

# **ILO Company-Union Dialogue:**

**An operational tool of the Tripartite  
Declaration of Principles concerning  
Multinational Enterprises and Social Policy  
(MNE Declaration)**

## **Questions and Answers**

**Multinational Enterprises and Enterprise Engagement Unit**

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The ILO company-union dialogue is intended to support “dialogues involving multinational enterprises and the representatives of the workers affected, in particular trade unions, on the application of the principles of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration).” The provisions establishing this facility stress that “dialogue lies at the heart of the MNE Declaration” and that the “ILO, as the global authority on international labour standards, is uniquely placed to support or facilitate such dialogues as part of its overall strategy to promote the uptake of the principles of the MNE Declaration by the various parties.” Therefore, “where a company and a union voluntarily agree to take advantage of using the facilities of the International Labour Office to meet and talk, without prejudice, the Office will provide a neutral ground for discussion of issues of mutual concern.”<sup>1</sup>

This Q&A document provides information on various aspects of the company-union dialogue and explains how the facility operates in practice. It is based on actual questions received.

## 1. Types of possible ILO support

### What kinds of support can the ILO provide through the company-union dialogue?

- The ILO can provide one or more of the following types of support:
  - a). provide a neutral ground for parties to engage in meaningful dialogue;
  - b). provide input during company-union dialogue as a technical or expert adviser to inform the company-union dialogue;
  - c). facilitate dialogue.
- The requesting parties can indicate the specific type(s) of support from among the options listed and this support can change during the dialogue facilitation process.

### Does the ILO provide an arbitration service?

- No. The company-union dialogue is based on consensus of the parties, and its content shall not be used for any binding procedure. The company-union

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<sup>1</sup> See, Annex II Operational Tools of the [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) (MNE Declaration), Part 2.

dialogue is intended to facilitate dialogue between the parties to help them gain a better understanding of the principles of the MNE Declaration and resolve the issue at hand; it can also assist with building constructive relations between the parties, which may help prevent or resolve future issues. However, the ILO does not act as an arbitrator and cannot adjudicate in the event that a dispute cannot be resolved.

## 2. The joint request

### Why does a request need to be a joint request by a company and a union?

- The dialogue facilitation process is voluntary and focuses on developing a common understanding and a shared commitment between the multinational enterprise and the representatives of the workers affected, in particular trade unions. Therefore, a clear commitment by both parties to participate in good faith from the outset is key for the dialogue to succeed.

### What elements need to be included in the joint request?

- The parties concerned
- The issue(s) at hand
- How the ILO might be able to assist them

### Who needs to sign the joint request?

- The joint request needs to be signed by the duly authorized representatives for, on the one side, management and, on the other, the workers.
- Ideally, it would be the highest levels from each side that send the joint request. This would affirm that the commitment to the process—and follow up action on any outcomes—comes from the top leadership.
- The request could also come from a global union federation and a multinational enterprise concerning operations in a business partner in the supply chain, as long as the management and trade union who will engage in the dialogue both agree.

### Can any company and any union submit a request for this procedure?

- The company-union dialogue facilitation service is part of the operational tools of the MNE Declaration, which aims to encourage the positive contribution, which multinational enterprises can make to economic and social progress and the realization of decent work for all; and to minimize and resolve the difficulties to which their various operations may give rise. This includes the full scope of their operations, recognizing that that multinational enterprises often operate through relationships with other enterprises as part of their overall production process and, as such, can contribute to further the aim of the MNE Declaration. Consequently, the company-union dialogue “gives effect to the need to support dialogues involving multinational enterprises and the representatives of the workers affected, in particular trade unions, on the application of the principles of the MNE Declaration.” Therefore, there should be an international dimension which would make it logical and appropriate for the ILO to provide its services, based on the provisions of the MNE Declaration that are derived from international labour standards. This could include, for instance, a subsidiary of a multinational enterprise, an enterprise that is part of the MNE’s supply chain, or a trade union affiliated with a Global Union Federation.

### Is this process intended to replace a national social dialogue or labour dispute resolution system?

- No. The service is intended to complement local or national level social dialogue or dispute resolution mechanisms but not replace such systems. If a national system can provide a resolution or remedy, even within an MNE’s own operations or its global supply chain, this system should be used.

### Where should the joint request be sent?

- The request should be sent to [assistance@ilo.org](mailto:assistance@ilo.org) – the email address of the [ILO Helpdesk for Business on International Labour Standards](#).

### **What if there is no trade union? Is a workers' representative enough? What about a Works' Council?**

- The process is intended to “support dialogues involving multinational enterprises and the representatives of the workers affected, in particular trade unions.”<sup>2</sup>
- In the absence of a trade union, the workers' representatives should be freely elected by the workers of the undertaking in accordance with provisions of national laws, regulations or collective agreements. The functions of the elected representatives should not include activities that are recognised as the exclusive prerogative of trade unions in the country concerned.
- The company should ensure that the workers' representatives in the undertaking enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative.
- The existence of elected representatives should not be used to undermine the position of the trade unions concerned or their representatives.

### **Can it be a joint request by a company and an NGO?**

- No. The company-union dialogue is designed to facilitate good industrial relations in company operations, which, by definition, are determined between management and worker representatives, in particular trade unions.

### **Are there instances where the company-union dialogue cannot be used?**

- Yes. Examples include:
  - request introduced by only one party
  - request introduced by a company and an NGO
  - request introduced by a third party
  - the type of assistance requested does not fall within the defined services of the company-union dialogue ;
  - the issue is outside the scope of ILO competence.

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<sup>2</sup> See, Annex II Operational Tools of the [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) (MNE Declaration), Part 2.

### **What topics could be the basis for joint requests for the dialogue facilitation?**

- The objective of the company-union dialogue is to support dialogues involving multinational enterprises and trade unions on the application of the principles of the MNE Declaration. The MNE Declaration addresses a wide range of issues concerning employment, training, conditions of work and life and industrial relations as well as general policies.

### **Can the company-union dialogue be used even when there is no dispute?**

- Yes. The objective of the company-union dialogue is to support dialogues involving multinational enterprises and trade unions. Therefore, it can support other types of dialogue beyond dispute resolution, such as providing technical inputs to a works council meeting or the negotiation of a global framework agreement; or provide dialogue capacity building.

## **3. Process**

### **What happens after the joint request has been submitted to ILO?**

The process has in general the following steps:

- 1) The joint request is reviewed to verify that it is within the scope of the company-union dialogue mandate; both parties receive a reply to the joint request.
- 2) For requests that fall within the scope, an ILO official organizes a first discussion with each party. The aim of these separate discussions is to clarify further the process and expectations of the parties; and address any further questions or concerns they may have.
- 3) Based on the topic(s) of the dialogue identified, an ILO facilitator is proposed, for agreement by both parties. The ILO facilitator then organizes a series of discussions with the company and the union, seeking to clarify the facts and key issues subject to facilitation, as well as addressing logistical and technical issues. These discussions may take place separately with each party or together.

- 4) The ILO facilitator supports the dialogue between the parties. The dialogue can consist of a relatively brief dialogue, or can take several consecutive days or comprise various sessions.
- 5) The dialogue facilitation comes to an end when the parties communicate to the ILO that they feel that the role of the ILO and the facilitator have finished.
- 6) Once the dialogue facilitation has been concluded, it is the responsibility of the parties to follow-up on any agreed measures or actions. Neither the facilitator, nor the ILO has a role in any follow-up process. There is also no expectation that the parties report back to the ILO.

## 4. The dialogue facilitation

### How many dialogue sessions usually take place?

- The parties to the dialogue determine together with the ILO facilitator how the dialogue will be organized – it can consist of one session or of several sessions.
- The ILO will support the company-union dialogue process for as long as useful in terms of providing information and supporting dialogue; and ILO will simultaneously encourage the parties to continue the dialogue directly between themselves to continue the momentum built through the facilitation process.

### Can third parties participate?

- The parties who submitted the joint request determine who will participate in the dialogue. Participation of third parties might be helpful, particularly when addressing issues that also directly concern them. Experience of the company-union dialogue to date indicates that third parties can play a supporting role —encouraging the parties to make use of the process and follow up on any agreed next steps.

### **Where does the dialogue take place?**

- That decision is up to the parties involved, but the parties are encouraged to find a neutral location where both sides will feel most comfortable.
- To date, face-to-face dialogue sessions have taken place in ILO offices or in neutral meeting premises in the countries concerned.

Certain steps of the dialogue facilitation process can also take place in a virtual manner.

### **Who pays for this ILO service?**

- The ILO covers the staff time and travel costs of the ILO facilitator and support staff as well as interpretation costs (if needed).
- The parties should cover their own related costs, e.g. travel to the agreed meeting place.
- Management should provide paid time off for the workers' representatives to participate, including sufficient time to prepare for the dialogue.
- Other costs, such as meeting facilities, lunches and other incidentals should be worked out between the parties to the dialogue.

### **In which language is the dialogue facilitation conducted?**

- The dialogue takes place in the language closest to the parties and is determined by the parties. ILO will cover interpretation costs, if the parties indicate that interpretation is necessary for the effective functioning of the dialogue.

### **How long does the dialogue facilitation process take?**

- Given that the process consists of various steps, the whole process usually takes several months.

### **Can a buyer require a supplier to participate?**

- No. The dialogue facilitation process is voluntary. A successful outcome of the dialogue facilitation process depends critically on the commitment of the parties to engage in good faith in the dialogue. Buyers could promote the company-union dialogue among their suppliers and encourage them to make



use of it should they consider it useful in order to gain a better understanding of and respect for international labour standards and to build good industrial relations.

### **Do the parties need to come to an agreement following a dialogue facilitation process?**

- No. The dialogue facilitation process is a voluntary process allowing both parties to gain a better understanding of the issue(s) at hand. Whether or not this requires an agreement between the parties as a follow-up to the dialogue, is up to the parties to decide. The ILO does expect that both parties endeavour to come to a mutually agreeable outcome.

### **What does an agreement imply for the parties?**

- Any agreements between or commitments made by the parties to the dialogue only bind the parties to the dialogue for the agreement reached and possible follow up actions or measures.

The parties can agree to make the agreement public or share the agreement with other parties.

### **Is there an obligation to register an agreement at the ILO or elsewhere?**

- No. Any agreement reached is between the parties themselves. ILO is not a party to the agreement but the parties can decide to share the outcome with the ILO.

## **5. Confidentiality**

### **Do the parties (company and union participants to the dialogue) sign a confidentiality agreement?**

- The ILO and the participants shall maintain strict confidentiality of the dialogue process.
- The company-union dialogue is based on consensus of the parties. Its content should not be used for any binding procedure.

- The process does not require the parties to the dialogue to sign a formal confidentiality agreement. However, questions related to confidentiality will need to be agreed upon in advance by the participants to the dialogue.
- Should the parties wish to sign a confidentiality agreement, the ILO can provide them with model text which could be adapted to their particular wishes or legal system.

### **Can the parties disclose to the public that the dialogue process has started or is ongoing?**

- This is an issue that the parties need to agree upon in advance of the dialogue process. If both parties agree on the terms of such a disclosure, then this can be done.

### **What guarantees ILO confidentiality in the process?**

- All ILO officials facilitating the dialogue are bound by the ILO rules and regulations concerning their conduct as international officials. The [Standards of Conduct for the International Civil Service](#) (§39) specify that “international civil servants are responsible for exercising discretion in all matters of official business. They must not divulge confidential information without authorization” and that the ILO “must maintain guidelines for the use and protection of confidential information.”

## **6. Facilitators**

### **Who are the facilitators?**

- All facilitators are ILO officials trained in dialogue facilitation. The pool of ILO facilitators includes female and male officials with a wide diversity of technical expertise, language skills and work experience in different countries and cultures.

### **Who appoints the facilitator? Do the parties have a say in the choice of the facilitator?**

- Based on the joint request received and the initial discussions with both parties, the ILO identifies the facilitator that best matches the needs of the parties concerned and the issue(s) at hand. It then presents the proposed ILO facilitator to both parties. Parties can accept or reject the proposed facilitator. It is important that both parties are fully comfortable with the facilitator so that the dialogue can be as fruitful as possible.

### **What happens if either side feels the facilitator is biased or unfair?**

- Both parties must feel fully comfortable with the facilitator and confident in his or her expertise, neutrality and fairness. This is why both parties must confirm that they are fine with the proposed facilitator without reservation.

### **What happens if one party feels uncomfortable during the facilitation process?**

- The dialogue process may entail the parties working together through some difficult issues, which at times may cause some discomfort. The facilitator will work with the parties to develop some agreed ground-rules to avoid possible unnecessary discomfort (e.g., a party feeling attacked, unfairly accused, not listened to, etc.) and ensure that the parties to the dialogue feel comfortable during the process even in cases where the dialogue between management and the union has been difficult or broken down in the past.
- If one or both parties start to feel uncomfortable, they can request to pause the dialogue process until the source of the discomfort is addressed; or they can stop the process altogether. Either party is free to leave at any time, either temporarily or permanently.

### **Do parties to the dialogue need to disclose documents to the facilitator?**

- There is no requirement to disclose documents. It is however important that the dialogue facilitator has a good understanding of the background of the joint request to support the dialogue most effectively.
- A party should not disclose any documents simply in an effort to “convince” or “win over” the facilitator, who is not there to take sides.

### What kind of decision does the facilitator make?

- The facilitator is there to help the parties: to provide technical inputs during the dialogue and to support the dialogue. This means supporting the parties to understand each other's point of view, interests and concerns that have led to the joint request for ILO dialogue facilitation; to find common ground and potential solutions to the issue at hand; and to help the parties to (re)build a sustainable working relationship.
- The facilitator does not make decisions for the parties and has no power to force an agreement or outcome.
- The facilitator is not an arbitrator nor does he/she make any judgements.

## 7. End of process

### Who decides when the dialogue facilitation process has come to an end?

- The parties themselves decide when a process has come to an end by informing the facilitator and the ILO of the end of their request for dialogue facilitation.

Either party may leave the process at any time, should they so choose.

### Can the parties go public when the process has come to an end?

- The decision to speak publicly about the process and/or any agreed outcome is subject to an agreement between the parties concerned. However, there should be a shared understanding *ex ante* about if one or both parties can go public and under what circumstances. This can be included in the confidentiality agreement or in any outcome document agreed between the parties.

### Can either party use the information or views shared during the dialogue for other proceedings such as litigation or arbitration?

- No. The MNE Declaration is very clear: "The company–union dialogue is based on consensus of the parties, and its content shall not be used for any binding procedure." The parties to the dialogue must commit to respect this principle.

**Does the ILO provide any follow up services once the process has come to an end?**

- The objective of the company-union dialogue process is to help the parties to strengthen their capacities to maintain an on-going dialogue in the workplace. Therefore, normally once both parties deem the issue(s) to be resolved, the ILO facilitation will no longer be needed.
- Nonetheless, should they both agree, the parties are free to ask the ILO for further assistance as they deem appropriate.

**What happens if one party does not uphold commitments made during the process?**

- The company-union dialogue process, including any agreements made, are voluntary. It is up to the parties to follow through on their commitments, perhaps with the support and encouragement of third parties.
- It is not the ILO's role or mandate to enforce any agreements made during the dialogue facilitation process.

**For further information:**

[www.ilo.org/mnedeclaration](http://www.ilo.org/mnedeclaration)

[www.ilo.org/business](http://www.ilo.org/business)