



Governing Body

322nd Session, Geneva, 30 October–13 November 2014

GB.322/POL/8

Policy Development Section
MNE Segment

POL

Date: 19 September 2014

Original: English

EIGHTH ITEM ON THE AGENDA

ILO collaboration with other intergovernmental and international organizations in promoting the principles of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

Purpose of the document

This paper focuses on the Office's work to promote sustainable enterprises and social policy through collaboration with international organizations which have instruments and initiatives regarding business behaviour linked to the principles of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). It highlights developments since November 2011, and indicates opportunities and challenges related to the ILO's current collaboration with those organizations. The Governing Body is invited to take note of the information in this paper and to provide guidance on how best to enhance the further use and recognition of the MNE Declaration, including by promoting overall coherence among international organizations in line with the principles of the MNE Declaration (see draft decision in paragraph 35).

Relevant strategic objective: All strategic objectives of the ILO.

Policy implications: Yes.

Legal implications: None.

Financial implications: None.

Follow-up action required: Yes.

Author unit: Multinational Enterprises and Enterprise Engagement Unit (Enterprises Department) in coordination with Multilateral Cooperation Department.

Related documents: GB.312/POL/13; GB.319/INS/3/1; GB.319/INS/5(Rev); GB.320/INS/5/1; GB.320/POL/10.

1. This paper provides an update on ILO collaboration with other international organizations to give effect to the principles of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) through their respective instruments and initiatives. The Governing Body last provided guidance on this collaboration at its November 2011 meeting.¹ Since then there have been important developments, especially in relation to the follow-up and implementation mechanisms of these instruments and initiatives. In its discussions on the new Implementation Strategy for the follow-up mechanism of and promotional activities on the MNE Declaration² and on ILO cooperation with the private sector,³ the Governing Body emphasized the need for the ILO to engage more actively in international initiatives on enterprise conduct with a view to occupying a position of leadership and avoiding conflicting language and legal uncertainty.
2. Cooperation with other organizations on their instruments and initiatives is complementary to the promotional strategies adopted by the ILO constituents on the 1998 Declaration on Fundamental Principles and Rights at Work and on the MNE Declaration.⁴
3. This paper focuses on the main institutions with which the ILO is working because their instruments and initiatives guiding sustainable and responsible business make reference to ILO standards:
 - the United Nations (UN), in relation to the Guiding Principles on Business and Human Rights (Office of the High Commissioner for Human Rights – OHCHR) and the Global Compact (Global Compact Office);
 - the Organisation for Economic Co-operation and Development (OECD), in relation to its Guidelines for Multinational Enterprises;
 - the International Organization for Standardization (ISO), in relation to ISO 26000 on Social Responsibility.
4. Further reference is made to these instruments and initiatives, together with the Universal Declaration on Human Rights and various international labour standards, as “the international standards” in the International Finance Corporation (IFC) Performance Standards, regional or national initiatives on Corporate Social Responsibility (CSR), sectoral initiatives, reporting standards such as the Global Reporting Initiative, International Framework Agreements, corporate codes of conduct and supplier codes.

¹ GB.312/PV, paras 495–518 and GB.312/POL/13.

² GB.320/POL/10, para. 4(a) and GB.320/PV, paras 543–548.

³ GB.319/INS/5(Rev.), paras 30–36; GB.320/INS/5/1; and GB.320/PV, paras 76–98.

⁴ GB.320/POL/10.

Update on follow-up mechanisms and implementation of the various instruments and initiatives

1. UN Guiding Principles on Business and Human Rights “Protect, Respect and Remedy” Framework

5. In 2011, the UN Human Rights Council (UNHRC) endorsed the UN Guiding Principles for the implementation of the “Protect, Respect and Remedy” Framework on Business and Human Rights,⁵ adopted in 2008. The Guiding Principles provide that States have the duty to protect human rights; that business has the responsibility to respect human rights, including the fundamental principles and rights at work, which involves a due diligence process; and they highlight the need for greater access to remedy for victims of business-related human rights violations.
6. The UNHRC established a five-member Working Group as a follow-up mechanism to promote the dissemination and implementation of the Guiding Principles, to support capacity building, conduct country visits, guide the Annual Forum on Business and Human Rights, explore opportunities for enhanced access to remedy, establish dialogue and discuss possible areas of cooperation with governments and relevant actors. The ILO features among the list of relevant actors.⁶
7. Since its establishment, the Working Group has conducted four country visits (Azerbaijan, Ghana, Mongolia and United States), chaired two Annual Forums on Business and Human Rights in Geneva (2012 and 2013) and two regional meetings (Latin America in 2013 and Africa in 2014), surveyed governments and enterprises on the uptake of the Guiding Principles, and it is developing guidance on the essential elements of national action plans on business and human rights. The Working Group has also called international expert group meetings on access to remedy.
8. The UN Guiding Principles and follow-up mechanism have received wide support and, in June 2014, the UNHRC extended the mandate of the Working Group for another three years. At the same session, the UNHRC also adopted a resolution⁷ establishing an open-ended working group to elaborate an international legally binding initiative on business and human rights.
9. Other instruments and initiatives are linked to the Guiding Principles, including the new chapter on human rights in the OECD’s MNE Guidelines and its adoption of the “due diligence” approach set out in the Guiding Principles to assess the risks of adverse human rights impacts in their operations, including in supply chains, and to take appropriate action; the UN Global Compact, which provides guidance on its two human rights principles through the due diligence approach; and ISO 26000, which takes the Guiding Principles as the basis for its human rights chapter and promotes a due diligence approach to both human rights and labour issues.

⁵ UN: A/HRC/RES/17/4, endorsing the Guiding Principles on Business and Human Rights, annexed to A/HRC/17/31.

⁶ For a full overview of the mandate of the Working Group on the issue of human rights and transnational enterprises and other business enterprises, see Human Rights Council Resolution A/HRC/RES/17/4.

⁷ UN: A/HRC/26/L.22/Rev.1.

ILO collaboration

10. The ILO submitted inputs on how it contributes to the advancement of the business and human rights agenda through its mandate, tripartite structure, international labour standards, supervisory mechanism, programmes and technical assistance for the 2012 and 2014 reports of the UN Secretary-General to the UNHRC.
11. The ILO Deputy Director-General for Policy underlined the ILO's mandate and contribution to the business and human rights agenda during the High-level segment of the first Annual United Nations Forum on Business and Human Rights in 2012. The ILO spoke during the 2012 and 2013 annual forums in several panels on topics that fall within the ILO's mandate, and specifically on the principles of the MNE Declaration.
12. The ILO established regular dialogues with the Working Group to deepen synergies and collaboration to ensure coherence of efforts.⁸ The specific opportunities for collaboration that were identified included country visits and thematic reports by the Working Group, as well as capacity building for stakeholders on the Guiding Principles and the underlying ILO core standards. The ILO also organized briefing meetings for the Working Group members on the ILO system in relation to the protection of human rights.
13. During its May 2014 session, the Working Group decided to formalize its existing collaboration with the ILO and: (i) consult with the ILO on matters relating to the Guiding Principles that involve the ILO fundamental principles and rights at work and other issues within the ILO's mandate; (ii) take into account relevant ILO comments and material that relate to such issues in its reports and other activities; and (iii) coordinate with the ILO, where relevant, on follow-up action on Working Group outputs.⁹ The ILO made a brief public statement during the interactive debate in the UNHRC at its June 2014 session, expressing support for enhanced cooperation on the Guiding Principles, including with the Working Group itself. The Director-General met with the High Commissioner for Human Rights in July 2014, to discuss enhanced cooperation in a range of areas and follow-up exchanges are currently under way to establish such collaboration.

2. UN Global Compact

14. The Global Compact was established in 2000 by the then UN Secretary-General as a programme which invited business to commit to universal principles on human rights, labour, and the environment, with a principle on anti-corruption subsequently added. Since then, the Global Compact has facilitated the development of additional sets of principles on social issues, including the Women's Empowerment Principles (promoted in collaboration with UN Women) and the Children's Rights and Business Principles (promoted in collaboration with the United Nations Children's Fund (UNICEF)); and principles addressing specific sectors, such as the Food and Agriculture Business Principles (promoted in collaboration with the Food and Agriculture Organization of the United Nations (FAO) and the International Fund for Agricultural Development (IFAD)). It continues to develop guidance materials for business on implementing these principles in policies and practices and establishes issues-based cooperation platforms¹⁰ where

⁸ UN: Outcome of the fourth session of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/WG.12/4/1, para. 3.

⁹ UN: Outcome of the eighth session of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HRC/WG.12/8/1, para. 21.

¹⁰ http://www.unglobalcompact.org/HowToParticipate/Engagement_Opportunities/index.html.

companies can make commitments and develop activities together with the Global Compact's 101 local networks.¹¹

15. There are currently approximately 8,000 business participants in the Global Compact.¹² It places an increased emphasis on its local networks for national-level action in relation to Global Compact issue areas and in support of broader UN goals. The Global Compact coordinates the UN Private Sector Focal Points Network, comprised of representatives of UN programmes and agencies, and the Annual Private Sector Forum, which is held during the General Assembly, to stimulate private sector partnerships with the UN on development issues. New cooperation platforms have been launched, such as Business for Peace, Business and Education, the UN Global Compact Business Partnership Hub and the Women's Empowerment Principles.
16. In the Post-2015 Development Agenda, the Global Compact focuses on the role of the private sector and of public-private partnerships in sustainable development. In 2012, the Global Compact organized the Corporate Sustainability Forum¹³ during the Rio +20 Summit to highlight the contribution of business to sustainable development. In 2013, the Post-2015 Business Engagement Architecture¹⁴ was launched during the Global Compact's triennial Leaders Summit as an invitation to engage business on global development priorities. The Global Compact is currently conducting a consultation process with its local networks, LEAD companies,¹⁵ and corporate sustainability organizations on the post-2015 development goals.

ILO collaboration

17. As the agency competent for the Global Compact labour principles, the ILO collaborates with the Global Compact to increase the understanding and build the capacity of Global Compact signatory enterprises. As such, the ILO provides access to tools and resources, including the ILO Helpdesk for business on international labour standards and the guide for business on the Global Compact labour principles, and conducts joint webinars with ILO experts on labour topics.¹⁶ In 2013, the previously established human rights working group and the labour working group merged into one Human Rights and Labour Working Group (HRLWG) with the ILO and the OHCHR providing joint secretariat services. The Global Compact-ILO Child Labour Platform operates under the oversight of the HRLWG as an engagement and cooperation platform on the Global Compact principle on the elimination of child labour.
18. In April 2013, the ILO hosted the annual UN System Private Sector Focal Points meeting and, together with the United Nations Development Programme (UNDP), sponsored a session on employment during the September 2013 UN Private Sector Forum.

¹¹ <http://www.unglobalcompact.org/NetworksAroundTheWorld/index.html>.

¹² UN Global Compact Bulletin, March 2014.

¹³ <http://csf.compact4rio.org/events/rio-20-corporate-sustainability-forum/event-summary-251b87a2deaa4e56a3e00ca1d66e5bfd.aspx>.

¹⁴ <http://www.unglobalcompact.org/resources/441>.

¹⁵ <http://unglobalcompact.org/HowToParticipate/Lead/index.html>.

¹⁶ http://www.unglobalcompact.org/Issues/Labour/webinar_series.html.

19. Since 2013, the ILO and other UN agencies are no longer part of the Global Compact governance structure, following the decision by the Global Compact Executive Director to disband the inter-agency team,¹⁷ which had facilitated coordination of technical expertise on the Global Compact principles. As a result, the “core agencies” no longer have a mechanism to coordinate their participation in the initiative, to avoid duplication and to ensure that the full expertise of the UN is available in a timely manner when the Global Compact develops guidance for enterprises.
20. With the growing appreciation of the important role of the State in developing an enabling environment for sustainable enterprises, the ILO, with its tripartite structure and emphasis on social dialogue, is particularly well placed to highlight this approach within the Global Compact. The Office therefore continues to promote ILO tools and resources for business, provide inputs for Global Compact materials, provide secretariat services for the HRLWG and participate in awareness-raising and capacity-building activities at the global, regional and national levels.
21. Nevertheless, it is evident that the changes to the Global Compact governance structure and mandate, and the proliferation of Global Compact products have, in certain cases, presented challenges for the ILO, as for other core agencies. A solution could come from an initiative that looks at reinforcing the Global Compact governance structure to refocus on its original mission and to ensure stronger coordination among the core agencies providing technical expertise for Global Compact products.

3. OECD MNE Guidelines

22. Currently, 46 countries¹⁸ adhere to the OECD Declaration on International Investment and Multinational Enterprises, which encompasses the MNE Guidelines. Following the 2011 update of the Guidelines, the OECD Investment Committee established a Working Party on Responsible Business Conduct to enhance the effectiveness of the MNE Guidelines and engage with non-adhering countries, especially emerging economies and other developing countries.
23. Governments adhering to the Guidelines have to set up national contact points (NCPs)¹⁹ to promote the Guidelines and handle inquiries. They also provide mediation services through a “specific instances” procedure to resolve issues arising from alleged non-observance of the Guidelines by enterprises. The number of new complaints increased from 28 in 2012 to 36 in 2013, which the OECD has identified as a growing challenge for the NCPs.²⁰
24. A new dimension in the implementation mechanism is the “pro-active agenda” with projects on responsible business conduct, due diligence to avoid negative impacts and stakeholder cooperation in different economic sectors, using a multi-stakeholder approach to assist enterprises in identifying and responding to risks of adverse impacts associated with particular issues, products, regions, sectors or industries. Three initial projects are ongoing in the financial sector, the extractive sector and in agricultural supply chains, and

¹⁷ The inter-agency team included the following: the Office of the High Commissioner for Human Rights, the ILO, the United Nations Environment Programme, the United Nations Office on Drugs and Crime, UNDP and the United Nations Industrial Development Organization.

¹⁸ All 34 OECD countries and 12 non-OECD countries.

¹⁹ Mechanism established in 2000, <http://mneguidelines.oecd.org/ncps/>.

²⁰ OECD: *Annual Report on the OECD guidelines for Multinational Enterprises 2013*, p. 14.

a related programme is under way on responsible sourcing of minerals from conflict-affected areas. Following the Rana Plaza factory collapse in Bangladesh, the OECD and the ILO planned a round table meeting on responsible supply chains in the textile and garment industry, held at the end of September 2014.²¹

25. In 2013, the OECD organized its first annual Global Forum on responsible business conduct to strengthen international dialogue on this issue among governments, businesses, trade unions, civil society and international organizations, and to promote the effective implementation of the Guidelines. A second Global Forum was held in 2014.

ILO collaboration

26. Since the 2011 update, the Employment and Industrial Relations Chapter of the OECD Guidelines is fully aligned with the ILO MNE Declaration and the 1998 Declaration on Fundamental Principles and Rights at Work, which are referenced in the commentaries for more in-depth guidance. The chapter on human rights also refers to the 1998 Declaration on Fundamental Principles and Rights at Work.
27. In 2011, the ILO and the OECD updated their relationship agreement through a Memorandum of Understanding (MoU) which covers, among others, the dissemination, promotion and implementation of their respective initiatives concerning multinational enterprises. The MoU provides for the participation of the ILO in relevant OECD committees, including the Investment Committee and the Global Forums, in training sessions and awareness-raising campaigns, joint pilot projects and cooperation on capacity building and training activities.
28. Since 2011, the ILO, together with the United Nations Conference on Trade and Development and the OECD, organizes the annual Interagency Roundtable on CSR, following the G8/G20 request for enhanced policy coherence in the area of CSR.²²
29. The ILO has spoken on labour and employment topics at OECD conferences on responsible business conduct. At the OECD's invitation, the ILO provides technical inputs for proactive agenda projects and participates in capacity-building activities of national contact points on matters within the ILO's competence, in line with ILO standards referenced in the chapters on employment and industrial relations and human rights of the OECD Guidelines.
30. The OECD has stated²³ that it needs to work more closely with the UN, the ILO and with other organizations responsible for leading instruments to ensure a coherent interpretation and mutually supportive implementation of the OECD Guidelines and the Guiding Principles, and to strengthen the NCP's handling of an increased number of complaints. There is clear scope for a more active collaboration between the ILO and the OECD on the promotional strategy and implementation mechanisms of the respective instruments.

²¹ Paris, 29–30 September 2014. See: <http://mneguidelines.oecd.org/2014-ilo-oecd-roundtable-textile-supply-chains.htm>.

²² <http://www.csroundtable.org/>. The roundtable is held in Geneva, alternating between the ILO and the United Nations Office at Geneva.

²³ OECD: *Annual Report on the OECD Guidelines for Multinational Enterprises 2013*, p. 10.

4. ISO 26000

31. The ILO participated in the development of an ISO guidance document on social responsibility (ISO 26000). The Office reported on the outcome of that collaboration in November 2011, and continues to provide follow-up, in line with the 2005 MoU concluded with ISO in the area of social responsibility.²⁴ ISO conducted consultations in 2013–14 on whether or not to revise ISO 26000. It was decided that the guidance document will not be revised at this time.
32. Regarding new areas of ISO work relating to ILO issues, a framework for cooperation is provided by the 2013 Agreement between the ILO and ISO.²⁵

Suggested issues for discussion and guidance

33. The promotional activities, follow-up mechanisms, direct engagement of companies and the interlinkages between these instruments, provide opportunities for the promotion of ILO principles, by mainstreaming them into all the aforementioned instruments and initiatives. But they also present a number of challenges:
- Ensuring that ILO standards and approaches are properly used when tools are developed for enterprises and when projects are undertaken on the basis of the principles of the relevant instruments; and when facilitating mediation and dispute settlement in the case of the OECD national contact points.
 - Defining the level of strategic collaboration with these organizations according to region, issues, projects and cooperation models with enterprises, governments and social partners.
 - Ensuring that ILO collaboration enhances the objective set by the Governing Body of a robust promotional strategy on the ILO MNE Declaration itself as the most comprehensive and global, and the only tripartite instrument adopted on engaging enterprises together with governments, employers' and workers' organizations on issues related to decent work.
34. In light of the above, the Governing Body is invited to provide guidance on how to enhance the further use and recognition of the ILO MNE Declaration to better serve the ILO's mandate while using Office resources effectively and efficiently.

Draft decision

35. *The Governing Body takes note of the information contained in the document and requests the Office to take into account its guidance on enhancing the further use and recognition of the MNE Declaration, including by promoting overall coherence among international organizations in line with the principles of the MNE Declaration.*

²⁴ GB.312/POL/13, paras 21–22.

²⁵ The Governing Body will review the pilot implementation of the 2013 Agreement in the context of the development of ISO 45001 on Occupational Health and Safety Management Systems at its 323rd Session in March 2015. See GB.320/INS/14/4 (March 2014) and GB.320/PV, para. 312.