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Policy Development Section
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NINTH ITEM ON THE AGENDA

Report of the Tripartite Ad Hoc Working Group on the Follow-up Mechanism of the MNE Declaration

Purpose of the document

In this document, the Governing Body is invited to adopt the recommendations of the Working Group, subject to further review of the financial implications arising from the proposed activities (see draft decision in paragraph 6).

Relevant strategic objective: All four strategic objectives.

Policy implications: None.

Legal implications: None.

Financial implications: See “Follow-up action” below.

Follow-up action required: If the proposed decision is adopted, operational plan and budget to be submitted to the Governing Body in November 2012, with financial implications.

Author unit: Multinational Enterprises Programme (EMP/MULTI).

Related documents: None.

Executive summary

The report of the Tripartite Ad Hoc Working Group on the Follow-up Mechanism of the MNE Declaration (see the appendix) outlines the Working Group's recommendations for consideration by the Governing Body. If adopted by the Governing Body, an operational plan and budget will be submitted in November 2012 for approval.

I. Introduction

1. The Governing Body established a follow-up mechanism to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) in 1979, which included a provision "to make a factual survey of the degree of acceptance of the terms of the Declaration and of patterns of action to give effect to it". The survey was intended to assist the Governing Body to "consider difficulties or inadequacies which may be exposed by the survey and to suggest ways of dealing with them".¹
2. The Governing Body later suspended its decision of the 258th Session to conduct surveys every four years until a review of the process could be considered.² In November 2010, it consequently established a tripartite Ad Hoc Working Group for the purpose of undertaking a review of the follow-up mechanism of the MNE Declaration with a view to developing promotional options, with the requirement to submit its views and recommendations, if any, to the Governing Body.³

II. Activities undertaken

3. The Working Group met in Geneva on 16–17 February and 22–23 September 2011 and 3 February 2012.⁴
4. The participants included employers' representatives from Denmark, Germany and South Africa; and workers' representatives from Italy, South Africa and the United Kingdom. For the February 2011 meeting, government representatives included Argentina, Azerbaijan (as an observer), Belgium, China, Italy and South Africa; for the September 2011 meeting, government representatives included Argentina, Azerbaijan (as an observer), Belgium and China. For the February 2012 meeting, government representatives included Argentina, Belgium, China and South Africa.

¹ GB.209/205, para. 3 (Feb.–Mar. 1979).

² For the decision to conduct surveys every four years, see GB.258/10/21, para. 15(b). For suspensions of that decision, see GB.301/PV, para. 232(b) (March 2008); GB.306/PV, para. 213 (November 2009) and GB.311/PV, para. 100 (June 2011).

³ GB.309/PV, para. 311 and GB.311/PV, para. 100.

⁴ GB.309/PV, para. 311. Arrangements were made for further meetings with the original composition (see GB.311/PV, para. 100).

III. Next steps

5. If the Working Group's recommendations are adopted at this session, the Office will prepare for the 316th Session of the Governing Body (November 2012), in consultation with the tripartite constituents, a proposed operational plan for putting in place the MNE Declaration follow-up mechanism and the promotional activities recommended.

IV. Draft decision

6. *The Governing Body:*

- (a) *thanks the members of the Ad Hoc Working Group for their report;*
- (b) *adopts the recommendations of the Ad Hoc Working Group found in paras 9–22 of the report annexed to this decision, in line with the discussion thereon reflected in the minutes of the MNE Segment of the Governing Body, subject to further review of the financial implications arising from the activities endorsed;*
- (c) *requests the Office to prepare for its 316th Session (November 2012), in consultation with the tripartite constituents, a proposed operational plan for putting in place the MNE Declaration follow-up mechanism and the specified promotional activities on the basis of the recommendations adopted at the present session;*
- (d) *decides to further suspend, until its 316th Session (November 2012), the decision taken at its 258th Session (November 1993) to conduct surveys of the MNE Declaration every four years, to consider adoption of an operational plan for the follow-up mechanism.*

Appendix

Report of the Tripartite Ad Hoc Working Group on the Follow-up Mechanism of the MNE Declaration

Background

1. The Governing Body established a follow-up mechanism to the MNE Declaration in 1979 which included a provision “to make a factual survey of the degree of acceptance of the terms of the Declaration and of patterns of action to give effect to it”. The survey was intended to assist the Governing Body to “consider difficulties or inadequacies which may be exposed by the survey and to suggest ways of dealing with them”.¹
2. The Governing Body has discussed for several years the limitations of the survey, including the low response rates and the insufficient amount of details contained in the responses.² It later suspended its decision of the 258th Session to conduct surveys every four years until alternatives could be considered.³ In adopting the conclusions of the 2010 Conference Committee for the Recurrent Discussion on Employment, the International Labour Conference requested the Governing Body to initiate a review of the follow-up mechanism for the MNE Declaration to be taken up by the Governing Body’s Subcommittee on Multinational Enterprises with a view to developing promotional options.⁴ The Governing Body consequently established a tripartite Ad Hoc Working Group for the purpose of undertaking such review, with the requirement to submit its views and recommendations, if any, to the Governing Body.
3. The Working Group met in Geneva on 16–17 February and 22–23 September 2011 and 3 February 2012.⁵
4. The participants included employers’ representatives from Denmark, Germany and South Africa; and workers’ representatives from Italy, South Africa and the United Kingdom. For the February 2011 meeting, government representatives included Argentina, Azerbaijan (as an observer), Belgium, China, Italy and South Africa; for the September 2011 meeting, government representatives included Argentina, Azerbaijan (as an observer), Belgium and China. For the February 2012 meeting, government representatives included Argentina, Belgium, China and South Africa.
5. All participants affirmed the continuing relevance of the MNE Declaration. It was acknowledged that the profile of multinational enterprises had changed since the late 1970s: in addition to the large and well-recognized multinationals, small and medium-sized multinationals are increasingly common; many of them now come from emerging markets; supply chains are now a key part of MNE operations; and the nature of employment relationships are changing. These emerging trends needed to be taken into account when considering the effective promotion of the MNE Declaration.

¹ GB.209/205, para. 3 (Feb.–Mar. 1979).

² GB.294/10(Rev.), paras 6–10.

³ See GB.301/PV, para. 232(b) (March 2008); GB.306/PV, para. 213 (November 2009) and GB.311/PV, para. 100 (June 2011).

⁴ Resolution concerning the recurrent discussion on employment, International Labour Conference, 99th Session (Geneva, June 2010), conclusions, para. 52.

⁵ GB.309/PV, para. 311. Arrangements were made for further meetings with the original composition (see GB.311/PV, para. 100).

6. Although the MNE Declaration is the ILO's guidance to companies relating to corporate social responsibility (CSR), it is not only a CSR instrument. It is a much broader and richer document promoting the adherence of multinational enterprises to economic and social development, based on ILO principles and rights at work, the key responsibilities of governments as well as the pivotal role of dialogue with workers' and employers' organizations. Workers' representatives mentioned several innovative initiatives on international social dialogue, which would certainly benefit from a renewed and strengthened role of the ILO. Consequently, much of the discussion centred on what could be done at the national, sectoral or company levels to promote dialogues involving multinational enterprises using the MNE Declaration as the basis.
7. All agreed that, although the follow-up mechanism in the form of a periodic survey had not been viewed as a success in terms of becoming an operative tool, it did serve as a "periodic reminder" to constituents at a national level. Some such universal "trigger" from the ILO was seen as valuable in reminding the constituents of the MNE Declaration and for providing governments with a reason to convene tripartite dialogues on the areas covered by it. Much of the discussion focused on how best to encourage such national or sectoral discussions, without adding to the existing reporting requirements on governments, while at the same time respecting the duty to periodic reporting. In addition, awareness could be raised through existing national frameworks and ILO mechanisms, including where requested by constituents at ILO regional meetings and work, the preparation of Decent Work Country Programmes, and Conference discussions. The ILO's role as a possible resource centre and as a facilitator of dialogue were seen as fundamental for supporting government efforts and the Office could help facilitate exchange of national experiences in implementing the MNE Declaration. Furthermore, the MNE Declaration should be promoted more assertively outside the ILO through enhanced cooperation with other international organizations, reaffirming the ILO's role and mandate in reference to the world of work.
8. The need for further promotional work within the Office was reconfirmed: coordinate better the ILO's work and engagement with multinational enterprises; refer to the MNE Declaration in the formulation of public-private partnerships; mainstream the MNE Declaration in training and technical cooperation projects involving multinationals; and coordinate relevant research and work across the Office.

Recommendations

9. The Working Group agreed that it was important to keep separate the collection of data (covered in part B) from the promotional activities on the MNE Declaration (covered in part A). Consequently, it formulated the following recommendations for the Governing Body.
 - A. Promotional activities
 10. In relation to MNE Declaration focal points:
 - (a) Requests the Office to further mainstream the MNE Declaration in the work of the technical departments.
 - (b) Requests the Office to ensure an effective means, such as the appointment of focal points in the ILO Regional Offices and Decent Work Technical Support Teams, to actively promote the MNE Declaration and, when requested by constituents, facilitate a dialogue among the tripartite constituents on the MNE Declaration.
 - (c) Suggests that national constituents – governments, employers and workers – appoint national focal points on a tripartite basis (taking guidance from Convention No. 144) to promote the use of the MNE Declaration and its principles, whenever appropriate and meaningful in the national context, and inform the Office of these focal points.

11. In relation to integration of the MNE Declaration into Decent Work Country Programmes:
- (a) Requests the Office, as part of the new ILO knowledge-management system, established to improve the gathering of statistical, legal and policy data at the country level (as, for example, via Decent Work Country Scans and Profiles, or other forms of ILO-directed research), to collect factual aggregated national and sectoral data on MNE activity and foreign direct investment in the country.
 - (b) Requests the Office to make available this information to the national constituents so that it can inform tripartite social dialogue at the national level when considering priorities for a Decent Work Country Programme.
 - (c) Requests the Office, including the Bureau for Employers' and Workers' Activities, to further build capacity of the national employers' and workers' organizations, at their request, to promote a practical engagement in reference to the MNE Declaration and its principles.
12. In relation to ILO Regional Meetings:
- Recommends consideration of the inclusion of topics related to the MNE Declaration in the Governing Body's agenda setting of the Regional Meetings and in the Report of the Director-General, including giving visibility to country activities related to the MNE Declaration, which can serve as good practice examples for other countries.
13. In relation to public-private partnerships and technical cooperation:
- Requests that in dialogues with private sector actors, the Office actively promote the MNE Declaration in public-private partnerships and in all relevant technical cooperation projects.
14. In relation to sectoral activities:
- Continue and improve the promotion of the principles of the MNE Declaration in the ILO's sectoral activities, as recommended by the sectoral advisory bodies.
15. In relation to company/union dialogue:
- Dialogue lies at the heart of the MNE Declaration. Where a company and a union voluntarily agree to take advantage of using the facilities of the ILO to meet and talk, without prejudice, under a Chair agreed by the secretariats of the Workers' and Employers' groups, such a meeting would be organized with their support. This service would be promoted through both the ILO Helpdesk for Business on International Labour Standards and by workers' and employers' organizations.

B. Reporting on the effect given to the MNE Declaration

16. The objective of this component of the follow-up mechanism would be to gather data in respect of the principles of the MNE Declaration through an empirical survey.
17. The data gathered would be used by the Governing Body to identify lessons learned and good practices and to assess the effectiveness of promotional activities undertaken during the reporting period in order to inform ILO policy.
18. The survey would be universal, including all member States. Information would be collected from governments, and employers' and workers' organizations about their own efforts to give effect to the MNE Declaration, as well as on respect by multinational enterprises of the principles of the MNE Declaration. The information gathered could be complemented with other information sources, such as desk research.
19. The proposal seeks to improve the quantity and quality of responses within a reasonable budget. The survey would consist of:
- (a) a limited set of questions (core) which would remain stable over time;

- (b) a thematic module(s) which would alternate over time; each module would contain questions seeking more in-depth information on a single topic.
- 20. The thematic modules could be selected to coincide with other discussions, such as the ILC recurrent discussions.
- 21. The survey would be undertaken at least every three years (subject to review after the initial survey).
- 22. The survey design should be undertaken by an independent research institute under the supervision of the Office, in line with the guidance provided by the Governing Body.