tradition in Switzerland and does not raise any problems so measures have been taken other than constant reaffirmation of its importance in MNEs and national enterprises).

- 129.** The responses generally reflected the view that collective bargaining was an important means of resolving industrial disputes. In the words of one respondent, collective agreements were the “most important vehicle for self-regulation by the social partners” and played a prominent role in the country’s social and economic policy.<sup>632</sup> Another respondent viewed collective bargaining, not only as a mechanism serving to channel relations, but also as an instrument of corporate management in a more competitive environment.<sup>633</sup>
- 130.** Some of the measures reportedly taken to promote collective bargaining involved law or policy-making; these included ratification and/or implementation of ILO Conventions, revisions to the legal framework for industrial relations, and/or establishment of mechanisms and mandates for tripartite collaboration. A number of governments referred to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), but, in certain cases, it was not evident what steps, if any, were presently being taken in that context to promote collective bargaining in accordance with the resolutions of the Governing Body.<sup>634</sup> In some cases, amendments to labour laws with a view to promoting collective bargaining had occurred or were under way during the reporting period; these focussed on, inter alia, the obligation to negotiate and the principle of representation.<sup>635</sup> Procedures and programmes involving the government in mediation, conciliation and/or prevention of labour disputes were referenced by a number of respondents, mostly governments.<sup>636</sup> Others reported laws reflecting a policy of choice between individual and collective contracts.<sup>637</sup> The principle of tripartism was said, in some cases, to have inspired

<sup>632</sup> Netherlands (G) (noting that collective agreements could be extended to apply to an entire industry). The agreements did not simply address fundamental terms of employment but extended to a range of conditions including training, childcare, working conditions and even job creation. For a negative view of sectoral-level bargaining, see South Africa (E).

<sup>633</sup> Spain (E).

<sup>634</sup> Ratification of ILO Conventions was mentioned, for example, by: Antigua and Barbuda (G) (Nos. 87 and 98 in 1983), Kenya (G) (ratification of No. 98 and issuance of tripartite Industrial Relations Charter which is guiding policy document in practice of industrial relations and is to be legally incorporated by statute), Mexico (G), Senegal (G) (Nos. 87 and 98), South Africa (W – FEDUSA) (ratification of No. 98 during period of review and implemented social plan together with social partners which aims at reducing unemployment rate).

<sup>635</sup> E.g., Brazil (G) (from state interference to responsive democratic model), Republic of Korea (G), Lithuania (G) and (E), Mauritius (G) (code of practice set out by Industrial Relations Act to assist employers and trade unions to conduct collective bargaining effectively), Republic of Moldova (G), Romania (G), South Africa (E), Sri Lanka (G) (making it compulsory for employers to recognize trade unions with a membership of more than 40 per cent of workforce for collective bargaining) but see Sri Lanka (E) (compulsory provision impinges on principle of voluntarism), Zimbabwe (G) (steps being taken to bring collective bargaining into public sector too).

<sup>636</sup> Brazil (G) and (E), Costa Rica (G) (regional videoconference on alternative dispute resolution and negotiation skills), Ecuador (G) (programmes aimed at settling possible collective disputes with Ministry of Labour), Guatemala (G) (special programmes at School of Mediation and Conciliation of Ministry of Labour and Welfare – through which research on collective bargaining is promoted), Guyana (G) (Ministry of Labour provides a conciliation service for prevention and settlement of labour disputes), New Zealand (G) (through Employment Tribunal).

<sup>637</sup> E.g., Australia (G) (but not New South Wales) (individual or collective agreements; employers and employees have right to choose) but see Australia (W) (present Government is encouraging

the conclusion of tripartite policies relating to collective bargaining, or the establishment of tripartite initiatives, including agreements, charters and social plans, as well as ongoing consultative mechanisms.<sup>638</sup> Still other efforts reportedly established or strengthened the system of tripartite collective bargaining used in some countries.<sup>639</sup>

- 131.** A variety of activities to promote collective bargaining were reported beyond law and policy-making. The government and/or social partners provided training seminars and workshops to public officials, employers' organizations, and/or union leadership.<sup>640</sup> One respondent recounted daily advisory services offered on collective bargaining principles and issues covered by negotiation,<sup>641</sup> and another described visits to companies made to explain and promote importance of good industrial relations practices.<sup>642</sup> Information campaigns and debates were reported to have taken place in some countries.<sup>643</sup> A number

individual over collective bargaining), Senegal (G) (workers' freedom of expression said to be strengthened as individual or collective choice).

<sup>638</sup> E.g., Barbados (G) and (E) (tripartite agreement on Protocol III to promote collective bargaining, includes section "Industrial harmony" to promote use of consultative approach to reducing potential labour disputes), but see Barbados (W) (no measures taken), Colombia (G) (plan for modernization of industrial relations system), Kenya (G) (Industrial Relations Charter to be statutorily incorporated), Lithuania (G) (Tripartite Board), Slovenia (G) (tripartite council coordinating social partners), Togo (W – GSA) (tripartite consultations in drafting new labour code), Ukraine (G) and (E) (1999-2000 General Agreement requiring parties to work toward achieving agreements at branch and regional levels and collective agreements at enterprise levels), Spain (G) (Workers' Charter recognizing freedom of association and right of information reflected in an "incontestable improvement" in the autonomy of social partners in key workplace issues with data in support from 1996 to 1999).

<sup>639</sup> E.g., Burkina Faso (E), Ecuador (G) (negotiations between MNEs and workers' representatives conducted through National Labour Mediation Directorate), Jordan (G) and (E) (75 per cent of collective agreements are reached through direct negotiations with encouragement of government), Togo (G) and (E) and (W – CSTT) government has set up a tripartite committee to be responsible for directing social dialogue in the country). Compare Rwanda (G) ("liberalization policy" limits state intervention in labour relations).

<sup>640</sup> E.g., Brazil (G) and (E), Colombia (G) ("ABC of Collective Industrial Relations"), Costa Rica (G) (regional efforts at modernization within labour ministries in Central America, Belize and Dominican Republic – training modules, seminars and workshops focus on strengthening negotiations and different forms they take – conciliation, mediation and arbitration), Croatia (W), Egypt (G) (government-organized educational workshops for social partners), Indonesia (G) (leadership and negotiation training for trade unions), Mauritius (G) (government-created Trade Union Trust Fund to provide funding for training of trade union members), Uganda (TP) (social partners run training workshops and seminars to promote industrial relations and address issues in formulating collective agreements and subsequent processes), Viet Nam (E) (social partners held workshops and meetings to increase awareness of importance of collective bargaining), Zambia (E) (workshops, seminars, information kits and other literature for its members on importance of collective bargaining).

<sup>641</sup> Uganda (TP).

<sup>642</sup> Malaysia (TP).

<sup>643</sup> Brazil (G) and (E) (stimulating a wide-ranging debate on forms of collective bargaining suited to national conditions), El Salvador (G) (public address by Minister of Labour focusing on resolution of labour disputes as start of campaign on promoting collective bargaining), Rwanda (G) (consciousness-raising campaigns through TV, radio and conferences and training activities organized by workers' organization address issues of collective bargaining), Slovakia (TP) (trade union-organized sensitization activities concerning workers' representation in MNEs), South Africa

of respondents reported seeking or benefiting from multilateral technical assistance programmes, including those of the ILO, in seeking to promote collective bargaining.<sup>644</sup>

- 132.** Several workers' organizations reported that the government was not taking sufficient steps to promote collective bargaining.<sup>645</sup> Others offered recommendations for further action, including taking steps for a more active implementation of the MNE Declaration by all parties concerned, conducting education programmes for social partners on role and place of collective bargaining in industrial relations, and charting and following up on private codes of conduct.<sup>646</sup> Both the positive practices and areas of need noted in the responses to question 19 framed issues of concern which could inform a broader study more specifically targeted to the role of MNEs in the promotion of collective bargaining.

#### 1.6.4. Transfer of operations and other issues involving MNEs (paragraphs 40-58 of the Declaration: Survey questions 20 and 21)

*Q.20 Have there been any threats by MNEs to transfer their activities elsewhere, by way of unfairly influencing negotiations or hindering the exercise of the right to organize? If so, please explain.*

(W – FEDUSA) (awareness raising, in-house training for unions and federations informing workers about their rights and employers' duties), Uganda (TP) (workshops and seminar to create public awareness on importance of collective bargaining). Malaysia (TP) (advisory services to explain the importance of good industrial relations practices), Panama (G) (information campaign on the promotion of collective bargaining).

<sup>644</sup> E.g., Estonia (TP) (technical assistance projects with ILO under discussion at time of reporting), Kenya (G) awareness-raising seminars with ILO and UNDP for employers and government officials to appreciate collective bargaining process in industrial relations), Lithuania (G) biggest problem facing Tripartite Board for labour matters is insufficient representation of unions – working with EU programme, Phare, to develop programmes to educate social partners to address this), Poland (W – OPZZ) (training in collective bargaining organized by W and E organizations in cooperation with ILO and in framework of bilateral agreements between employers and workers and partners in EU countries).

<sup>645</sup> E.g., Madagascar (W) (criticizes national law for requiring government approval before conclusion of a collective agreement in a privatized enterprise), Lithuania (W – LTUC) (Government does not stimulate collective negotiations), Malaysia (TP – workers' view) (Government has not adopted sufficient measures to promote collective bargaining), Malta (W) (instances of anti-strike activities by Government), Nepal (W) (implementation of collective agreements is difficult because no punitive consequences for employers' failure to abide by agreement), Pakistan (W – NLF) (generally not played an effective and beneficial role, (W – PLF) Government considers interests of employers and not workers and collective bargaining is being curtailed), Rwanda (W) (trade unions demand law for "permanent structures for collective negotiations" but so far not accepted).

<sup>646</sup> Bangladesh (W) (circulation of MNE Declaration among management staff and workers, establishment of strict penalties for MNEs which fail to respect rules of operation, government policies to promote fair negotiations between employers and workers, and national level consultations on issues implicated by MNE Declaration), Latvia (W) (education programmes for social partners, and government support for social partnership at enterprise, branch, regional and national levels (noting Governing Body recommendations have been integrated into national law but implementation problems due to "silent counteraction" by employers and resulting failure of workers to organize for protection under the law), Sweden (TP – workers' view) (noting handbook being produced on how unions can work with codes of conduct).

*Q.21 Are there any particular industrial relations problems specific to MNEs operating in your country? If so, please explain.*

Total No. of respondents: 142/169 (27 of which responded in tripartite replies):

- Governments from 62/75 countries (9 of which responded in tripartite replies)
- Employers' organizations from 34/39 countries (9 of which responded in tripartite replies)
- Workers' organizations from 46/55 countries (9 of which responded in tripartite replies)

**133.** *Question 20.* Many respondents reported that there had been no threats by MNEs to transfer their activities elsewhere, by way of unfairly influencing negotiations or hindering exercise of the right to organize.<sup>647</sup> However, a number of respondents, particularly workers' organizations, confirmed that MNEs had threatened to transfer their activities elsewhere with a view to unfairly influencing negotiations or union activities, or that such threats had been implied.<sup>648</sup> Still others indicated they had no information whether MNEs had made such threats.<sup>649</sup> One government noted that small investors were the "sporadic exception" to its experience that MNEs did not deliver such threats,<sup>650</sup> and another considered that both MNEs and national enterprises "frequently" threatened to transfer their activities elsewhere.<sup>651</sup>

**134.** Details in the reports revealed that threats were used in a number of situations for various reasons. In the context of collective bargaining, MNE threats were reported to have occurred in negotiations with trade unions on wages, working methods and/or conditions, in some cases during a strike or within enterprises operating in free zones, and, in one case, when the government ordered negotiations with trade unions in the context of an ongoing strike.<sup>652</sup> Two respondents reported threats by MNEs in efforts to de-unionize worksites or to undermine the image of unions, in one case, reporting that activities were being copied

<sup>647</sup> 69 respondents: 26 governments, 16 employers' organizations, 12 workers' organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 85.

<sup>648</sup> Antigua and Barbuda (G), Austria (G) (both MNEs and national enterprises), Barbados (G), (E), (W), Colombia (W), Dominican Republic (W), France (W – CGT), Indonesia (G) (a few MNEs), Republic of Korea (W), Madagascar (W), Mozambique (W), Pakistan (W x 2) (PLF: threats to transfer activities in utilities (water; gas; electricity) sector; high tariffs obtained from government beyond capacity of consumers to pay), Senegal (G), South Africa (E) (W – COSATU), Spain (W), Thailand (G), Hungary (TP – employers' view), Malaysia (TP – workers' view), Malta (W), Philippines (G), South Africa (W – FEDUSA), Finland (TP – workers' view) (cases of "blackmail" by reminding workers of possibility of transferring operations).

<sup>649</sup> Angola (W), Cameroon (W), Estonia (TP), India (G), Lithuania (G), Poland (G), Portugal (G), Turkey (G), Ukraine (G), (E), Viet Nam (E).

<sup>650</sup> Bulgaria (G) (small investors in high unemployment regions).

<sup>651</sup> Austria (G).

<sup>652</sup> E.g., Austria (W) (forestry; wood; pulp and paper, and construction), France (W – CGT) (basic metal production; threats during government-ordered negotiations), Mozambique (W), South Africa (E), Spain (W) (threats in collective negotiations to transfer part or all of operations elsewhere arguing there are fewer disputes and lower costs there). See also Dominican Republic (W) (threats commonly made by free zone enterprises during wage negotiations, referring to wage levels in competing countries) (agriculture; plantations; other rural sectors).



by other companies in the same sector.<sup>653</sup> According to one government, such threats represented an “indecent strategy” to make workers “insecure in their bargaining power”.<sup>654</sup> In another report, the manager of an MNE of Asian origin distributed a flier to all staff threatening to order closure when the manager was required, by the labour directorate, to enter into negotiations with the trade union representatives.<sup>655</sup> According to one employers’ organization, an MNE threatened to relocate during a recognition dispute with a union.<sup>656</sup>

- 135.** Threats were also reported in the context of new labour legislation, labour inspection or trade union campaigns, when serious problems arose in the workplace, or when working conditions in collective bargaining agreements were disregarded.<sup>657</sup> A few respondents reported that threats to relocate had actually been carried out.<sup>658</sup>
- 136.** Several reports reflected problem-solving approaches used or considered in response to MNE threats to transfer activities elsewhere in the context of negotiations or exercise of the right to organize. One government was evaluating the introduction of legislation to require trade union recognition as a result of MNE threats (“hints”).<sup>659</sup> In the context of free zones, another government relied on its statutory authority to thoroughly evaluate applications for transfer of activities; yet another noted that, in any case of doubt regarding *maquila* free zone conduct, the labour inspectorate resolved the issue in conformity with the Labour Code.<sup>660</sup> In the Caribbean, the heads of government and leaders of trade union movements reportedly held discussions over threats by one MNE to transfer its activities from one Caribbean country to another, after which the employer was told it would not be welcomed in the other Caribbean nation; the company decided not to leave the first country.<sup>661</sup>

<sup>653</sup> Australia (W) (mining) (efforts to de-unionize worksites and move employees from collective to individual contracts; other mining companies copying activities; suggestions that unless unions are “reasonable” their operations in Australia will not continue or expand), Colombia (W) (transport: threats and attempts to undermine image).

<sup>654</sup> Thailand (G).

<sup>655</sup> France (W – CGT) (despite state aid for regional development purposes).

<sup>656</sup> Barbados (E) (postal and other communications services).

<sup>657</sup> E.g., France (W – CGT) (food; drink; tobacco: working conditions in collective agreements disregarded), South Africa (W – COSATU) (legislation, repeated threats upon labour inspection and trade union campaigns) (textiles; clothing; leather; footwear: repeated threats), Madagascar (W) (serious problems).

<sup>658</sup> E.g., Dominican Republic (W) (fruit producer in a Caribbean nation was reported to have moved its operations out of the country, after repeatedly threatening to do so because of alleged high production costs); Antigua and Barbuda (G) and (E) (MNE in postal and other communications services was reported to have hindered workers’ rights to organize by transferring its office out of the country).

<sup>659</sup> Barbados (G).

<sup>660</sup> Philippines (G) (evaluation of applications for transfer), El Salvador (G) (inspection).

<sup>661</sup> Barbados (W).

- 137.** Several governments and employers' organizations emphasized that the relocation of MNE operations occurred due to a range of commercial factors, and was not simply "a race to the bottom".<sup>662</sup> These respondents emphasized the context of competition and strategy in the world market, pointing to market considerations and institutional suitability as factors in the decision-making of MNEs; factors included taxation, market considerations, availability of trained workers,<sup>663</sup> and, in one respondent's view, "unresolved labour disputes, unrealistic expectations of union bargaining committees, declining resource base, and a decline of market share".<sup>664</sup> One respondent took the view that closures cause employment difficulties but not industrial relations problems.<sup>665</sup>
- 138.** *Question 21.* Some survey respondents described particular industrial relations problems specific to MNEs operating in the country.<sup>666</sup> Others indicated that there were no industrial relations problems specific to MNEs in the country.<sup>667</sup> Still others stated that they had no information or kept no records of such problems.<sup>668</sup>
- 139.** A general theme across comments on problems specific to MNEs was that decisions critical to labour relations were being taken, not by the enterprise which formally constituted the employer, but by the parent company far removed from the place of operation, and without workers' knowledge.<sup>669</sup> The decision-making power of the company representative at the negotiating table was said to be negligible, frustrating the workers' expectations and creating avoidable tension.<sup>670</sup> The centralization of decision-making power at the headquarters of MNEs left management in the host country with insufficient autonomy to deal adequately with industrial relations matters.<sup>671</sup>
- 140.** Related problems were reported in the context of adaptation of MNEs to local standards of industrial relations. Lack of awareness or information on labour legislation, combined with differences between home and host country procedures, was reported to lead MNEs into industrial relations problems; this was said to be overcome once local direction was given, for example by national employers' organizations or in conjunction with the trade union.<sup>672</sup> One government took the view that industrial relations problems within MNEs

<sup>662</sup> Canada (E).

<sup>663</sup> Greece (E), Italy (G) and (W).

<sup>664</sup> Canada (E).

<sup>665</sup> Portugal (G).

<sup>666</sup> 39 respondents: 11 governments, 5 employers' organizations, 20 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 86.

<sup>667</sup> 77 respondents: 28 governments, 14 employers' organizations, 11 workers' organizations, 24 respondents in tripartite replies. For a list of those respondents, see endnote 87.

<sup>668</sup> Angola (W), Brazil (G), Republic of Moldova (G), Romania (G).

<sup>669</sup> E.g., Greece (G), Switzerland (G).

<sup>670</sup> Spain (W).

<sup>671</sup> Senegal (G).

<sup>672</sup> Antigua and Barbuda (G) and (E), Finland (TP – workers' view), Guyana (G), Lithuania (G) (resolved in conjunction with the trade union), Viet Nam (E) (excessive disciplinary measures are

arose primarily from the incompatibility of certain local practices and agreements with the economic and social programmes defined by MNE headquarters.<sup>673</sup> Several respondents observed linguistic or cultural differences between top management of MNEs and local workers that led to misunderstandings and conflicts.<sup>674</sup>

- 141.** Interference with freedom of association and the exercise of the right to organize and bargain collectively was mentioned by a number of respondents.<sup>675</sup> This pattern of reports of particular industrial relations problems specific to MNEs was evident across regions, sectors and occupations. Workers' organizations, in particular, reported that officials had difficulty in organizing, collective bargaining, and/or carrying out administrative functions; incidents included blocked access to enterprises for trade union officials, intimidation, harassment, discrimination, dismissal and/or permanent replacement of union members, in one instance even if vindicated by the labour inspectorate, tribunals and courts.<sup>676</sup> A few workers' organizations observed that MNEs offered individual contracts in place of collective agreements to prevent or destroy union organization.<sup>677</sup> Certain MNEs were reported to discourage especially white-collar workers from organizing,<sup>678</sup> or to promote a "union-free environment" through a "covert policy".<sup>679</sup> "Persistent" violations of collective agreements in one sector of operation were reported.<sup>680</sup> Other reports indicated

main cause of many labour disputes, owing to MNEs' lack of awareness of national labour law and, in particular, disciplinary provisions). See Trinidad and Tobago (E) (seek advice from employers' organization).

<sup>673</sup> Senegal (G).

<sup>674</sup> Lithuania (E) one problem specific to MNEs regarding IR is inability of chairpersons and specialists to understand Lithuanian language, Sri Lanka (G) (cultural differences between top management of MNEs and workers leads to misunderstandings that affect work process), Thailand (G) (cultural differences in communication between MNE representatives and workers have raised some conflicts).

<sup>675</sup> E.g., Bulgaria (G), Philippines (G – workers' view); Australia (W), Colombia (W), Democratic Republic of the Congo (W), Ireland (W), Lithuania (W), Mozambique (W), Panama (W), Portugal (W), Rwanda (W), United Republic of Tanzania (W), Togo (W – GSA), United States (W); Finland (TP – workers' view).

<sup>676</sup> Bulgaria (G) (in some isolated cases, intervention in collection of membership fees and in issuing of regulations on trade union activities); ("brutal" attempts to crush trade unions on the part of small investors as well as refusal to create new trade unions), Mozambique (W) (MNEs do not usually accept their workers' membership in unions, and do not agree to workers organizing themselves), Rwanda (W) (some MNEs "do everything to destroy the union"), Togo (W – GSA) (MNEs have demonstrated "tremendous resistance to trade union organizations"), Philippines (G – workers' view) ("wanton violations" of freedom of association rights and "legion acts" of anti-union discrimination, "flagrant acts" of interference), Democratic Republic of the Congo (W) (dismissals of union leaders and refusal to reinstate despite court/administrative vindication, Panama (W) (in *maquiladoras* and banking free zone enterprises), Portugal (W) (denying raise to union members and other open discrimination), United Republic of Tanzania (W) (prevent workers from joining unions, or hinder operation of unions, especially in EPZs), United States (W) (union-busting, intimidation and harassment of striking workers by security guards, example given).

<sup>677</sup> Australia (W) (mining MNE), Lithuania (W).

<sup>678</sup> Finland (TP – workers' view).

<sup>679</sup> Ireland (W).

<sup>680</sup> Colombia (W) (air transport MNE).

that, in some cases, collective agreements were concluded with non-unionized groups of workers, or consultative mechanisms like labour management councils were used as a substitute for collective bargaining or to keep out unions.<sup>681</sup> One government faulted unions themselves for the “marked reduction in trade unionists”, attributing the trend to a “lack of representativity” and “various extreme attitudes.”<sup>682</sup>

- 142.** Some industrial relations problems were reported in the context of MNE operations and linkages, mainly by workers’ organizations. Mergers and acquisitions were noted as increasing redundancies and workplace conflicts,<sup>683</sup> while one respondent expressed concern with the franchising of MNEs which had “disastrous” effects on working conditions, hours and the industrial relations climate.<sup>684</sup> Relocation of operations was said to occur more quickly than with national enterprises and often without consultations with workers or trade unions.<sup>685</sup> Industrial relations problems were linked by one respondent to the introduction of labour-saving technologies,<sup>686</sup> and by others to environmental hazards.<sup>687</sup>
- 143.** Several respondents pointed to lack of action on the part of government, or statutory impediments as reasons for lack of resolution of industrial relations problems specific to MNEs. A few reports focused on lack of response by government to the needs of workers in organizing or negotiating with MNEs.<sup>688</sup> One government noted that the constitutional right to strike was rendered ineffective when the Secretary of Labor assumed jurisdiction over a dispute or certified it for compulsory arbitration; this problem was especially frequent in cases of MNEs operating in EPZs.<sup>689</sup> In the same country, workers took the view that a union-free environment was made an informal incentive to attract enterprises and company-dominated unions were supported.<sup>690</sup>
- 144.** Various activities were presented as contributing to resolution of industrial relations problems in MNE operations. Such problems were solved in some cases in accordance with law through “direct dialogue” or MNEs seeking advice from the national employers’

<sup>681</sup> Panama (W) (non-unionized groups), Philippines (G – workers’ view) (consultative mechanisms).

<sup>682</sup> Ecuador (G).

<sup>683</sup> E.g., Bangladesh (W), Republic of Korea (W) (change from local to foreign ownership).

<sup>684</sup> Portugal (W).

<sup>685</sup> E.g., Japan (W), Belgium (G).

<sup>686</sup> Dominican Republic (W).

<sup>687</sup> E.g., Dominican Republic (W), United States (W).

<sup>688</sup> Panama (W) (attempts at organization thwarted despite 1995 labour reforms intended to rectify non-response of State), Peru (W) (no dialogue between workers and government despite 30 national mobilizations since 1996 and two national work stoppages; rather government promotes MNEs’ interests).

<sup>689</sup> Philippines (G).

<sup>690</sup> Philippines (G – workers’ view).

organization.<sup>691</sup> According to one employers' organization, MNEs could make criteria for relocation of their operations transparent, including labour costs.<sup>692</sup> The European Works Councils was put forward as a model that could help confront risks for workers arising from the actions of groups of companies if such councils were independently funded rather than economically dependent on employers' organizations.<sup>693</sup> One workers' organization called for copies of the Tripartite Declaration to be circulated among management and workers to promote better understanding of its provisions, and enactment of legal provisions to deal with MNEs that fail to respect its provisions.<sup>694</sup>

## 2. Consultation with representative employers' and workers' organizations concerning this report

### *Q.22 Governments*

- (a) *If this is a joint report, please indicate the names of the employers' and workers' organizations that participated in preparing this reply.*
- (b) *In the event that this is not a joint reply, please identify the employers' and workers' organizations to which copies of your report were sent.*

### *Employers and workers*

- (c) *In the event that employers' or workers' replies are being sent direct to the Office, have copies thereof been sent to the relevant government authorities and to the most representative employers' or workers' organizations? If so, please identify them.*

Total No. of respondents: 129/169 (30 of which responded in tripartite replies):	
■	Governments from 65/75 countries (10 of which responded in tripartite replies)
■	Employers' organizations from 28/39 countries (10 of which responded in tripartite replies)
■	Workers' organizations from 36/55 countries (10 of which responded in tripartite replies)

**145.** Consultations between governments and representative employers' and workers' organizations in preparation of survey replies is described generally in Part I.2 (Response rates and patterns), *supra*. In ten countries, replies from governments and employers' and workers' organizations were consolidated at the national level. In addition, a large number of governments stated that they had invited the representative employers' and workers' organizations to contribute to their reports, and there were a number of cases in which the social partners responded positively to those requests. Some employers' and workers' organizations forwarded to the ILO copies of the written contributions that had been given to governments, and others submitted statements indicating that they shared the governments' views. Generally, the organizations which were consulted and the views which had been incorporated into the governments' reports were named. However, there were cases in which it was simply indicated that the opinions of the social partners had

<sup>691</sup> Bangladesh (E) and (G) (direct dialogue), Trinidad and Tobago (E) (employers' advice).

<sup>692</sup> Germany (E).

<sup>693</sup> Greece (G).

<sup>694</sup> Bangladesh (W).

been taken into account. Those organizations which had been invited to make known their views, but which did not do so, were usually identified. Most governments sent copies of their replies to the representative employers' and workers' organizations,<sup>695</sup> and a large number of employers' and workers' organizations copied their reports to the governments. Thus, many of the parties concerned were afforded the opportunity to comment on each other's reports, if they wished to do so. Details of the employers' and workers' organizations which contributed in any way to the reports of their respective governments, as well as those which submitted reports to the ILO, can be found in table I.2.2 (Part I.2 *supra*) of the report of the Working Group. The channels through which the reports came to the Office are also specified in that table.

### 3. Promotion of the observance of the Declaration

*Q.23 What kind of promotional activities, if any, have been undertaken by government and the employers and workers – alone or jointly – during the last four years with the aim of increasing awareness of the aims and principles of the Tripartite Declaration?*

Total No. of respondents: 124/169 (30 of which responded in tripartite replies):	
■	Governments from 50/75 countries (10 of which responded in tripartite replies)
■	Employers' organizations from 34/39 countries (10 of which responded in tripartite replies)
■	Workers' organizations from 40/55 countries (10 of which responded in tripartite replies)

**146.** Many respondents reported that promotional activities were undertaken during the reporting period to increase awareness of the aims and principles of the MNE Declaration;<sup>696</sup> a significant number indicated that no promotional activities were undertaken.<sup>697</sup> One government indicated that there was no need for promotional activities because the labour legislation in the country did not discriminate between MNEs and national enterprises.<sup>698</sup>

**147.** There were more reports of promotional activities undertaken on a tripartite basis than of activities undertaken individually by governments, or employers' or workers' organizations.<sup>699</sup> Many promotional activities undertaken individually by the government

<sup>695</sup> Governments of: Antigua and Barbuda, Australia, Austria, Bahamas, Bahrain, Bangladesh, Brazil, China, Colombia, Côte d'Ivoire, Croatia, Ecuador, El Salvador, Guatemala, Guyana, India, Indonesia, Japan, Jordan, Kenya, Republic of Korea, Lebanon, Lithuania, Mauritius, Mexico, Republic of Moldova, New Zealand, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Rwanda, Senegal, Slovenia, Sri Lanka, Switzerland, Togo, Turkey, Ukraine.

<sup>696</sup> 54 respondents: 22 governments, 14 employers' organizations, 3 workers' organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 88.

<sup>697</sup> 40 respondents: 12 governments, 6 employers' organizations, 13 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 89.

<sup>698</sup> Mauritius (G).

<sup>699</sup> Tripartite activities: 32 respondents: 10 governments, 4 employers' organizations, 3 workers' organizations, 15 respondents in tripartite replies. Government activities: 19 respondents: 10 governments, 1 employers' organization, 5 workers' organizations, 3 respondents in tripartite replies. Employer activities: 10 respondents: 1 government, 9 employers' organizations: Worker

or employers' or workers' organizations were aimed to benefit the group(s) which sponsored the activities. However, a number of respondents reported that the government undertook activities which sought to benefit employers' or workers' organizations,<sup>700</sup> and employers' organizations in particular sought to educate MNEs themselves.<sup>701</sup> Notably, several respondents considered that tripartite consultations were undertaken with a view to ratification of ILO Conventions, negotiation of collective agreements and pacts, and/or regular meetings between MNE management and trade unions constituted activities to promote the MNE Declaration.<sup>702</sup>

- 148.** A variety of purposes and strategies were evident among the reports of promotional activities. A few respondents sought to emphasize the principle of tripartism underlying the MNE Declaration or to improve consultative or conciliation institutions or methods.<sup>703</sup> Others sought ways to improve social and economic legislation in order to better promote the aims of the Declaration.<sup>704</sup> A number of respondents conducted campaigns or other initiatives to increase information and awareness about the MNE Declaration.<sup>705</sup> Some respondents directly sought to influence MNEs' awareness or implementation of the aims of the Declaration.<sup>706</sup> One employers' organization adopted government-sponsored guidelines for MNEs operating abroad, published a report on HRD in home country MNEs operating abroad, and issued a manual to advise national employees in overseas operations.<sup>707</sup> In one country, respondents reported conducting workshops for host and home governments.<sup>708</sup> In another, promotional activities led to the signing of a

activities: 9 respondents: 2 governments, 7 workers' organizations. For a list of those respondents, see endnote 90.

<sup>700</sup> Brazil (W) (reporting that the Government disseminated copies of the Declaration to workers), Malaysia (TP) (reporting that copies of the Declaration were disseminated on a tripartite basis to MNEs), Nepal (W) (reporting that the Government sent copies of the Declaration to government units as well as social partners), Nicaragua (G), Portugal (G), Togo (G) (reporting that it sent copies of the Declaration to employers and workers), Ukraine (G) (reporting that it held working group conferences for social partners).

<sup>701</sup> See note 706 *infra*.

<sup>702</sup> E.g., Mexico (G), Trinidad and Tobago (E), Egypt (E), Slovakia (TP).

<sup>703</sup> E.g., Antigua and Barbuda (G), (E), Bahamas (G), Colombia (G) (promoting conciliation as an alternative way of solving disputes), Nepal (W) (mobilization of the Central Labour Advisory Committee).

<sup>704</sup> E.g., Bangladesh (E), (G) (development of industrial relations and framing of labour laws and rules), Ukraine (G) (to improve existing social and economic legislation).

<sup>705</sup> E.g., Democratic Republic of the Congo (W) (following a workshop on the Declaration, information and awareness campaigns conducted), Finland (TP – workers' view) (the Central Organization of Finnish Trade Unions (SAK) reminded its union of the existence of the Declaration), Indonesia (G) (technically assisted by the ILO to raise awareness of the Declaration), Malaysia (TP) (increased MNE awareness of the Declaration).

<sup>706</sup> E.g., Bangladesh (E) and (G) (discuss with MNEs the fixation of wages), Germany (E) (promoting social responsibility of internationally active enterprises, recalling the "important guiding function" of the Declaration), Malaysia (TP) (increase MNE awareness of the Declaration), Sri Lanka (E) (published guide for investors).

<sup>707</sup> Japan (E).

<sup>708</sup> Jordan (G), (E) (supported by the ILO).

Memorandum of Social Understanding (MSU) patterned after the MNE Declaration, and follow up sectorally based negotiations.<sup>709</sup> One government reported activities to promote basic labour rights.<sup>710</sup>

- 149.** Modalities for promotional activities ranged from seminars, workshops, round tables and other awareness-raising programmes,<sup>711</sup> to translation and/or dissemination of the Declaration,<sup>712</sup> and training/educational conferences.<sup>713</sup> Other reports mentioned media presentations aimed at making the public aware, joint venture programmes, a new work culture plan and a guide for investors.<sup>714</sup> The ILO was reported to provide financial or technical assistance in a number of these activities.<sup>715</sup>
- 150.** Evaluations of promotional activities and suggestions for future work were offered by a few respondents. One government stated that the MNE Declaration was discussed in educational courses and commented that the ILO's material was more appropriate to developing countries than to its situation.<sup>716</sup> A workers' organization proposed that MNEs become involved in round tables with trade unions, through the ILO, in order to evaluate the implementation of the MNE Declaration.<sup>717</sup>

<sup>709</sup> Philippines (G). See also GB.271/MNE/1, Appendix I (text of Tripartite Memorandum of Social Understanding of the Philippines).

<sup>710</sup> Senegal (G).

<sup>711</sup> E.g., Cameroon (G), Colombia (G), Democratic Republic of the Congo (W), Ghana (W), Indonesia (G), Jordan (G) and (E), Lithuania (W x 2), Philippines (G), Senegal (G), United Republic of Tanzania (W), Togo (E), Viet Nam (E), Zimbabwe (G).

<sup>712</sup> Brazil (W), Denmark (TP), Lebanon (G) (copies of Declaration requested), Malaysia (TP), Nepal (W), Nicaragua (G), Romania (G), South Africa (E), Spain (W), Togo (G), (W – CSTT), Zimbabwe (G).

<sup>713</sup> E.g., Hungary (TP) (grants for education), Poland (W x 2) (training conference), South Africa (W – FEDUSA) (programme of familiarization for workers), Ukraine (G) (conferences).

<sup>714</sup> E.g., Antigua and Barbuda (G) and (E) (media presentation organized on a tripartite basis; aimed at the public), Bahamas (G) (joint venture programmes organized on a tripartite basis; aimed at the social partners), Mexico (W) (new work culture plan organized on a tripartite basis; aimed at social partners), Sri Lanka (E) (guide for investors organized by employers' organization; aimed at MNEs).

<sup>715</sup> Democratic Republic of the Congo (W) (following a workshop on the Declaration, information and awareness campaigns were conducted), Indonesia (G) (raise awareness of the Declaration), Jordan (G), (E) (supported by the ILO to conduct workshops for host and home governments), Philippines (G) (Memorandum of Social Understanding (MSU) patterned after the MNE Declaration), Sri Lanka (E) (published guide for investors).

<sup>716</sup> Belgium (G).

<sup>717</sup> South Africa (W – COSATU).



#### 4. The Tripartite Declaration and various economic zones and industrial sectors (Survey question 24(a), (b), (c), (d), (e), (f), (g))

- 24(a) *In the event that there are export processing or special economic zones in operation, do the labour laws applicable in such areas differ in any way from those applied elsewhere in the country? If so, please explain.*
- (b) *Have workers in export processing and special economic zones the right to form associations of their own choosing and bargain collectively on the terms and conditions of employment which would apply to them?*
- (c) *Do special incentives that may be offered to investors in such special areas limit in any way, directly or indirectly, fundamental human rights or basic trade union rights, employment security, equality of treatment, safety and health standards and other rights of workers?*
- (d) *Is there any particular experience with regard to the application of the Tripartite Declaration in the various economic/industrial sectors on which you would wish to provide information?*
- (e) *Can you provide any information specific to export processing/special economic zones or offshore production installations with regard to paragraphs 17, 20, 25, 26, 30, 34, 37, 40, 41, 45, 52, 54, 56 and 58 of the Declaration?*
- (f) *Has the participation of MNEs in what were previously state, and now privatized, industries or deregulated sectors given rise to any particular labour problems? If so, please explain briefly.*
- (g) *What is your assessment of the observance – in EPZs, SEZs and similar operations – of the principles of the Tripartite Declaration, and in particular employment and workers' rights? Please explain briefly.*

Total No. of respondents: 125/169 (27 of which responded in tripartite replies):
<ul style="list-style-type: none"> <li>■ Governments from 62/75 countries (9 of which responded in tripartite replies)</li> <li>■ Employers' organizations from 27/39 countries (9 of which responded in tripartite replies)</li> <li>■ Workers' organizations from 36/55 countries (9 of which responded in tripartite replies)</li> </ul>

- 151.** *Question 24(a).* Among those respondents which indicated there were laws establishing export processing or special economic zones in the country,<sup>718</sup> many reported that labour laws that operate in EPZs were the same as those that apply elsewhere in the country.<sup>719</sup> A number of respondents, however, said that the labour laws applicable in such areas differed in some way from those applied elsewhere in the country.<sup>720</sup> A few respondents applied

<sup>718</sup> 85 respondents: 41 governments, 14 employers' organizations, 15 workers' organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 91.

<sup>719</sup> 57 respondents: 27 governments, 10 employers' organizations, 8 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 92.

<sup>720</sup> 24 respondents: 13 governments, 3 employers' organizations, 8 workers' organizations. For a list of those respondents, see endnote 93.

the question to free ports, or free trade zones, in the country.<sup>721</sup> Respondents from one FDI source country noted that it would be relevant to ask about its country's MNE subsidiaries operating abroad,<sup>722</sup> and another considered that no MNEs actually existed in free export zones in the country.<sup>723</sup> One respondent indicated that it was "understood" that free zone enterprises must fulfil the same requirements as national enterprises under the labour law, although the law governing the free zones did not explicitly say so.<sup>724</sup> In one case, labour laws were said to apply differently to workers in EPZs who held temporary contracts.<sup>725</sup>

**152.** A few respondents commented generally on the differences in labour laws applicable in EPZs and elsewhere in the country. In one country, it was said to be "necessary for a few years to attain a level of economic and social development so that workers of comparable enterprises can equally benefit, and to solve unemployment problems".<sup>726</sup> In another, a government stated that exempting certain areas from application of the country's labour law normally had "positive effects on working conditions due to less interference from outside".<sup>727</sup> One workers' organization observed that EPZs and SEZs seemed to be "another country in the country".<sup>728</sup>

**153.** Among those respondents which indicated that labour laws applied differently in EPZs, many reports of differences applicable to terms and conditions of employment appeared to affect wages and benefits, working time, employment security, training, and occupational safety and health. Some respondents perceived the differences in such areas to bring more favourable treatment for workers in EPZs than elsewhere in the country. These included transport, medical and childcare facilities, special training programmes, procedures requiring prior authorization from the government before closure of operations of an EPZ enterprise, wages higher than the minimum wage.<sup>729</sup> Others described differences which evidenced less favourable treatment than workers received elsewhere in the country, such as more overtime or holiday work required, night work for women, no retirement provisions, less favourable leave terms, exemption from OSH practices or inadequate OSH practices, indefinite renewal of temporary contracts, special provisions in cases of redundancy or dismissal.<sup>730</sup> In a number of cases, limitations on legal protection for

<sup>721</sup> E.g., Germany (G), Sri Lanka (G), Sri Lanka (W – LJEWU).

<sup>722</sup> Finland (TP) (in EPZs in China).

<sup>723</sup> Lebanon (G).

<sup>724</sup> Costa Rica (G).

<sup>725</sup> Peru (G).

<sup>726</sup> Bangladesh (G) and (E),

<sup>727</sup> Pakistan (G).

<sup>728</sup> Turkey (W).

<sup>729</sup> Costa Rica (G), Ecuador (G), Sri Lanka (G), Brazil (G), Philippines (G) Dominican Republic (W) (lower relative wages but on-payment of 10 per cent of profits to workers as is case for other companies).

<sup>730</sup> Senegal (G), Ecuador (G), Panama (G) (certain enterprises in EPZs), Kenya (G) (incentive by way of exemption from OSH laws to be removed), Togo (W – GSA), Mauritius (G) (rather computed under special act), Panama (W) (dismissal provisions more flexible, less contract security).

freedom of association and the right to collective bargaining in EPZs appeared to be linked to a perception that such limitations would operate as an incentive or boost for newly established EPZ enterprises.<sup>731</sup> See generally the discussion under question 24(b) *infra*.

- 154.** *Question 24(b).* Some respondents reported that workers in EPZs have the right to form associations of their own choosing<sup>732</sup> or bargain collectively on the terms and conditions of employment which would apply to them.<sup>733</sup> A number of others indicated that workers in EPZs did not have the right to form associations of their own choosing,<sup>734</sup> or to bargain collectively on terms and conditions of employment.<sup>735</sup> In some situations, workers in EPZs were recognized as having these rights in law but they may not always be able to exercise them in practice, according to several replies.<sup>736</sup> Several respondents' reports reflected a position of power of MNEs investing in EPZs with regard to government policy and action which brought an adverse impact on workers' exercise of freedom of association, and right to collective bargaining.<sup>737</sup>
- 155.** Aspects of the climate of workers' industrial relations in certain EPZs emerged from some responses. A few respondents noted compulsory arbitration of labour disputes, and/or abolition of the right to strike.<sup>738</sup> Several workers' organizations indicated that they were

<sup>731</sup> E.g., Egypt (G) (EPZ enterprises exempt from procedures for recognizing workers' representatives), Turkey (G) and (E) (strikes and lockouts during first 10 years of commencement of enterprise operation in free zone prohibited; disputes compulsory arbitration submittal), Turkey (W) (adding that trade unions are not respected). Compare Bangladesh (G) and (E) (workers in EPZs have right to form associations and take up grievances) with Bangladesh (W) (only employers policies in individual enterprises exist).

<sup>732</sup> 46 respondents: 20 governments, 9 employers' organizations, 8 workers' organizations, 9 respondents in tripartite replies. For a list of those respondents, see endnote 94.

<sup>733</sup> 45 respondents: 18 governments, 9 employers' organizations, 6 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 95.

<sup>734</sup> 15 respondents: 6 governments, 1 employers' organization, 8 workers' organizations. For a list of those respondents, see endnote 96.

<sup>735</sup> 10 respondents: 4 governments, 6 workers' organizations. For a list of those respondents, see endnote 97.

<sup>736</sup> E.g., Bahamas (G), Bulgaria (G), Philippines (G), Sri Lanka (G) (but new amendment to law will provide for compulsory recognition of trade unions by employers in certain situations), Zimbabwe (G) (" yawning gap between law and practice" with regard to workers' rights in EPZs), Kenya (G) (right in law but "very common" for MNEs in EPZs to not allow their workers to join trade union movements).

<sup>737</sup> E.g., Sri Lanka (G) (MNEs in FTZs have consultations with government and sometimes employers' but not workers' organizations), Sri Lanka (W – CWC) (in practice industrial relations in EPZs are influenced by Board of Investment), Sri Lanka (W – LJEWU) (gap in law and practice for fear of dismissal and other reprisals by MNEs in FTZs), Togo (W – GSA) (good relations between government and enterprises have hindered trade union activities and tacitly prevent access of labour inspectorate to those enterprises).

<sup>738</sup> Panama (G) and (W) (no right to strike, and compulsory arbitration), Sri Lanka (W – LJEWU) (citing survey of FTZ women workers, no obligation to conclude CBAs, compulsory arbitration to settle disputes – 75 per cent of workers do not have confidence in councils that represent them in FTZs).

excluded from working in EPZs, and one reported using covert means to organize.<sup>739</sup> One workers' organization indicated that organizing in EPZs was difficult because workers lacked trade union experience and practice.<sup>740</sup> In one country, complaints by trade unions of denial of trade union rights were said to have occurred in some EPZs, and enforcement agencies had investigated and reported the situation to national tripartite bodies.<sup>741</sup> In another, enterprises in free zones were reported to consult with state institutions on all questions about their operations, including terms and conditions of employment for their workers.<sup>742</sup>

**156.** *Question 24(c).* Special incentives offered to investors in special economic or export processing zones were perceived, in many cases, *not* to limit in any way, directly or indirectly, fundamental human rights or basic trade union rights, employment security, equality of treatment, safety and health standards or other rights of workers.<sup>743</sup> A comparatively small number of respondents indicated that special incentives offered to investors in EPZs limited various rights of workers, particularly freedom of association and right to collective bargaining.<sup>744</sup> One responded that it had not conducted any specific study so could not answer the question.<sup>745</sup> Some of those who indicated that there were incentives for investors that did not limit workers' rights provided examples, including fiscal and economic measures, such as favourable leasing and taxation terms, offered to enterprises setting up operations in the zones, and noted that they did not include exemptions from labour or other laws.<sup>746</sup>

**157.** *Question 24(d).* Only one respondent provided information on particular experiences with regard to the application of the MNE Declaration in the various economic/industrial sectors. A workers' organization reported that enterprises in free zones in the mining industry and tourist/hotel trade have raised levels of pollution or destroyed ecosystems in the provinces.<sup>747</sup> For respondents' experiences in various economic/industrial sectors generally, see boxes 1.3.1 (linkages), 1.3.2 (employment opportunities), 1.4.1 (HRD and training), 1.6.3.2 (collective bargaining), and notes 491, 518, 574, 614 and notes accompanying paragraphs 133 and 134.

<sup>739</sup> United Republic of Tanzania (W), Cameroon (W) (unions unable to operate in EPZs), Togo (W – GSA) (unions tacitly banned – no way of ascertaining answers to question), Dominican Republic (W) (have to organize clandestinely to prevent unionized workers from being dismissed), Togo (W – CSTT) (workers' representatives and sectoral trade unions deliberately excluded in free zones).

<sup>740</sup> Madagascar (W).

<sup>741</sup> India (G).

<sup>742</sup> Nicaragua (G).

<sup>743</sup> 50 respondents: 26 governments, 8 employers' organizations, 4 workers' organizations, 12 respondents in tripartite replies. For a list of those respondents, see endnote 98.

<sup>744</sup> 10 respondents: 1 government, 9 workers' organizations. For a list of those respondents, see endnote 99.

<sup>745</sup> Togo (G).

<sup>746</sup> E.g., Côte d'Ivoire (G), Philippines (G), Poland (G).

<sup>747</sup> Dominican Republic (W).

- 158.** *Question 24(e).* A few respondents provided information on export processing/special economic zones or offshore production installations with specific reference to paragraphs 17, 20, 25, 26, 30, 34, 37, 40, 41, 45, 52, 54, 56 and 58 of the Declaration<sup>748</sup> while one indicated that its council governing EPZs was in too formative a stage to answer precisely.<sup>749</sup> One government indicated that, in reference to paragraph 20, various programmes in EPZs seek to expand links between national enterprises and MNEs.<sup>750</sup> Several respondents referred to procedures on closure of operations, points relevant to paragraph 26, either positively as providing protection or as insufficient and requiring review.<sup>751</sup> With reference to paragraph 30, it was noted that free zone enterprises play an active part in programmes to improve training.<sup>752</sup> One respondent noted that it does not keep records of cases relevant to paragraph 52 (threats to transfer operations).<sup>753</sup>
- 159.** *Question 24(f).* A number of respondents, particularly workers' organizations followed by governments, reported that the participation of MNEs in what were previously state and now privatized industries or deregulated sectors had given rise to particular labour problems.<sup>754</sup> One government indicated it had insufficient information to provide an answer.<sup>755</sup>
- 160.** A significant number of the respondents referred to staff reductions or dismissals of workers in the context of privatization and/or deregulation.<sup>756</sup> A number of governments in particular emphasized the inevitability of reductions in employment in privatized industries, and/or stressed that reductions were carried out in compliance with relevant collective agreements and/or legislation.<sup>757</sup> Other respondents indicated that dismissals

<sup>748</sup> 3 respondents: 3 governments. For a list of those respondents, see endnote 100.

<sup>749</sup> Ecuador (G).

<sup>750</sup> Costa Rica (G).

<sup>751</sup> Costa Rica (G) (obligation of free zone enterprise to provide advance notice to agency and any information requested; agency to certify that there is no pending labour matter), Sri Lanka (G) (reviewing procedures after insufficient notice of closure given in one case).

<sup>752</sup> Costa Rica (G).

<sup>753</sup> Nicaragua (G).

<sup>754</sup> Privatization: 20 respondents: 6 governments, 11 workers' organizations, 3 respondents in tripartite replies. Deregulation: 10 respondents: 3 governments, 1 employers' organization, 3 workers' organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 101.

<sup>755</sup> Thailand (G).

<sup>756</sup> E.g., Germany (W), Nepal (W), Panama (G), Peru (G), Poland (W – OPZZ), United Republic of Tanzania (W), Togo (G), Togo (W – CSTT), Uganda (TP), Colombia (G), Guatemala (G), Australia (W), Madagascar (W), Rwanda (W), Hungary (TP).

<sup>757</sup> E.g., Colombia (G) (reductions in order to optimize production process but necessary measures taken in compliance with relevant laws and collective agreements), Guatemala (G) (privatization of national telecommunications industry led to job losses, but accompanied by required redundancy payments), Panama (G) (problems with MNEs in certain formerly state-owned industries or enterprises, such as telecommunications and electricity services, were favourably resolved). See also Pakistan (G) (problems in relation to over-employment previously).

occurred without social support measures or led to unemployment as well as enterprise policies of short-term and contract employment.<sup>758</sup> Reasons given for job reductions included the introduction by MNEs of new technologies and production methods, restructuring and the difficulties of employees in meeting the demands of efficiency, enhanced productivity and continuous training.<sup>759</sup> An innovative policy to retrain dismissed workers financed by privatization revenue was piloted in one country.<sup>760</sup> One government pointed out positive knock-on effects through linkages on both demand and supply side produced during first few years of operations of privatized enterprises.<sup>761</sup>

- 161.** Particular attention, positive and negative, was given by some of the respondents to freedom of association and collective bargaining. One government reported that collective bargaining agreements already in effect remained in force after privatization of concerned enterprises.<sup>762</sup> A number of respondents indicated that unions were closed down before or after privatization, and that trade unions were not as readily accepted or recognized after privatization, resulting in difficulty maintaining or negotiating adequate working conditions.<sup>763</sup> Some positive and negative results of MNE participation in privatization were reported by one respondent, which noted that, in one-third of MNEs, privatization worked to the advantage of employees based on including improved wages, working conditions and social care while in most cases privatization was followed by staff reductions when employees could not adjust to the demands of efficiency, enhanced productivity and continuous training.<sup>764</sup> Another respondent noted that, in the context of privatization, collective bargaining established because of the good industrial relations in the home country of the MNE.<sup>765</sup> One workers' organization suggested that ILO should explore whether the high level of social protection and "co-determination" developed in public sector can be maintained in the new privatized models, which it called

<sup>758</sup> E.g., Australia (W), Madagascar (W), Rwanda (W), Uganda (TP).

<sup>759</sup> E.g., Hungary (TP), Poland (W).

<sup>760</sup> See, e.g., Hungary (TP) (programme under which percentage of revenue from privatization in electric power sector is devoted to retraining dismissed workers).

<sup>761</sup> Peru (G).

<sup>762</sup> Bulgaria (G).

<sup>763</sup> Australia (W) (attempts by privatizing companies to de-unionize employment, and reduce fixed employment by contracting out), Sri Lanka (W – CWC) (same), Dominican Republic (W) (unions "closed down" before privatization and future disputes over unionization foreseen, reporting comments of private investors that unionization would be resisted), United Republic of Tanzania (W) (trade unions less readily accepted or recognized than under public management), Madagascar (W) (union problems in negotiating social plans for compensation to laid-off workers and in facilitating workers' re-entry into labour market; new, private employers in formerly state-managed enterprises exhibit short-term employment policies with "accompanying disregard for workers' rights"), Mexico (G) (recent break up of petrochemical industries raised issues involving industrial rights of workers not yet resolved), Nepal (W) (labour problems in formerly public enterprise in shoe and leather industry), Germany (W) (workers in post and telecommunications sector queried whether new multinational service corporations can retain high level of social protection and co-determination developed in the public sector).

<sup>764</sup> Hungary (TP – workers' view).

<sup>765</sup> Croatia (W).

“multinational service corporations” and should monitor the “transformation process of the new ‘multis’”.<sup>766</sup>

- 162.** *Question 24(g).* A relatively small number of responses directly addressed the question of observance of the principles of the MNE Declaration in zones.<sup>767</sup> Several respondents offered reasons for not responding, including the lack of an assessment made or the impossibility of making such an assessment given the lack of dissemination of the MNE Declaration in free zones.<sup>768</sup> One workers’ organization expressed reluctance to comment because laws applicable in EPZs often departed from domestic law safeguards with regard to employment and the right to organize.<sup>769</sup>
- 163.** A number of respondents reported that the principles of the Tripartite Declaration and, in particular employment and workers’ rights, were being observed in special zones.<sup>770</sup> Some noted a general consistency between the operation of zones and the aims of the Declaration relating to employment and labour disputes.<sup>771</sup> An employers’ organization indicated that application of the Declaration was demonstrated by the tripartite committees formed to discuss minimum wages and to look into cases of collective dismissals, other fields such as training and the development of the labour law.<sup>772</sup> A government respondent stated that only the trade unions have been active with respect to advancing the application of the Declaration in the various economic or industrial sectors.<sup>773</sup> In another country, enterprises operating in special zones were said to be *required* to respect the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.<sup>774</sup>
- 164.** Negative assessments were reported by a few respondents. One workers’ organization considered that the system of EPZs was contrary to the objectives set out in the MNE Declaration as regards MNEs serving as a model for the promotion of secure and stable employment and participating positively in “the integral development of the country”.<sup>775</sup> Another indicated that, in general, MNEs in EPZs did not observe the principles of the MNE Declaration in relation to employment and work rights.<sup>776</sup>

<sup>766</sup> Germany (W).

<sup>767</sup> 17 respondents: 6 governments, 4 employers’ organizations, 4 workers’ organizations, 3 respondents in tripartite replies. For a list of those respondents, see endnote 102.

<sup>768</sup> E.g., Kuwait (G), El Salvador (G), Peru (G), Ecuador (G).

<sup>769</sup> Mozambique (W).

<sup>770</sup> E.g., Republic of Korea (G), Poland (W – OPZZ), Senegal (G), Togo (G), Togo (W – CSTT).

<sup>771</sup> Guatemala (E), Poland (W – NSZZ Solidarność).

<sup>772</sup> Jordan (E).

<sup>773</sup> Guatemala (G).

<sup>774</sup> Ukraine (G, E).

<sup>775</sup> Panama (W).

<sup>776</sup> United Republic of Tanzania (W).

## 5. Disputes concerning interpretation of the provisions of the Declaration

*Q.25 (a) Have any disputes arisen in your country as a result of different interpretations being given by parties concerned to any paragraph(s) of the Tripartite Declaration? If so, please provide details on the issues and the ways in which these were resolved.*

*(b) Does the procedure, as outlined, raise difficulties? If so, please explain and also suggest any improvements you consider feasible.*

Total No. of respondents: 110/169 (24 of which responded in tripartite replies):	
■	Governments from 53/75 countries (8 of which responded in tripartite replies)
■	Employers' organizations from 27/39 countries (8 of which responded in tripartite replies)
■	Workers' organizations from 30/55 countries (8 of which responded in tripartite replies)

**165.** *Question 25(a).* No one reported any dispute arising in their country as a result of different interpretations of the paragraphs of the MNE Declaration; those who responded to the question said that no disputes had arisen.<sup>777</sup> A number of respondents indicated they had no information or kept no records of such disputes.<sup>778</sup> Other comments demonstrated the lack of cooperation or discussion, either collectively or individually, by governments, employers' or workers' organizations, on the issue of monitoring or implementing the MNE Declaration.<sup>779</sup> Confusion and/or low expectations marked other respondents' comments.<sup>780</sup> One workers' organization took the view that a survey team should be sent to the country to study the operation of the principles of the MNE Declaration and that only such a thorough study could determine areas of compliance and non-compliance.<sup>781</sup> Since no disputes were reported, no comments were received as to resolution of disputes.

<sup>777</sup> 94 respondents: 38 governments, 17 employers' organizations, 18 workers' organizations, 21 respondents in tripartite replies. For a list of those respondents, see endnote 103.

<sup>778</sup> Angola (W), Brazil (G) and (E), Democratic Republic of the Congo (W), Lebanon (G), Rwanda (W), Slovakia (TP), Thailand (G).

<sup>779</sup> Croatia (W) (in the absence of a tripartite meeting, it has not been possible to determine whether or not there have been differences in the interpretation of MNE Declaration), Latvia (W) (MNE Declaration has not been discussed by social partners), Pakistan (W – NLF) (there is no proper understanding of the Declaration by trade unions and no forum where it has been discussed), Spain (W) (no problems concerning the MNE Declaration because it has not been given the place it merits by the Government and employers), Zimbabwe (G) (not much cooperation or concerted effort to take a collective approach to monitoring or implementing the Declaration).

<sup>780</sup> Bulgaria (G) (disputes that have arisen are related to industrial relations and not in direct relation to the principles contained in the Declaration), Switzerland (W) (since the MNE Declaration does not contain any binding provisions, interpretation disputes rarely occur), United Republic of Tanzania (W) (no disputes have arisen but there are several cases in which employers do not observe the principles of MNE Declaration).

<sup>781</sup> Pakistan (W – PLF).



**166.** *Question 25(b).* Some respondents indicated that the dispute procedure as outlined did not raise any difficulties.<sup>782</sup> Only two respondents indicated that the dispute procedure had raised difficulties.<sup>783</sup> Those two respondents identified serious difficulties in their views, including its time-consuming nature, its character as a consensus document in “sharp contrast to the firmness of legal decisions”, and its “minuscule outcome”.<sup>784</sup> Three respondents offered suggestions for improvement of the implementation procedures of the MNE Declaration. A workers’ organization recommended that the requirement of unanimity in determining receivability should be abolished.<sup>785</sup> A government suggested that the process be reformed, taking account of the deliberations initiated on the OECD Guidelines on MNEs and calling for an “observatory of multinationals” with rapid observation and warning capabilities (not an “academic assembly producing studies long after the event”).<sup>786</sup> Without identifying any specific difficulties with the procedure, an employers’ organization took the view that the procedure should not cause major difficulties within MNEs even though the introduction of new things often takes time and money, and that cooperation would be made easier if MNEs gave a higher priority to participating in employers’ organizations.<sup>787</sup>

### III. Conclusions and recommendations

**167.** As demonstrated by the previous sections, the replies to the Seventh Survey provide extensive information and insights which will encourage those interested and concerned to work together in addressing the problems and opportunities identified. In addition, the wealth of information thus made available should prove useful to the work of the Office in a number of major technical areas. Replying to such a survey has meant considerable work for respondents. The Working Group would like to express its sincere appreciation to all governments and employers’ and workers’ organizations for their contributions to the Survey.

**168.** Having studied the reports and on the basis of the analysis carried out, the Working Group has agreed on the following conclusions, and has formulated a number of recommendations concerning action to be taken at national and/or international levels. The Working Group submits these to the Subcommittee for consideration, endorsement and transmittal to the Governing Body. The Subcommittee may also wish to formulate additional conclusions and recommendations which it may consider necessary.

<sup>782</sup> 47 respondents: 17 governments, 7 employers’ organizations, 8 workers’ organizations, 15 respondents in tripartite replies. For a list of those respondents, see endnote 104.

<sup>783</sup> Belgium (G) and Ireland (W).

<sup>784</sup> Belgium (G) (quoted remarks), Ireland (W) (procedure is totally ineffective because it cannot respond to the speed of decision-making in the global economy).

<sup>785</sup> Ireland (W).

<sup>786</sup> Belgium (G).

<sup>787</sup> Hungary (TP – employers’ view)