

Public policy, reporting and disclosure
of employment and labour information by
multinational enterprises (MNEs)

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Preface

This paper has been prepared within the framework of a research project on analysing the employment effects of multinational enterprises (MNEs), coordinated and edited by Ann Harrison of the University of Berkeley and Kee Beom Kim of the Multinational Enterprises Programme of the ILO.

In this paper, Michael Urminsky reviews approaches to the collection of information on the labour and employment effects of MNEs. An examination of such approaches is important as solid information is critical for policymakers and the social partners to design effective consensus-based policies.

The three approaches reviewed by the author include voluntary reporting and disclosure mechanisms, national reporting requirements, and international reporting mechanisms. While voluntary reporting and disclosure mechanisms have become prominent features of corporate social responsibility, the author argues that the lack of standardization between corporate reports hampers comparison. National reporting requirements vary across countries and overcome the selective nature of disclosure in voluntary reporting but lack public accountability for the information. International reporting mechanisms tend to produce little hard data that could be used by policymakers.

Given the advantages and limitations of each approach, the author argues that a more systematic approach to the collection of data on MNE activities is needed. A more systematic approach can provide a better understanding of the employment and labour effects of MNE activities and thus provide the basis for informed policy making.

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Contents

	<i>Page</i>
Preface.....	iii
1. Introduction.....	1
2. Definitions and conceptual clarifications.....	1
3. Information on labour and employment issues in MNEs.....	4
3.1. Voluntary reporting.....	4
3.1.1 Corporate reporting	5
3.1.2. Other voluntary reporting initiatives	6
3.2. National reporting requirements	8
3.2.1. France	8
3.2.2. Belgium	10
3.2.3. United States	11
3.2.4. Conclusions on national reporting.....	12
3.3. International mechanisms	13
4. What next?	15
5. Conclusions.....	16
Bibliography.....	17

1. Introduction

Foreign direct investment (FDI) is a prominent feature of national development policy in many countries. As a result, policy-makers, activists and industry representatives increasingly debate the labour and employment effects of FDI. Advocates of FDI as a component of a national development policy tend to stress the job creation effects, transfer of technology and skills and higher wages and conditions of work that FDI is supposed to help realize. Critics argue that FDI brings sweatshops, financial and labour related concessions to foreign investors, low wages, and generally exploitative working conditions. Both sides have produced evidence to support their claims; however, these contradictory positions lead to confusion for the policy-maker. How should the policy-maker reconcile these seemingly logical yet contradictory positions?

The goal of this paper is to analyse the role of information in gaining a better understanding of the labour and employment effects of FDI and thus to help governments and the social partners design better policies to maximize its benefits and minimize its costs. While the availability of reliable information is critical for informed policymaking, few governments have reliable information on the labour and employment impacts of FDI. Policymaking, based on suppositions and assumptions about actual impacts or expected impacts can easily lead to policies that are based in ideology rather than sound information and analysis. A good information base upon which to build public policy over time is an important mechanism to help overcome ideological debates and reach a common understanding of the impact of FDI. This paper reviews different approaches to collecting and analysing information on the employment and labour impacts of enterprises and develops some ideas on how countries can do this most effectively to reconcile contradictory positions.

The paper starts with some basic definitions and conceptual clarifications. Then it examines some of the theories behind the debate about the impact of FDI on human and labour rights. The next section examines several important approaches to the collection and analysis of data on the labour and employment impact of FDI. These include voluntary corporate reporting mechanisms, national reporting requirements, and international mechanisms. The usefulness of the information generated by these mechanisms is analysed, particularly from the viewpoint of public policy-makers. Finally, a few suggestions are made on how policymakers and governments can move forward.

2. Definitions and conceptual clarifications

While many authors have studied the quantitative direct and indirect impact of MNEs on employment, the notion that employment concerns only the number of people working is rather limited and restricted. This paper is based on the idea that employment encompasses not only the act of being employed but also respect for principles and rights at work, particularly the provisions of internationally agreed guidelines that define the responsibilities of multinational enterprises (MNEs) such as the Tripartite Declaration of Principles concerning Multinational enterprises and Social Policy. This broader conception of employment is important because employment and labour standards are often seen as trade-offs in many developing countries. This proposed conception allows us to approach the issue from an integrated perspective.

Does FDI have a positive or a negative impact on labour and employment and if positive, how can it be made even more so? These two questions are central in the debate

on labour and employment impacts of FDI and help put in context the need for a strategy based on sound information and dialogue between the social partners. It is useful prior to developing this strategy to understand the ideologically charged nature of the debate about MNE activities and their impact on workers and host countries at large. This section will firstly consider some of the basic theoretical arguments concerning the relationship between the activities of MNEs and labour rights as well as some of the empirical testing of these positions. Secondly, it will look at some of the perceptions in government and intergovernmental organizations and consider how they fit into the theoretical debates about the nature of FDI and employment and labour issues.

Two schools of thought dominate thinking about the impact of MNEs on human and labour rights. The first, the “Hymer thesis”, can be considered to have a negative view of MNEs while the positive view has been referred to as the “engines of development” thesis. The “Hymer thesis” argues that MNEs contribute directly to violations of human rights since the very organizational structure of MNEs creates dual development, and such unequal development creates a need to control the masses, thus creating a need for repression by the state. The argument is also premised on the assumption that dual development by its very nature is a violation of economic and social rights (Hymer, 1979). The “engines of development” thesis argues that MNEs that “promote development by creating jobs, by bringing new capital and new technology and by providing such employee benefits as health care would therefore necessarily be promoting economic and social rights.” (Meyer, 1998, p. 90). This view considers that socio-economic rights are likely to be promoted by the development associated with MNE activity and that civil and political rights improve as a new middle class is created that enhances stability and political tolerance. “Hence civil and political freedoms would expand as Third World Nations modernized” (Meyer, 1998, p. 90). These basic, opposite positions are vital to understanding the discourse about labour rights and employment and FDI. To resolve this underlying debate about the effect of FDI and MNE activity on employment and labour rights, it is useful to review some of the empirical work done in this area.

Several authors have examined the relationship between human and labour rights and FDI from quantitative and qualitative perspectives. Meyer has examined the relationship between the presence of MNEs and human rights practices within developing countries. He examined correlations between MNE presence and measures of first and second generation rights. His findings demonstrated positive relationships between levels of FDI, both civil and political rights and economic and social ones. Meyer’s work has been criticized on several grounds. First for the measures it employs of civil and political rights. Meyer used Freedom House data as a measure of civil and political rights but other authors have suggested that these data suffer from ideological bias. Smith, Bolyard and Ippolito dealt with the critiques levelled against Meyer’s work and introduced additional measures of civil and political rights. They used measures that were coded using United States Department of State country reports and Amnesty International reports. They also substituted additional measures of FDI and used World Bank data instead. Using this data they were able to generate different results from those of Meyer. They found that “difficulty arises in supporting the case that direct investment contributes to improved human rights practices” (Smith, Bolyard and Ippolito, 1999, p. 219). Instead, the authors found no relationship between MNE presence and human rights abuses. More directly related to the issues of labour rights is the work of David Kucera who coded qualitative data drawn from ILO supervisory machinery into measures of respect for freedom of association in a country. He concluded that “consistent with previous studies, no solid evidence is found in support of what has been referred to as the “conventional wisdom” that foreign investors favour countries with lower labour standards, for all evidence of statistical significance points in the opposite direction” (Kucera, 2003, p. 1).

The debate about the relationship between FDI and labour rights will no doubt continue for some time. This cursory overview of the main positions demonstrates two things. The first is the need for further empirical work into the relationship between FDI and labour rights, human rights and employment. The second is that one cannot rely on generalizations and simple analysis in cases where what is at stake is so substantial.

Foreign investment and particularly FDI are considered key elements of development strategies in many countries these days. The OECD states that FDI is becoming more important for developing countries and is overshadowing other capital flows such as official development assistance and export credits (OECD, 2002). Many countries and international organizations increasingly see FDI as a key component of development. For example, the Vietnamese law on foreign investment in Vietnam states that FDI is central to expanding “economic cooperation with foreign countries and to make contribution to modernization, industrialization and development of the national economy on the basis of efficient exploitation and utilization of natural resources ...” (Government of Vietnam, 1996). The Multilateral Investment Guarantee Agency (MIGA) promotes FDI as part of national development strategies. It states: “MIGA works closely with clients who demonstrate a strong commitment to putting in place the policies, practices, and structures necessary to attract foreign investments as an integral part of their overall approach to private sector growth”.¹ In the Philippines the mission of the Philippine Economic Zone Authority (PEZA) is to contribute to “the creation of employment and other economic opportunities, particularly in the countryside, and to spur growth and the diversification of exports”.² Thus, there appears to be a strong tendency in government circles and international organizations to view FDI as an important component of development strategies.

To paraphrase one prominent commentator: if there is one lesson to be drawn from a plethora of empirical studies on the labour and employment consequences of FDI and the behaviour of MNEs, it is that there is no satisfactory general answer to these questions. (Dunning, 1993, p. 263). “In the formation of government policy towards MNEs, or as a result of their activities, so much depends on country-, industry-, and firm-specific characteristics and the kind of FDI being undertaken. It also rests on the particular effects of MNE activity with which one is concerned; the time period in which one is interested; and from whose, or which perspective one is trying to assess the impact” (Dunning, 1993, p. 263).

Clearly, the debate about the effect of FDI and MNEs on labour and human rights is not even close to being resolved. As Dunning has argued, there are so many factors to consider, such as the nature of the FDI, sectoral issues and specific employment or labour issues that the relationships need to be studied much more in depth. Only with further research will it be possible to arrive at common answers to the central questions in this debate. However, policy-makers do not need to wait for this debate to be resolved; they can begin to collect systematically information on the labour and employment impact of FDI to help them develop better policy. This can in turn contribute to resolving the theoretical debate.

¹ <http://www.miga.org/screens/services/ims/ims.htm#facilitation> (accessed 13 August 2003).

² http://www.peza.gov.ph/about_peza.htm (accessed 17 November 2004).

3. Information on labour and employment issues in MNEs

This section will examine three approaches to the collection and presentation of information on the labour and employment impacts of MNE activities. It will examine their weaknesses and strengths and propose a strategy for collecting information in an effective and efficient way. The approaches examined are voluntary corporate disclosure practices, national reporting requirements and international reporting mechanisms. These mechanisms will be reviewed on the basis of the quality of the information they produce and also in terms of accountability for the information gathered.

The quality review will include considerations of the information produced, coverage of labour and employment issues and usefulness for public policy-making. The information produced can be viewed from two perspectives: how standardized it is and how extensive it is. The mechanisms examined have been classified into standardized, semi-standardized and non-standardized. With respect to extensiveness they have been classified into extensive provision of information, limited extensiveness and varying extensiveness.

The issue of public accountability is important to many NGOs and civil society groups. For example, one coalition of groups has begun a campaign termed the International Right to Know (IRTK) campaign. This group is attempting to build on “right to know” laws in the United States and extend them to apply beyond the United States. They refer to the Emergency Planning and Community Right to Know Act which requires companies to disclose information about the chemicals they use, store, and release from their facilities. “The United States Government provides this information in a publicly accessible database known as the Toxic Release Inventory. These disclosures help to safeguard communities in the United States, giving people better tools to monitor companies, protect themselves, and promote strong health and safety standards” (IRTK campaign, 2003, p. 5). The coalition proposes an International Right to Know that would require “companies based in the U.S. or traded on the United States Stock Exchanges and their foreign subsidiaries and major contractors to disclose information on overseas operations along the lines of domestic disclosure standards” (IRTK Campaign, 2003, p.6).

The accountability review in this paper refers to the public nature of the information and the verification of that information. The reporting systems examined below can be grouped into three levels of openness. Indirect accountability is reporting to the government where information is kept confidential and is disclosed to the public without attribution to a specific company. Direct accountability involves complete openness, for example in a fully public report. Semi-direct accountability refers to reporting to specific stakeholders without disclosure to the public at large. Stakeholders may be the government, workers and their organizations, or other groups.

3.1. Voluntary reporting

Since the mid-1990s voluntary reporting and disclosure mechanisms have become a prominent feature of the corporate social responsibility movement. These include individual corporate reports and reporting initiatives organized on a multi-stakeholder basis or by private sector actors. Any consideration of corporate reporting and disclosure needs to take account of these voluntary activities, as they influence the debate about the impact of MNE activities on labour and employment issues.

3.1.1 Corporate reporting

Individual corporate social and sustainability reports are increasingly common. A detailed analysis of the labour and employment information in these reports, however, demonstrates the poor quality of the information provided. The results of an examination of the information on labour and employment issues in the reports of 213 MNEs published between 2000 and 2001 are found in Table 1. These reports included regular annual reports as well as social, environmental and sustainability reports. The percentages in Table 1 indicate the percentage of reports that contain any reference to labour or employment issues with respect to policies, procedures or company performance. The column on policy refers to any reference to a corporate policy in the report. For purposes of calculating statistics, this included references to policies as well as full text of any policy. The references to process refer to management systems, management practices and programmes in different labour and employment areas. Finally the performance columns refer to statistics in the case of quantitative issues and to any qualitative reporting of performance, for example, general references to reductions in accidents or changes in the nature of collective agreements.

These data are not necessarily useful for policy-makers since corporations are quite selective in terms of the labour and employment information they are willing or able to report on, with significantly higher reporting on issues, such as, non-discrimination, wages, health and safety and total employment than on issues that are considered to be fundamental rights, such as, freedom of association and collective bargaining, non-discrimination, equal remuneration, child labour and forced labour. Furthermore, when the nature of the information reported was classified into policy information, process information or performance information, levels of disclosure decrease for most variables as one move from policies to processes to performance. Thus more useful information such as performance data is often the least frequently reported on. Also notable are the low reporting levels. With the exception of non-discrimination, all fundamental rights fall under the 10 per cent range for policy, process and performance variables.

Table 1. Reporting content by labour issue and character of information

Variable	% of reports referencing policies	% of reports referencing management systems	% of reports with performance data
Child labour	8.9	2.3	1.9
Forced labour	7.5	1.4	1.4
Non-discrimination and equal opportunity	30.5	11.7	16.9
Freedom of association	9.9	2.3	5.2
Collective bargaining	8.0	8.0	7.0
Equal remuneration	0.0	0.0	0.0
Wages	36.2	29.1	61.0
Hours	5.2	1.4	4.7
Training	43.7	35.7	49.8
Health and safety	45.5	40.8	45.5
Total employment	4.2	24.9	71.8
Job security	2.8	0.0	2.8
Employment of host country nationals	6.1	2.3	6.1
Technology	0.9	1.4	0.9
Disciplinary practice	0.0	0.0	0.0
Linkages with national enterprises	3.8	3.8	4.7

The statistics in Table 1 say nothing about the actual information reported. As standardized indicators are still being developed by many voluntary corporate reporting initiatives and mandatory ones are limited to only a few countries. It is not surprising that information published in reports differs widely. For example, in the area of freedom of association and collective bargaining, South African Breweries (SAB), in its *Corporate Citizenship Review 2000*, reported on its respect for the “right of employees to join trade unions for collective bargaining purposes” (SAB, 2001, p. 31) and on participation levels in trade unions compared to national averages and changes in trade union membership between years. It also reported on decreases in working days lost as a result of industrial action and applications to industrial tribunals as well as the percentages of cases that were settled prior to the hearing of the tribunal, those found in favour of the company and those found in favour of the plaintiff. In contrast, the reference in Michelin’s annual report to freedom of association and collective bargaining refers to its general policy of respecting trade union representation and the different relationships it has with unions in different countries. In this context it refers to national systems of industrial relations and the choice of workers rather than to the company’s policy on the issue. The information reported by both companies does not really give an indication of the effect of the company’s policy on freedom of association and collective bargaining. The distinguishing factor between the two reports is the emphasis on facts versus opinions. The SAB report focuses on its policy and facts such as statistics about trade union participation over time. Although the Michelin report also reports on company policy, it clearly looks at the issue from management’s perspective. These differences are illustrative of the diversity among social reports. Where a report focuses on perspectives and opinions, the objectiveness of the information can and should be questioned.

3.1.2. Other voluntary reporting initiatives

A number of voluntary reporting initiatives complement and guide the individual corporate social and sustainability reporting of large companies. The following paragraphs review three voluntary reporting activities that pay attention to labour and employment issues: the Global Reporting Initiative (GRI), the Global Compact’s reporting requirement and Business in the Community’s Corporate Impact Reporting Initiative. These give a sense of the diversity and goals associated with voluntary reporting initiatives.

A reporting format that is gaining ground in business circles is the one proposed by GRI. The GRI is “an international multi-stakeholder effort to create a common framework for voluntary reporting of the economic, environmental, and social impact of organization-level activity. The GRI mission is to elevate the comparability and credibility of sustainability reporting practices worldwide. The GRI incorporates the active participation of businesses, accountancy, human rights, environment, labour and governmental organizations”³. The purpose of this non-governmental, voluntary initiative is to provide a common framework for global sustainability reporting, elevating it to a widely accepted and recognized standard similar to those used for financial reporting. It strives to supply a solid reporting benchmark, eliciting comparable and verifiable disclosure of economic, environmental and social performance.

The GRI guidelines consist of several sections. The first section concerns the reporting principles or goals to which a reporter should strive. These include transparency, inclusiveness, auditability, completeness, relevance, sustainability context, accuracy, neutrality, comparability, clarity, and timeliness. The next section deals with report content

³ <http://www.globalreporting.org> (accessed 13 August 2003).

and takes up the issue of reporting indicators. The labour and employment indicators recommended as core indicators under the heading *Social Performance Indicators, Labour Practices and Decent Work* cover employment, labour relations, health and safety, training and diversity and opportunity. The section entitled *Social Performance Indicators: Human Rights* incorporates a reference to the “Fundamental Human Rights Conventions of the ILO” and the Universal Declaration of Human Rights. It covers indicators on non-discrimination, freedom of association and collective bargaining, child labour, forced and compulsory labour, disciplinary practices, security practices, and the rights of indigenous populations. The indicators show ILO Conventions Nos. 29 and 138 and reference the ILO Guidelines on Occupational Health and Safety Management Systems.

The GRI labour indicators encompass a wide range of quantitative and qualitative information related to labour and employment issues. Many core indicators refer to “policy and procedures” related to a certain subject area, for example, the issue of consultation and negotiation in the event of changes in the operations of the company or the references to policy and procedures in the areas of freedom of association, discrimination, child and forced labour. These “indicators” are at times more guidance towards the selection of indicators than being actual indicators. For example, the core indicator descriptions for non-discrimination, freedom of association, child and forced labour are very much oriented towards general guidance, referring to policies and procedures and the different issues involved in each right. This approach to indicator development allows companies to first develop their own indicators and be selective in the ones they develop. With some of the core and supplementary indicators there is considerable scope for interpretation and selection of indicators for individual companies. This is a potential problem since it makes comparison between companies difficult and is unlikely to generate consistent time series data. Furthermore, GRI allows companies to progressively adopt GRI indicators. The implication being that it may take considerable time for the full GRI standard to be taken up by a large number of companies. While the GRI has resulted in some standardization of corporate social and environmental reporting, particularly as regards to format, their approach to indicators is unlikely to produce high quality information that is comparable and complete.

At the beginning of 2003, the United Nations Global Compact changed its reporting requirement. It dispensed with the requirement that a company submit yearly examples of its efforts to apply, at least one of the principles of the Global Compact, and replaced it with a requirement that participant companies must use their annual report or other public report to convey what they have, or have not, done with respect to all the principles. While not really comparable to initiatives such as the GRI this development is interesting as it is yet another multi-stakeholder effort to encourage corporate social and environmental reporting and disclosure.

In July 2005 the United Nations Global Compact Office held a meeting on Communications on Progress (COP). The status report presented at this meeting stated that while 87 per cent of Fortune 500 companies participating in the Global Compact had issued a COP only 301 or 25 per cent of the other 1,207 large companies had done so. Furthermore, it showed that COPs generally restate the companies’ commitment but do not highlight real projects, actions and impacts. While the COP process in the Global Compact has only been operating for two years, Global Compact members were required to submit examples of what they did to support the principles prior to the introduction of COPs. One would hope that after almost five years in existence the Global Compact Office and or Networks would be able to produce slightly better results.

Business in the Community is a movement of 700 member companies committed to improving their impact on society. The organization is business-led and in addition to its

members has another 1,600 companies participating in its programmes. One of the organization's initiatives is the Corporate Impact Reporting Initiative. This helps member companies learn about measurement and reporting on community impacts. The initiative makes recommendations on how to report on the workplace dimension in a corporate report that was designed for human rights and workplace issues. These reports focus on what the company should be measuring and the essential components of good practice. The workplace guidance gives generic issues to measure but does not recommend actual measurements. These issues include, workforce profile, staff absenteeism, number of instances of legal non-compliance, number of staff grievances, upheld cases of corrupt or unprofessional behaviour, staff turnover, value of training and development provided to staff, pay and conditions compared against local equivalent averages, workforce profile compared to the community profile, impact evaluations carried out as a result of downsizing and perception measures of the company.

This review of labour and employment information in voluntary reporting initiatives demonstrates both the advantages and disadvantages of the different mechanisms. The disadvantages include the lack of reporting on certain issues, particularly subjects considered to be fundamental human rights issues, and the lack of standardized information comparable between reports. The voluntary nature and progressive character envisioned in initiatives such as GRI and the Corporate Impact Reporting Initiative is unlikely to have a standardizing effect. The GRI indicators are based on internationally agreed documents but current practice allows both broad and narrow interpretation. There clearly is potential, however, for the GRI indicators to move companies in the direction of standardized information and the voluntary disclosure practices cited above are producing some useful information, while the multi-stakeholder character of two of the initiatives (GRI and the Global Compact) gives other stakeholders the opportunity to influence and improve the quality of the initiatives so as to make them more useful tools, including for advocates of workers' rights.

3.2. National reporting requirements

In addition to voluntary reporting initiatives, a number of public policy measures require reporting by companies and other actors on the labour and employment impact of corporate activity. These mandatory reporting mechanisms are often not discussed in debates about the social impact of FDI, mainly as a result of the emphasis placed on corporate voluntary reporting these days. Governmental reporting and disclosure requirements exist in various countries either through industrial surveys that governments undertake or in the form of specific regulations. The weaknesses and advantages of the systems in place in Belgium, France, United Kingdom and the United States are examined below. In most other countries, companies are under little or no legal obligations to publish social reports or offer any sort of public social disclosure.

The advantages of mandatory reporting are obvious. It overcomes the selective nature of disclosure in voluntary reporting, while indicators and issues on which to report are clearly defined, thus making the information provided comparable and thus of direct relevance to policy-makers.

3.2.1. France

French law requires a social balance sheet (*bilan social*) from all enterprises employing more than 300 employees. This document is prepared annually by the company and submitted to a committee of workers and management that discusses and approves it during a meeting on the subject. After the committee gives its approval, the social report is

distributed to the works council, trade union delegates, shareholders, and the labour inspectorate as well as to any worker so requesting. The introduction of the social balance sheet aimed at better informing the workers, the Government and the shareholders on decisions taken by company management. It also facilitates the social dialogue process by providing objective and useful information, on the basis of which social partners can identify priorities, prepare action programmes and negotiate social policy.

The social balance sheet contains only statistical information. It was decided not to include comments and qualitative observations to avoid any subjective interpretation of indicators and to make a distinction between the facts, as reflected in the report, and the comments made during the meeting of the works committee. Decree No. 77-1354 from 1977 outlines 134 measures and indicators that need to be reported on in the social balance sheet. It includes chapters on employment, wages, health and safety, working and living conditions, training and labour relations. The chapters and scope of the information included in the social balance sheet can be found in Box 1.

In 1999, the Economic and Social Council reaffirmed the importance of the social balance sheet and recommended four improvements. The first concerned updating of the indicators by eliminating obsolete ones and completing or creating indicators on issues such as new forms of employment and part-time employment. Secondly, it proposed to modify the structure of the social balance sheet by linking the employment and training chapters, by pooling information on health, safety and working conditions in one single chapter and by creating a new chapter on companies' social activities in the local socio-economic environment, including partnerships. Thirdly, it felt that the social balance sheet should become easier to read and understand. The existing format did not allow for comments to accompany the statistical information. The Economic and Social Council proposed that comments made by the employer be added, that all programmes involving the company on training and employment be described in the social report in order to make it more comprehensible and reflect the context. Finally, the Economic and Social Council recommended improving circulation and making better use of the reports by making it mandatory to provide a copy to shareholders and setting up a central depository facility to facilitate comparisons and better analysis and research.

Box 1	
Chapters of the French Social balance sheet	
Employment	Workforce (distribution by sex, age, seniority...) / external workers / hired people / resignations / promotions / unemployment / disabled / absenteeism.
Payment	Remuneration amounts / remunerations hierarchy / method of calculation of remunerations / incidental expenses / payrolls / employee ownership
Health and Safety	Accidents at work / occupational illnesses / safety expenditures / hygiene and safety committee / safety expenses
Working conditions	Length and reform of working time / work organization and content / physical working conditions / expenditures for the improvement of working conditions / occupational medicine / workers unfit for work
Training:	In-house vocational training / training leaves / apprenticeship
Labour relations	Election of the trade union delegates or of the works committee / information and communication / controversy concerning the application of labour law
Other living conditions governed by the company	Company benefit plan / other social security contribution.

In a related development, France adopted a law in 2000 that made it mandatory for corporations to report on employee, community and environmental issues, how the corporation's subsidiaries respect the fundamental conventions of the ILO and how the corporation promotes these conventions to their subcontractors.⁴

3.2.2. Belgium

Since 1995 companies in Belgium have been required to include in their annual report a social balance sheet that consists of data on the nature and the evolution of employment in their companies. It is required for all companies employing more than 20 wage earners. The report is prepared by the company and submitted to the National Bank of Belgium which is responsible for the collection and distribution of annual accounts. It is drawn up and discussed within the works council. There are two versions: a full social balance sheet, that has to be prepared by large entities, and an abbreviated social balance sheet, that has to be prepared by medium-sized entities. This differentiated reporting has important implications for levels of disclosure of labour and employment information. The abbreviated report required from medium-sized enterprises involves half the indicators of the full social balance sheet. Table 2 compares the number of indicators of the two types of reports and illustrates how the reporting burden on smaller enterprises can be eased.

Table 2. Number of Indicators in Belgian social balance sheet by size of the company

Type of social balance sheet		Enterprise	
		Full social balance sheet	Abbreviated social balance sheet
1.	State of the workforce	18	14
	Of which workers whose name is written on the staff register	15	14
	Of which temporary workers and workers handed over to the company	3	-
2.	Fluctuations in the workforce	31	2
	Of which hired employees	13	1
	Of which workers who have left the company	18	1
3.	Measures adopted for the promotion of employment	23	19
	Of which measures which have procured a financial benefit	14	7
4.	Organized training	2	2
Total Number of Indicators		74	37

Source: National Bank of Belgium web site www.beb.be.

The chapters include one on the workforce (workers on the regular payroll, temporary workers and others); a second on fluctuations in the workforce (statistics by sex and educational qualification and information on workers who left the company through (early) retirement, dismissals and otherwise); a third on measures adopted to promote employment; and a fourth on training. The Belgian social balance sheet concentrates almost exclusively on employment and training where as the French social balance sheet is

⁴ Nahal, Sarj: *Mandatory CSR reporting: France's bold plan*, available at www.bsr.org

more comprehensive and includes information on labour relations, working conditions and other issues as well.

In Belgium, the report is therefore mainly focused on the employment dimension (Igalens, 1997). This reflects the fact that those who promoted its introduction were the public authorities and the trade unions in a period when reducing unemployment was a high priority. The main objective was to provide information that could help improve the socio-economic analysis of Belgian companies and to inform the Government on the effectiveness of its measures to reduce unemployment.

3.2.3. United States

Two mechanisms currently collect information on the labour and employment impacts of foreign investment in the United States. The first is the reporting required by the Securities and Exchange Commission (SEC) and the second are the surveys of United States direct inward and outward investment undertaken by the Treasury's Bureau for Economic Analysis. These represent much more limited reporting and disclosure requirements, but have the advantage of providing time series data.

The Bureau for Economic Analysis collects information on both inward and outward foreign investment. In the case of inward investment a firm must report on 70 indicators on labour and employment issues annually. These indicators deal with subjects such as the total number of employees, number of employees covered by collective bargaining agreements and employee compensation. In the case of outward investment the information required is much less onerous, involving only two questions, one on the total number of employees and another on total employee compensation (including wages, salaries and employee benefit plans). The information collected is limited, but since it is collected for all companies it is a very rich source of information. All foreign investors are required by law to report this information on an annual basis. The bureau treats the information as confidential and it "may only be used for analytical or statistical purposes." (BEA, 2002a). The information in the report can not be used for "taxation, investigation, or regulation". This certainly presents some problems in terms of the use that the public or the Government can make of the information.

The collection of information by the Bureau for Economic Analysis is an important example of the possibilities of Government mandated disclosure requirements. These data and similar sets collected by other governments have been used in a number of cases by academics and policy analysts to better understand FDI's impact on development and on labour and employment issues. Research such as this is vital to a more sophisticated understanding of the labour and employment impacts of FDI but has clear limitations in the sense that it provides disclosure on a very limited set of variables, as compared for example to the French social balance sheet. Furthermore, the confidentiality of the data would make it difficult for this sort of information to be used by groups, such as, the IRTK campaign, discussed earlier, or even by regulators.

Information on MNEs employment and labour practices is also collected by the SEC. The SEC is an independent regulatory agency overseen by five appointed commissioners, with responsibility for administering the federal securities laws. The purpose of these laws is to protect investors in securities markets and to ensure that investors have access to disclosure of all material information concerning publicly traded securities. It ensures the disclosure of information by public companies via its online EDGAR database. All public companies are required to file with the SEC. But only companies with more than \$10

million in assets, and whose securities are held by more than 500 owners must file annual and other periodic reports.⁵

The annual report to shareholders is the principal document used by most public companies to disclose corporate information to shareholders. It is a company's profile of itself, including an opening letter from the Chief Executive Officer, financial data, and results of continuing operations, market segment information, new product plans, subsidiary activities, and occasionally information on labour relations. Because the annual report is a company funded promotional publication designed to generate support for incumbent management, the information provided is not necessarily objective. The value of the annual report is the quick overview of a company it provides.

The Form 10-K report is an annual audited business and financial report filed with the SEC by all corporations having at least 500 shareholders and assets of over \$10 million. This report provides significant information on different aspects of a company's operations. The information cited in the Form 10-K has to be accurate. It provides a comprehensive overview of the registrant's business. The report must be filed within 90 days after the end of the company's fiscal year⁶. It contains detailed information about the company, including a business summary, a list of properties, subsidiaries, legal proceedings, etc. The only labour and employment information disclosed in the report deals with remuneration of officers and directors and the number of employees in the reporting entity.

Thus, under existing SEC regulations, companies provide a limited amount of information on social matters or labour relations. However, a growing number of investors are considering the social and environmental implications of their investments, both as an ethical issue and as a material factor in financial decisions. This explains why, over the years, several groups have urged the SEC to take greater steps on environmental and social disclosure, both in terms of reporting requirements and enforcement actions. One of these groups, the Corporate Sunshine Working Group, made up of social investors, environmentalists and labour unions, is pressing the SEC to require companies to release more information about their social and environmental practices to the public.

3.2.4. Conclusions on national reporting

None of the national reporting mechanisms described have been created specifically to obtain information on the effects of FDI. Their usefulness as a mechanism to examine the labour and employment impact of FDI is therefore limited since they may not enable public policy-makers to disaggregate data on MNEs from the overall data on the information reported. They can be useful, however, in thinking about how one might design an information system on the labour and employment impacts of FDI.

The diversity of approaches, from extensive to minimalist, is important since it shows that countries can design systems that are tailored to their specific needs. Just as some developing countries track basic employment information in MNEs, countries could use such mechanisms to collect systematically broader data on MNEs. A country interested in a broad range of issues could learn a great deal from the French experience with the social

⁵ See <http://www.sec.gov/about/whatwedo.shtml> (accessed 18 November 2004).

⁶ See <http://www.sec.gov/info/edgar/forms.htm> (accessed 18 November 2004).

balance sheet. A country more concerned with fighting unemployment would do well to focus on an approach which draws on the experiences of Belgian or the United States.

An important dimension of the different national reporting mechanisms is applicability. The French social balance sheet is required from enterprises employing more than 300 people, whereas the Belgian mechanism requires it for all companies with more than 50 employees and the SEC requires it from all companies with at least 500 shareholders and assets of over \$10 million. In addition, the Belgian system provides for differentiated reporting depending on the size of the company. These are important points for the policy-maker to remember as they provide a great deal of flexibility in designing an approach workable for companies of different sizes without obviating the policy-makers' need for consistent and reliable information.

Another important point is how the information is collected and what is done with it when it is received. Clearly the collection, compilation and analysis of the data will require resources. Resources for this type of exercise are usually not easily available in developing countries and each country will have to debate its relative importance. It would be useful for developing countries to share experiences in this regard.

Confidentiality of the data collected needs to be considered as well. In the case of the United States Bureau for Economic Analysis, the information reported by companies is confidential. It would be impossible to identify the data reported specifically by individual firms. It is possible to obtain the data, however, and much useful research has been conducted using the data. In the case of the French and Belgian systems there are higher levels of disclosure. The French social balance sheet does not become a public document but is shared with the workers in a company, while the Belgian information is also made public. Public disclosure is often desirable because of the weaknesses in national regulatory mechanisms.

How different issues and indicators are defined is also important. Employment, a seemingly simple concept, has many dimensions when one begins to explore statistics on employment. One can only imagine how complicated it will become for issues such as freedom of association. Another important implication is the comparability of statistics. It would be helpful to have all countries using similar definitions and indicators so that analysis and research can better explore trends and relationships in this increasingly important field.

3.3. International mechanisms

There are two intergovernmental efforts to encourage reporting on the labour and employment impacts of FDI and MNEs. The first is the ILO's surveys on the follow up to the MNE Declaration. The second, an effort by the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR), is still in its early stages but it is attempting to develop a set of indicators on social issues, including labour and employment issues for company reporting.

The MNE Declaration was adopted by the ILO Governing Body in 1977 and last updated in 2000. It is the only universal instrument directed at MNEs dealing with employment and labour issues, agreed upon by the social partners on a tripartite basis. The MNE Declaration is inspired directly by the principles underlying relevant ILO Conventions and Recommendations. Its two interdependent aims are to encourage the positive contributions of MNEs to economic and social progress, and to minimize and resolve the difficulties to which their operations may give rise. The MNE Declaration

seeks to advance these aims by providing guidance for MNEs, governments, and employers' and workers' organizations on the social policy measures and actions they can take, individually and jointly. The MNE Declaration is divided into five sections, addressing, respectively, general policies, employment, training, conditions of work and life and industrial relation. It also asks companies to uphold and respect the fundamental principles and rights at work.

The most relevant aspect of the MNE Declaration for the purpose of the current chapter is the survey procedure that the ILO undertakes regularly on the effect given to the MNE Declaration. According to a resolution adopted by the International Labour Conference in 1979 "a report must be made periodically for the follow-up given to the MNE Declaration". Some observers consider that the survey is poorly designed from a methodological point of view and that the analysis of the survey results contains no statistical data that would allow comparison of trends across time. The survey questionnaire needs to be approved by the ILO Governing Body, while the replies received are summarized and the survey reports scrutinized by Governing Body members before publication. As a result, not all information gathered is reflected in the summary of replies received or the accompanying analysis. The process also results in frequent "on the one hand, on the other hand" statements such as: "Some respondents reported that workers in export processing zones (EPZs) have the right to form associations of their own choosing or bargain collectively on the terms and conditions of employment which would apply to them. A number of others indicated that workers in EPZs did not have the right to form associations of their own choosing, or to bargain collectively on terms and conditions of employment. 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. 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" (ILO, 2001, paragraph 154). This statement gives us little real information, no statistics are included, no specific countries are mentioned, and specific companies are not referred to in either the summary or the analysis of replies.

A number of suggestions have been made to improve the process, including sending questionnaires directly to MNEs and Global Union Federations, a simplified standard questionnaire soliciting more hard data, and in-depth national surveys and studies. The results of an improved survey process could be used to stimulate dialogue and action among ILO constituents at the country level regarding the role MNEs play in development and the realization of the decent work agenda.

The idea of regular more in-depth national surveys seems an opportune point of departure since they could produce a solid information base to track the effects of FDI in a country in the different areas addressed by the MNE Declaration. They could give rise to a process of dialogue among the tripartite partners at national level leading to the eventual adoption of appropriate policies. Such surveys could also help governments gain a better understanding of the actual impact of FDI and provide clear and accurate information to inform more specific and relevant discussions at the national and international levels.

The survey undertaken in the context of the MNE Declaration is not the only source of information on the effects of FDI. Other international organizations, particularly OECD and UNCTAD, also publish regular reports on FDI, while trade unions, NGOs and individual companies publish a great deal of information on company practices. The advantage of the MNE Declaration survey process is that it involves the tripartite partners and has a broader geographical coverage, as compared to most other reports.

ISAR's objective is the promotion of transparency, reliability and comparability of corporate accounting and reporting as well as the improvement of disclosures on corporate governance by enterprises in developing countries and transition countries. Within this context ISAR has set itself the objective of contributing to increased transparency in corporate social responsibility reporting, by facilitating the comparability and harmonization of current reporting practices. ISAR has not yet adopted any indicators or reporting framework but it will be an intergovernmental initiative to watch for in the coming years.

ISAR's approach seems focused so far on the idea of appending a limited list of social (some of which are labour and employment related) indicators to corporate annual reports. It appears so far to be a quite light reporting initiative as it is limited to only a small number of indicators. It is difficult to judge the information that could be generated by the initiative as work at the intergovernmental level has not been completed yet. Furthermore, transposing it into national regulatory frameworks will take time. Nevertheless, it represents another way that countries could collect standardized information on foreign investment.

4. What next?

In the previous sections, this paper has reviewed some of the existing mechanisms to collect information on the consequences of FDI in the employment and labour area and has analysed the strengths and weaknesses of these mechanisms and the information they provide. This section explores how public policy-makers might develop new mechanisms in cooperation with the social partners to more effectively collect such information.

The first step would be to assess existing sources of information and potential ways of gathering more precise information. Already some developing countries collect basic employment data on MNEs investing in their country. Existing information may be available in different government departments, particularly foreign investment review boards, investment promotion agencies and ministries of finance. Close consultations and cooperation between the different government departments will therefore be required to facilitate a better and more cost-effective use of the available information, without having to go back to the companies to obtain more information.

The second step governments could undertake would be to discuss their plans with the social partners. The approach and attitude of employers' and workers' organizations to the idea of collecting such information will likely be crucial to the success of the activity. Furthermore, as the intention driving the collection of information is to inform public policy debates and outcomes, the involvement of the social partners is essential. This step would also help alleviate fears about the information to be collected being subjective and subject to manipulation, while issues such as confidentiality, costs and burdens of disclosure could also be tackled in a transparent fashion.

The third step could be the introduction of new and improved mechanisms to collect and analyse the information. The previous sections of this paper provide a number of examples of the type of mechanisms that could be used. Voluntary reporting mechanisms, mandatory mechanisms and international ones all provide information that governments could draw on. A minimalist strategy could be to draw on existing sources of information. But the disparate and limited nature of the data in existing information sources would seem to justify efforts to collect data on the employment and labour impacts of FDI in a more systematic and comprehensive fashion. Tripartite involvement is important as long as it does not make the process political.

The final step would be actual policy-making based on sound information. This should be guided by tripartite consensus. Governments could convene tripartite working groups to review the information collected and the analysis provided by the government. This would serve as a fruitful basis for joint policy-making, even if the partners do not necessarily agree on what policy should actually be adopted. The ILO is well placed to assist countries in this process and help them develop approaches to deal with the employment and labour impacts of FDI. Such assistance would constitute an important and useful complement to the advice they already receive from other international organizations, such as the Foreign Investment Advisory Service of the World Bank and UNCTAD, which focus more on mechanisms to attract FDI.

5. Conclusions

The debate on the relationship between human and labour rights and FDI is unlikely to be settled soon. Policy-makers cannot afford to wait for the dust to settle. This paper has sought to argue for an alternative approach, using the gathering of factual information to inform policy-making. Such information gathering should specifically focus on the employment and labour impacts of FDI. The paper has reviewed several approaches to collecting such information. First it considered voluntary reporting mechanisms, such as individual corporate social and sustainability reports and voluntary initiatives involving more than one company such as the GRI. While providing significant amounts of information of both a qualitative and quantitative character, there is a lack of standardization between reports. Though some voluntary initiatives are beginning to develop standardized indicators, the progressive character of these systems makes it unlikely that a standardized mechanism producing easily comparable data would be widely adopted anytime soon.

The paper then examined national reporting systems in Belgium, France, United Kingdom and the United States. Their major shortcoming is the lack of public accountability for the information. In the case of the United States, the data collected by the Bureau for Economic Analysis could not be identified with a particular company thus rendering it useless for the analysis and identification of problems in individual companies. The Belgian social balance sheet provided a useful tool which allowed some limited public disclosure. The French social balance sheet, though also confidential, at least had to be shared with the workers in the company. It also contained the most extensive and standardized information of the different reporting mechanisms reviewed. The review of national mechanisms demonstrates a variety of approaches to collecting such information, but the question remains how they are used, if at all, for policy-making purposes. Finally the paper reviewed the reporting mechanism under the MNE Declaration and other developments in intergovernmental fora. The MNE Declarations reporting mechanism produces little hard data that could be used by policy-makers.

The paper makes clear that the different mechanisms have advantages and disadvantages depending on what is expected in terms of information, process and outcomes. Furthermore, different countries have different levels of sophistication in collecting the information. What is important is not which system is adopted, but the recognition of the advantages and disadvantages associated with different systems to allow for choices at the national level about what will suit the particularities of the situation in a given country and provide the tripartite partners with a better understanding of the facts. Without such an understanding, consensus-based policy-making is impossible.

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