



THIRTEENTH ITEM ON THE AGENDA

**Report of the Subcommittee on
Multinational Enterprises**

1. The Subcommittee on Multinational Enterprises met on 21 and 22 March 2001. It was chaired by Ms. Robinson (Government, Canada). Mr. Noakes (Employer, Australia) and Mr. Patel (Worker, South Africa) were Employer and Worker Vice-Chairpersons, respectively.

I. Follow-up and promotion on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy: Seventh Survey on the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (Parts I and II)

2. The Chairperson (Ms. Robinson, Government, Canada) stated that the Working Group on the Seventh Survey on the effect given to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) was composed of Mr. Noakes, the Employer Vice-Chairperson, Mr. Patel, the Worker Vice-Chairperson and herself. The Working Group had met on 29, 30 and 31 January 2001; on that occasion, it had finalized the report which analysed the responses to the Seventh Survey and provided conclusions and recommendations. She thanked the Working Group for their positive contributions and the Office for its excellent work and support in the preparation of the report.
3. The Representative of the Director-General (Ms. Diller, Head, Voluntary Private Initiatives Programme) introduced the two survey documents: GB.280/MNE/1/1 and GB.280/MNE/1/2; she started by recording a technical correction on page 113 of GB.280/MNE/1/1, pointing out that the first line in the *Points for decision* should read 169 instead of 109. She noted that participation in the Seventh Survey, which covered developments from 1996 to 1999, had been higher than in any other survey of its kind, with an increase in each type of respondent participating as well as in the number of countries within each ILO region. The questionnaire used for the Survey had been approved by the Governing Body in June 1999 and dispatched to all constituents in August

and September of 1999. All replies received by 1 August 2000 had been taken into account in preparation of the survey documents, which represented an extension of the approved deadline from February 2000. She noted that 30 constituents in ten countries had provided tripartite replies, reflecting a preference stated in the questionnaire itself. Overall, the Survey presented a good sample in terms of countries of origin and destination of global foreign direct investment and significant levels of MNE activity. Though regrettably the methodology of the Survey did not permit verification of all that had been said in the summaries, best efforts had been made to ensure that the information and views presented were conveyed as accurately as possible. She recalled that the Working Group on the Survey had met several times, most recently on 29, 30 and 31 January 2001.

4. The Employer Vice-Chairperson noted that the two documents represented an enormous volume of material and work and thanked those who had been involved in their preparation and particularly the Office, adding that the increase in replies to this Survey over previous surveys had added to the volume of material and amount of work. One point that had particularly struck the Employers was the overwhelmingly positive view which the Survey had revealed about the contributions of multinational enterprises to economic development, employment, industrial relations, occupational health and safety and more. However, the Employer Vice-Chairperson pointed out that the survey methodology had inherent limitations since the views, comments and observations it reproduced were subjective rather than objective and had not been tested – in fact could not be tested. The Employers could not commit themselves to endorsing a further survey in the same form since there might be alternatives, either different forms of survey or different methods altogether of following up the effect given to the MNE Declaration. Although he was open to hearing the views of others on this point, decisions on the conduct or form of a future survey should be made closer to the date of that survey.

5. The Worker Vice-Chairperson welcomed the publication and expressed thanks and appreciation to everyone who had contributed to its production, as well as to the Office, for responding to the many requirements placed on it in the process. The Survey was timely in view of the increase in activity of multinational enterprises in the global economy; interesting in its unique comprehensive picture of the perceptions of trade unions, employers' organizations and governments on the impact of multinational enterprises; and useful in providing a focus for the work of the ILO on the MNE Declaration. He recognized the dramatic illustration of what is meant by a globalizing world economy in citing the figures over the reporting period, noted in the Analytic Report (MNE/1/1), demonstrating increases in foreign direct investment (FDI) inflows; in number of foreign affiliates and parent companies of MNEs; in total employment within multinational enterprises; and in cross-border mergers and acquisitions. Multinational enterprises were important to the work of the ILO because they employed, according to the Survey, 86 million people, representing nine out of every 100 workers outside of agriculture, the public sector and the unemployed. However, he noted that the rate of employment growth was substantially lower than the growth of FDI or cross-border mergers and acquisitions and section I.6 of the Analytic Report (GB.280/MNE/1/1) revealed some inequities in global FDI flows. Developing countries, accounting for the bulk of the world's population, received only 24 per cent of global flows, which apparently had declined from the start of the reporting period; in particular, the already low share of FDI to Africa had further declined over the reporting period. Some of the decline in FDI flows in the developing countries, as the report noted, could be attributed to the Asian financial crisis which coincided with the Survey's reporting period. He also noted that mergers and acquisitions, including privatization, soaked up vast sums of FDI and "greenfield" investment had not accordingly featured as prominently over this period. He stressed that the impact on employment of this development should receive the ILO's attention, and that the increase in response rates was reflective of an increase in MNE activity in national economies. The replies provided a complex and diverse picture of the impact of MNEs on the areas

covered by the Declaration and nearly every perception was qualified by an opposite experience. This was not unexpected; not only did the Survey cover many different countries, different sectors of economic activity and different MNEs, but it was a survey, drawing together perceptions and views of trade unions, governments and employers' organizations. He noted some congruence of opinion in certain cases among different respondents within a group, particularly that of trade unions and employers. While the differing opinions could not be given a universal sense, the perception of MNEs' contribution to economic progress and employment creation was stronger than the perception of MNEs' contribution to social welfare, the improvement of living standards, satisfaction of basic needs or the enjoyment of basic human rights. He stated that many of the concerns that the Workers' group had had in the past with respect to MNE activity were identified in the Survey: the growth of precarious and temporary employment; job losses including in the context of mergers and acquisitions and privatization; infringements of human rights and labour rights; low levels of income, wages and standard of living; concentration and, in some instances, abuse of economic power; lack of investment in local skills development, inadequate linkages within the local economy; some serious breaches of health and safety standards leading in a specific instance to reported fatalities; reduction of labour rights in export processing zones; reluctance to respond positively to requests for information; lack of adequate consultation with representative unions and employers' organizations on general policy objectives; environmental problems; and threats to transfer operations in order to influence negotiations. He also recognized the positive impact that the activities of some MNEs had, for example, on training and general health and safety standards, as well as on wages and working conditions. These positive and negative responses showed the relevance of the Declaration and the need to expand substantially promotional activity on the contents of the Declaration. He urged that the Analytic Report and summary of reports be placed on the Web with, if possible, access by country hotlink and by keyword search. Acknowledging that the format of the current report was as "user-friendly" as possible, he noted the Employers' comments and agreed that there was scope for improvement in the next report. He stated that it would be useful to undertake another survey and that, in the future, final reports could be made more "reader-friendly" if the analysis of replies was crisper and complemented with additional information based on research undertaken in the many areas identified including case studies of good practice and problem areas including those based on the responses of key policy-makers whose views were captured in the Survey. In conclusion, the Workers believed the report could provide the basis for action by the ILO.

6. Since there were no Government comments, the Chairperson proposed to move to the conclusions and recommendations.
7. The Employer Vice-Chairperson observed that the stupefying effect of the volume of material seemed to have permeated the Government benches and it underlined the Employers' concern that the documents were too long to be read.
8. The representative of the Government of the United Kingdom pointed out that, although there might be a great deal of extremely valuable information in the reports, they were only received when she arrived in Geneva, and required downloading from the Internet before that time, so she had not had time to download or to read them.
9. The Employer Vice-Chairperson stated that, in the absence of Government comments, it would be difficult to consider the documents. He suggested that the exercise be completed at the next sitting of the Subcommittee.
10. The Worker Vice-Chairperson noted the relevance of the comments of the Government of the United Kingdom. He suggested that, since governments had not objected to dealing

with the conclusions, the Subcommittee begin discussion of the conclusions and points for decision.

11. The representative of the Government of Namibia noted the lack of time to digest the documents fully. He stated that his Government would have no problem with discussing the conclusions and recommendations. He stressed that the purpose was to share views summarized here and not to decide whether the conclusions were right or wrong because they reflected perceptions and there was no statistical measure that indicated whether they were significant or fitted within certain competent limits into a certain hypothesis.
12. The Employer Vice-Chairperson stated that the Subcommittee was there to make decisions about certain recommendations and points for decision, and not simply to have a discussion. He felt that, since the reports supported the conclusions and proposed recommendations, it would be inadequate to discuss the conclusions and recommendations without considering the summaries and analysis.
13. The Worker Vice-Chairperson stated that, having read through the entire document, it was possible to look at the conclusions as a stand-alone document. There appeared to be three options. The first would be to start with the conclusions and address points for decision now, as the Government of Namibia had suggested. The second would be to defer the entire consideration until November. However, this would delay giving effect to the conclusions of longer than eight months and some of the conclusions and replies would become stale. Thirdly, the Subcommittee could discuss the report on promotional activities now (GB.280/MNE/1/3) and continue with the discussion of the survey documents tomorrow morning.
14. The representative of the Government of the United States suggested that, in the interest of timeliness, the Subcommittee continue the discussion of the conclusions and recommendations and, if a recommendation were dependent on more information, action on such a recommendation could be reserved.
15. The Employer Vice-Chairperson stated that the Employers were not in a position to discuss more than a limited number of conclusions and recommendations, and stressed that the conclusions and recommendations were organically linked to other documents and could not be looked at in isolation.
16. The representative of the Government of the United Kingdom reiterated that its input would be quite minimal if the discussion carried on, since it had not had time to read the documents in detail.
17. In response to an enquiry by the Chairperson, the Employer Vice-Chairperson stated that it was not possible to discuss the report on promotional activities (GB.280/MNE/1/3) since the Employers had not discussed it as a group yet.
18. The Worker Vice-Chairperson suggested that, in light of the statements of the Employers and of the Governments of Namibia and the United States, it might be possible to deal with some of the conclusions and recommendations at the current sitting, and asked for more Government comments on that proposal.
19. The representative of the Government of Canada supported the recommendation that the Subcommittee continue the present sitting with those conclusions and recommendations that could be discussed.
20. The representative of the Government of Italy wished the discussion to move forward in the current sitting.

21. The Chairperson indicated that the Subcommittee would proceed to discuss the conclusions and recommendations in the Survey since most of the Committee members were interested in pursuing the discussion – on the understanding that the Employers' comments would be limited to paragraphs which they had had the opportunity to discuss.
22. Regarding paragraph 169, which was the first point for decision, the Worker Vice-Chairperson supported the paragraph, including the point for decision.
23. The Employer Vice-Chairperson stated that, due to the already discussed limitations and qualifications of the Survey, it would not be consistent to ask the Office to make use of the information contained in it. He stressed that it was not possible for anyone to draw sensible conclusions for action from the subjective opinions and views prepared by the Office.
24. The Government of the United States supported the recommendation in paragraph 169 and hoped that the Office would use the information while recognizing its inherent limitations.
25. The Government of Namibia supported the point for decision. Though they agreed with the Employers that, in fact, all the recommendations were based on perceptions, they did not have problems with the point for decision since they were merely aiming at implementing the Declaration and assisting with that implementation.
26. The Worker Vice-Chairperson observed that, in the Sixth Survey, similar language had been used and agreed by all. Furthermore, in many Governing Body documents, the Director-General was asked to take account of the views of ILO constituents and the Survey set these out comprehensively.
27. In response to an enquiry by the Chairperson, the Employer Vice-Chairperson informed that it would help to indicate, along the lines of the suggestion made by the United States, that the Office would use the information, understanding its limitations.
28. The Worker Vice-Chairperson stressed that such wording was not necessary as the prudent use of the information was obvious, and the proposal that the Director-General use the information had intrinsic merit. The point for decision was similar to that discussed at previous working groups, previous subcommittee meetings and the Governing Body. Nevertheless, "taking into account the issues raised at the session" might be added.
29. The Employer Vice-Chairperson suggested that any redraft would need to refer to the subjective nature of the opinions, such as the text "taking into account the subjective nature of the views, the issues raised and recommendations made".
30. The Worker Vice-Chairperson stressed that views were, by their very nature, subjective and the Office always utilized subjective views in its work; if such wording were added to every other document of the Governing Body, it would discredit the Organization tremendously. Moreover, there seemed to be nothing more subjective in the Seventh Survey, compared to the Sixth Survey, since both tested opinion. Although the Workers might not agree with or support many of the comments that were made, they were recorded, sent to the Office and might helpfully be taken into account in designing programmes.
31. The Employer Vice-Chairperson pointed out that the discussion was of the Seventh not the Sixth Survey, and did not deal with prior Governing Body decisions.
32. Mr. Edström (Workers' group), supporting the Worker Vice-Chairperson, stressed that the world of work, which the ILO was about, dealt with societal matters, not mathematics, physics or biology. There was a need to take account of the views expressed. All views

were subjective and even misconceptions might be useful to the Office because the ILO offices in the field might then address or correct those misunderstandings. The fact that the information came from any particular group did not discredit its value.

33. The Employer Vice-Chairperson proposed that, after the dash in the sentence in paragraph 169, the words “make use of the information from the Survey” be deleted and the words “the opinions expressed,” be added before “the issues raised, and recommendations made, when discussing ...” and after “taking into account”.
34. The Worker Vice-Chairperson agreed to the suggestion with great reservation, stressing that the ILO was an organization founded on precedent. No implication should be drawn from the revision that the information in the Seventh Survey was of lesser quality or validity than that in the Sixth Survey. Furthermore, the fact that a tripartite working group spent considerable hours working out compromises was a more expeditious process than trying to negotiate every word in full subcommittee.
35. After the Chairperson confirmed the revisions agreed and the change from “taking” to “take” for grammatical reasons, the revised paragraph 169 was adopted.
36. Regarding paragraph 170, and recalling his previous remarks concerning the limitations of the survey process, the Employer Vice-Chairperson stated that he was not prepared to accept the recommendation. He emphasized that there might be better ways than a survey of following up the effect given to the MNE Declaration, or better types of surveys that could be undertaken. He proposed that the recommendation be changed to indicate that consideration should be given to a further survey and that the decision whether and how to do so should be taken much closer to the actual event which could occur in a few years’ time.
37. The Worker Vice-Chairperson stressed that paragraph 170 did not deal with the nature of the Survey but simply whether a survey was needed. He argued that a survey was useful for two reasons: first, it provided a uniform checklist of issues, thus promoting awareness of the Declaration; second, it was the most comprehensive way to test opinions of the constituents and give each of them equal opportunity to respond. This was in effect the demand-driven approach to developing services stressed in the ILO. In light of the increased participation by country and respondent in every category imaginable, in essence the users, clients, customers and consumers, it seemed there certainly was a demand. The Workers had comments on the form of the Survey – but, for now, the object of a survey, with equal opportunity for everybody to respond, was helpful and he supported the point for decision.
38. The Employer Vice-Chairperson emphasized that he was also speaking about possible alternatives to a survey, not just its nature. He underscored that there were other investigative tools which could be used. The Employers’ group was disappointed with the outcome of this Survey and it was clear that many groups did not respond because of the length and complexity of the current Survey.
39. The Worker Vice-Chairperson responded that the length and complexity issues should not be addressed under paragraph 170 but in the later points for decision that deal with the kind of survey required. He reminded the Subcommittee that the Seventh Survey had received the highest response rate which demonstrated that there was a need. There was no harm in using other means to complement the existing Survey. The survey process had provided benchmarks over some 20 years to assess the evolution of thinking within the constituents about the impact of the Declaration and the operation of multinational enterprises.

40. The representative of the Government of Namibia was satisfied that the survey was an appropriate tool. As to how to conduct the Survey and whether there were ways to do other things, the Subcommittee could deliberate on those matters at a later date.
41. The representative of the Government of the United States saw no reason to lock into the survey as a particular instrument today, and suggested that specific means might be more appropriately decided closer to the time of the next survey.
42. The Chairperson called the attention of the Subcommittee to paragraph 3 of the summary of reports (MNE/1/2) and requested an opinion of the Legal Adviser as to whether it was within the competence of the Subcommittee to constructively set aside the survey follow-up process which was adopted by the Governing Body and confirmed by the International Labour Conference resolution in 1979.
43. The representative of the Director-General (Deputy Legal Adviser) advised the Subcommittee as follows: The Governing Body, after the adoption of the Tripartite Declaration on Principles concerning Multinational Enterprises and Social Policy, looked for ways and means to ensure the follow-up to that Declaration. In February-March 1978, at its 205th Session, the Governing Body invited governments to make a periodic report on the follow-up given to the Declaration, indicating that those reports should be the subject of wide consultation with national employers' and workers' organizations. That invitation of the Governing Body was taken up by a resolution at the International Labour Conference in June 1979, which stated that a report must be made periodically for the follow-up given to the Tripartite Declaration on Multinational Enterprises. Thus, in principle, it was not for the Subcommittee to decide whether a report was to be made in the future. The Subcommittee could invite the Governing Body to decide on the content of the report, but it was for the Conference to decide whether a report was no longer to be made.
44. The Employer Vice-Chairperson thanked the Legal Adviser but stated that the Subcommittee was not discussing whether there should be a report but a survey.
45. The Worker Vice-Chairperson, noting the decisive character of the Legal Adviser's comments, stated that, if the International Labour Conference had decided there should be periodic reports and if the format of the report was one that would be equally applicable to all governments, then they were talking about a survey by any other name. The only flexibility on paragraph 170 would be with regard to the length of the reporting period. He appealed, in light of the information just given, that the parties build a consensus.
46. The Employer Vice-Chairperson stated that neither the Conference nor the Governing Body had taken a decision that a survey should be carried out but rather that a report should be made – there were other foundations for a report. Noting that there were other investigative means, he proposed that the words “a further survey or other appropriate measure” be added to keep alive the possibility of another survey.
47. The Worker Vice-Chairperson urged Government members of the Subcommittee to speak on this point.
48. The representative of the Government of the United Kingdom stated that the difficulty was that they were being asked to sign something without knowing exactly what it was going to be. His Government had difficulties getting the information requested by the current Survey's questionnaire since the government departments responsible no longer held such information because multinational enterprises in the United Kingdom were subject to the same treatment as other employers, and employees of multinational enterprises had the same employment rights as other employees. The fact that only 65 governments had responded out of the 170-odd member States of the ILO indicated that governments were

not totally happy with the format. He wondered if the Subcommittee could put the question on hold until they went into the details of the questionnaire in the coming few paragraphs.

49. The Worker Vice-Chairperson stated that he would have no objection to holding back a decision on paragraph 170 until after the next two points had been examined.
50. The Employer Vice-Chairperson agreed, though he was willing to suspend the paragraph more generally.
51. The Chairperson stated that the decision was to move on to paragraphs 171 and 172.
52. The Employer Vice-Chairperson had no problems with paragraph 171.
53. The Worker Vice-Chairperson strongly supported paragraph 171.
54. The representative of the Government of Namibia had no problems with paragraph 171 but asked whether improving response rates was the only objective, or whether a wider objective, such as improving information, might also be desired.
55. The Employer Vice-Chairperson suggested that the text could read “results” rather than “response rates”, which met with agreement, and paragraph 171 was adopted.
56. With regard to paragraph 172, the Employer Vice-Chairperson stated that the language assumed a survey and that that question had not been decided. It was thus difficult for the Employers to agree.
57. The Worker Vice-Chairperson noted that the Workers also believed improvements could be made to the questionnaire which incidentally had been drafted by the Subcommittee and was a product of tripartite discussion. Nonetheless, he supported the point for decision in paragraph 172 because it was asking for agreement that the next survey cover the main issues in the MNE Declaration and that the Subcommittee examine and approve the draft text of a questionnaire. It also required a date for dispatch to prevent information request overflow – and even sought to clarify terms in the questionnaire where appropriate to take out ambiguity and achieve comparability of data. The paragraph also made a good governance point in directing that replies of each respondent be made available to others in the same country.
58. The Employer Vice-Chairperson stated that the problem with paragraph 172 was that it assumed there would be an Eighth Survey and that it was difficult to adopt paragraph 172 without a decision on paragraph 170.
59. The Worker Vice-Chairperson stated that the point for decision could be taken up subject to a later agreement on paragraph 170, stressing the merit he saw in the specifics under paragraph 172.
60. The representative of the Government of Namibia proposed that the words “if appropriate, a questionnaire” could replace “the questionnaire” in the first sentence of paragraph 172 and “A draft of such questionnaire” could replace “The next questionnaire” in the second sentence.
61. The Worker Vice-Chairperson appreciated the attempts of the Government of Namibia to assist but recalled that the Legal Adviser had indicated there was no flexibility in deciding whether to have a questionnaire; no text should therefore be added that would imply the Subcommittee was empowered to take such a decision. Perhaps the Government of Namibia’s suggestion could be achieved, not by amending the text, but by accepting the

qualifications on the kind of questionnaire which were found in paragraphs 172 and 173, together with paragraph 170, in a package.

62. The Employer Vice-Chairperson recalled that the Legal Adviser had stated that there was no flexibility as to a report, not a survey. It was almost impossible to take a decision on paragraph 172 before having taken a decision on paragraph 170, so the right way to deal with the proposal made by the Government of Namibia might be to replace, in paragraph 172, “any” for “the” before “questionnaire”. However, that language might need to be changed depending on the decision on paragraph 170, so he proposed to consider paragraph 172 again later together with paragraph 170.
63. The representative of the Government of the United Kingdom stated that the principle would seem agreed; if the questions could be got right, there would be another questionnaire. The issue was drafting a revision to the paragraph to reflect that.
64. The Employer Vice-Chairperson recalled that the Subcommittee had agreed to defer further consideration of paragraph 170. It was difficult to decide on the form of a survey if the Subcommittee has not decided if there should be a survey at all.
65. The Worker Vice-Chairperson stated that the argument was circular since the Subcommittee was being told to hold a decision on one paragraph in order to deal with another but then told that it could not deal with the other without dealing with the first paragraph. The only concern he had heard from the governments was with the questionnaire, and paragraph 172 assured a process that would develop the questionnaire anew, following which the Subcommittee would have to sign off on the specific questions at the appropriate time.
66. The Employer Vice-Chairperson remarked that the only way to deal with paragraph 172 at that stage was to use the term “any questionnaire” as he had proposed in the first sentence; the rest of the text of that paragraph was acceptable provided there was no firm decision made about a questionnaire prior to a decision under paragraph 170.
67. The Worker Vice-Chairperson suggested that the words “the/any” be square bracketed in the first sentence of paragraph 170 subject to a decision on paragraph 170, and the rest of the paragraph be adopted.
68. Paragraph 172 was adopted by the Subcommittee, subject to the terms of the Worker Vice-Chairperson’s proposal.
69. The Employer Vice-Chairperson expressed two problems with paragraph 173: the Employers’ group could not commit to a further questionnaire as that awaited a decision to be taken under paragraph 170; the second concerned the content of any future questionnaire which he had previously indicated should be set aside until such time as a new questionnaire, if any, would be formulated.
70. The Worker Vice-Chairperson indicated the Workers’ support for the point for decision in paragraph 173. He underscored that the next survey would have to be relevant to current experiences with multinational enterprises, and said this could be assured by indicating some helpful areas based on the current Survey without compelling the Subcommittee to deal with them in the next survey – thus maintaining flexibility and openness as opposed to rigidity of content.
71. The Employer Vice-Chairperson repeated his earlier proposal to add “[any/the] future” before “survey questionnaire” and wording to indicate that “in designing any/the future

survey questionnaire, consideration should be given to including” the issues which were mentioned at the moment in the text.

72. After the Chairperson read out the proposed amendment to paragraph 173, the Worker Vice-Chairperson stated his support of the proposed revision.
73. The representative of the Government of Canada indicated that the Survey results provided a balanced and unique view of the perspectives of governments, and workers’ and employers’ organizations concerning the effect given to the MNE Declaration. He believed the Survey results would serve to usefully inform the work of this Subcommittee as well as the research, promotional and other activities of the Office. His Government supported further reporting within the follow-up procedures adopted by the Governing Body, with a view to maintaining recent information and tracking evolving views on the effects being given to the Tripartite Declaration. He supported the recommendations in paragraphs 170 and 172, and believed it would be useful if, prior to a further survey, the Office would provide the Subcommittee with information on: how the results of the Survey were being used and by whom; what information was considered most useful; and what attempts were being made to identify what additional information might be valuable. He would support the suggestion, with regard to paragraph 172, that examples of good practice be requested. As mentioned in paragraph 173, he supported the drafting of further questionnaires in a way that would ensure the questions were relevant to countries where there were no distinctions made between multinational enterprises and other enterprises with respect to the application of legislation and the gathering of statistical information.
74. The representative of the Government of the United Kingdom supported the proposed revisions to paragraph 173.
75. The representative of the Government of Italy supported the proposed revisions to paragraph 173, and the request made by Canada, especially as concerned paragraph 172 and the use of best practices before defining a future questionnaire.
76. The representative of the Government of the United States supported the amendment to paragraph 173.
77. Given the consensus on the decision point in paragraph 173 as amended by the Employers and with the addition of the square brackets on “the/any”, paragraph 173 was adopted, as amended.
78. With regard to paragraph 170, the Worker Vice-Chairperson was keen and open, in order to get the best out of a further survey, to consider a different format for the survey and the questionnaire. He pointed out that the past questionnaire had tried to cover as exhaustively as possible each of the five areas of the MNE Declaration: general policies, employment, training, conditions of work and life and industrial relations. He suggested that the questionnaire in the next survey might have two sections: one generic section covering general policies and a second dealing with one of the other areas identified above. If such an approach were adopted over a series of surveys – each with the generic general policies section and alternating the other areas of the Declaration, over a period of time – a cycle would embrace the entire content of the Declaration with the benefit of a much greater focus. As to the further concern expressed by the Employers that the Survey was, by its very nature, subjective, he believed there were limitations and advantages to an opinion survey. He proposed that the Subcommittee discuss, at its next session, the possibility of producing a report in booklet format which combined various elements in order to complement a survey of the type he had just described. One section would summarize the Survey results, i.e. the opinions of the parties, while a second section would produce hard data results of more focused research undertaken by the Office that would cover similar

areas to the issues identified in the questionnaire. A further section would summarize and draw together all the research that the ILO had conducted on the relevant area and period. This would meet the needs that everyone had expressed, while complying with the letter and spirit of the International Labour Conference decision that had called for reports by governments – later supplemented by the Governing Body decision to expand the process to include trade unions and employers’ organizations. He proposed that the words “in a new format” be added to “a further survey” in paragraph 170.

79. The Employer Vice-Chairperson noted that the Workers’ proposal did not solve the Employers’ difficulties of whether a further survey should be carried out, given the deficiencies of the survey process. He indicated that he wanted to leave the whole question open as to whether there should be a new survey, or some other action taken, or a survey plus other action. He did not think it was appropriate to take that decision at this time. He proposed to maintain the text as it was with the Workers’ addition but then add the words at the end “or other appropriate action be taken”, so the text would read: “Consequently, the Working Group recommends that a further survey in a new format be carried out covering the years 2000, 2001, 2002 and 2003, or other appropriate action be taken.”
80. The Worker Vice-Chairperson emphasized that the vital task facing the Subcommittee was to give effect to the concept of periodic reports by governments – as specified by the International Labour Conference – and by the other tripartite constituents, as decided by the Governing Body. He added that any words that emphasized the periodic reports by the tripartite constituents would be appropriate but these could be complemented by other means like office research, monographs or data collection.
81. The Employer Vice-Chairperson proposed that a further amendment be added so that, at the end of the text already amended, it would state “or other appropriate action leading to periodic reports be taken”.
82. The Worker Vice-Chairperson sought clarification as to whether the reference to periodic reports as conceived by the Employers meant reports by the tripartite constituents.
83. The Employer Vice-Chairperson clarified that he was referring to the reports in accordance with the requirements of the Subcommittee.
84. The Worker Vice-Chairperson clarified that the Workers were seeking to capture the decision by the Governing Body, subsequently endorsed by the International Labour Conference, that invited governments to report periodically on the effect given to the Declaration, after full consultation with national employers’ and workers’ organizations, as was set out in paragraph 3 of GB.280/MNE/1/2. He then sought clarification on the issue of the tripartite constituents.
85. The Employer Vice-Chairperson explained that he was speaking about the periodic reports that were required to be made by decision of the Governing Body, as endorsed by the Conference. He indicated that those periodic reports involved consultations with the tripartite constituents, but there was no separate process of the tripartite constituents making reports.
86. The Worker Vice-Chairperson requested the Legal Adviser to clarify the import of paragraph 3 of GB.280/MNE/1/2.
87. The representative of the Director-General (the Deputy Legal Adviser) explained the following: The point for decision, paragraph 170, as amended and subamended, appeared to be completely in line with paragraph 3 of document GB.280/MNE/1/2, which referred to the resolution establishing the report mechanism adopted by the Conference. In order to be

precise, however, and with regard to the subamendment brought by the Workers' group which referred to a tripartite report, the report which was requested from the tripartite constituents of the Organization was not tripartite; the report was a report requested from governments, which must be supplied after wide consultation with employers' and workers' organizations.

- 88.** The Employer Vice-Chairperson suggested using the words from paragraph 3 of GB.280/MNE/1/2, proposing ... "or other appropriate action be taken to report periodically on the effect given to the Declaration after full consultation with the national employers' and workers' organizations". He further suggested referring to the Governing Body and the Conference in the same sentence.
- 89.** The Worker Vice-Chairperson made reference to paragraph 13 of GB.280/MNE/1/2 which referred to a Governing Body decision that expanded the questionnaire or form of reporting to the tripartite constituents other than governments. He recommended that the amended text also embrace the concept in paragraph 13.
- 90.** The Employer Vice-Chairperson indicated that there was no agreement to incorporate paragraph 13. He had agreed to a reference being made to the Governing Body decision and the Conference decision about reporting periodically but pointed out that paragraph 13 involved a draft questionnaire and a survey, and would thus apply only if there were a questionnaire.
- 91.** The Worker Vice-Chairperson indicated that the Workers were seeking to capture the concept that a development had been made through the later decision of the Governing Body to expand the reporting arrangement or mechanism. If the concept of reporting that embraced governments and employers' and workers' organizations were captured, the Workers could support the amendments.
- 92.** The Employer Vice-Chairperson proposed the wording: "invited governments to report periodically on the effect given to the Declaration after full consultation with and involvement of the national employers' and workers' organizations".
- 93.** The Worker Vice-Chairperson believed that wording could be found to refer to appropriate action "to invite governments, national employers' and workers' organizations to report periodically on the effect given to the Declaration".
- 94.** The Employer Vice-Chairperson proposed that the principle of what was being discussed could be accepted and the precise drafting approved by the Officers.
- 95.** The representative of the Government of the United Kingdom agreed to the Employers' proposal for a way of proceeding.
- 96.** The Worker Vice-Chairperson agreed and offered the suggestion for further consideration: "or other appropriate action be taken to invite governments, national employers' organizations and national workers' organizations to report periodically on the effect given to the Declaration".
- 97.** The Employer Vice-Chairperson indicated that the problem with that proposal was that only governments were required to report periodically.
- 98.** The representative of the Government of Namibia proposed that a quick solution would be to involve the two role players in the drafting of the new version.

99. The Chairperson confirmed the consensus on the principle itself and that the paragraph's adoption would be subject to the Officers drafting the exact wording. Paragraphs 174-178, together with the decision point in paragraph 178, were adopted on that basis.
100. With regard to paragraphs 179-182 and the decision point in paragraph 182, the Worker Vice-Chairperson supported the point for decision.
101. The representative of the Government of Namibia supported the point for decision, emphasizing under paragraph 182 the fact that employment had both quantitative and qualitative aspects and that, for developing countries, those aspects were of equal importance.
102. The representative of the Government of Italy supported the point for decision in paragraph 182 and underscored the reference to the active assistance of the ILO, which he believed was something that should be underlined every time questions of that nature were discussed.
103. The Chairperson declared the decision point in paragraph 182 adopted.
104. With regard to paragraphs 183 and 184, and the decision point in paragraph 184, the Employer Vice-Chairperson supported the point for decision.
105. The Worker Vice-Chairperson supported the point for decision.
106. The representative of the Government of the United Kingdom, while supporting the point for decision, wondered whether something could be added to this paragraph to reflect that consideration should be taken of research that was already being conducted in other organizations. For example, an OECD study recently indicated that, among multinational enterprises, a very high proportion had equality and non-discrimination provisions written into codes of conduct – reflecting that more emphasis was on this category of principles and rights than other aspects of core labour standards.
107. The representative of the Government of Namibia agreed with the statements made on the point for decision, observing that, in some cases, multinational enterprises did not treat local staff and expatriate staff equally. Expatriate staff often received preferential treatment which was unacceptable. The point for decision should include a sentence referring to compliance with accepted international and national standards.
108. The Employer Vice-Chairperson was not in favour of the amendment proposed by the Government of Namibia.
109. The Worker Vice-Chairperson supported the Government of Namibia's proposal but felt that the text, as it stood, would accommodate that sentiment because the first paragraph recognized that, while governments had the responsibility of pursuing policies designed to promote equality of opportunity and treatment in employment, multinational enterprises should be guided by this general principle. He proposed that the record reflect that the view expressed received the support of the Workers and was already incorporated in the point for decision.
110. The representative of the Government of Namibia took note of the intervention by the Workers, and, for the sake of progress, withdrew the suggestion for the new wording, whereupon the decision point in paragraph 184 was adopted.

111. With regard to paragraph 185 and the decision point in paragraph 186, the Worker Vice-Chairperson supported the point for decision, whereupon, with no further comments made, the decision point in paragraph 186 was adopted.
112. With regard to paragraphs 187 and 188 and the decision point in paragraph 188, the Employer Vice-Chairperson noted that the last line of the English version on page 107 had a reference to “fair technology transfer agreements” and that the word “fair” might be misunderstood as it related to commercial questions and questions of equity which was not what was proposed here. He added that when the Declaration referred to technology transfer agreements, it was speaking in the context of employment promotion and, therefore, instead of using the word “fair” with all its connotations, the word “appropriate” should be used. He proposed the wording “encouraged to enter into appropriate technology transfer agreements”.
113. The Worker Vice-Chairperson supported the point for decision as originally drafted. Regarding the question of the word “fair”, he noted that the second sentence was really a cross-reference to conclusions that had been adopted by the International Labour Conference. In the wording approved by the International Labour Conference, the phrase “enter into fair technology transfer agreements” had been endorsed by governments, employers’ organizations and workers’ organizations as the appropriate language; he therefore suggested keeping the word as it was.
114. The Employer Vice-Chairperson stated that there was no notion of fairness in technology transfer agreements referred to in the MNE Declaration; so he would not therefore accept the word “fair” in this context.
115. The representative of the Government of Italy supported the current wording of paragraph 188, even if it were presented in a different context, because it dealt with the area of training, in which there should be fair agreements for equitable transfers of technologies; the word “appropriate” was not sufficient.
116. The representative of the Government of Namibia supported the retention of the word “fair” because the word “appropriate” was regarded by some sectors as having a negative connotation.
117. The representative of the Government of the United States stated that he believed that the word “appropriate” was more appropriate.
118. The representative of the Government of the United Kingdom stated that, just because something had been used in another context or in another organization, it was not necessarily appropriate in this context. She sought clarification on the meaning of the word “fair” in this context.
119. The Employer Vice-Chairperson reiterated that the word “fair” in this context had commercial overtones, relating to, for example, the price or negotiation about the value of the technology transfer agreement – i.e., the quantum of the financial arrangement that was made. However, this was not the intention in this context, in which the term was intended to relate to employment or, as the delegate from Namibia said, to training, so it was quite a different context and connotation; therefore, the word “appropriate” was exactly the right word here.
120. The Worker Vice-Chairperson noted that the first sentence of the point for decision in paragraph 188 was self-evident and dealt with training and that the contributions that multinational enterprises could make were recalled in the conclusions concerning human resource training and development adopted at the 88th Session of the International Labour

Conference. He pointed out that the next sentence borrowed, word for word, the language that was used in the context of training by the International Labour Conference. He read from the conclusions of the document, including the one reflected in the language under discussion in paragraph 188, and indicated that the sentences recalled the policy adopted by the highest organ of the ILO in the context of both training and multinational enterprises.

121. The Employer Vice-Chairperson suggested adding the words “in this context” to make the phrase read: “the Working Group reiterates that, in this context MNEs should be encouraged”.
122. The Worker Vice-Chairperson supported the amendment proposed by the Employers.
123. The Chairperson declared the point for decision in paragraph 188 adopted, as amended.
124. With regard to paragraph 189 and the point for decision in paragraph 190, the Employer Vice-Chairperson commented on the reference in paragraph 190 which read “... ensuring respect for the principle of equal pay for work of equal value”. He noted that the only principle for equal pay for work of equal value related to the work of men and women, so the principle was not as stated here. He would accept the point for decision with the addition of: “on the principle of equal pay for men and women for work of equal value” since the context cut across countries, companies, sectors, and geographical areas.
125. The Worker Vice-Chairperson supported the point for decision as it stood, emphasizing that equal pay for work of equal value had a very important gender component but it also related to the issue of discrimination based on race and other contexts.
126. The Employer Vice-Chairperson restated his group’s position, recommending that the statement be taken out all together if agreement could not be reached on wording.
127. The representative of the Government of Namibia indicated his Government’s support for the inclusion of the principle of equal pay for work of equal value, whether it related to discrimination against women or any other category of persons, including discrimination between local staff and expatriates, which reflected Namibian national experience.
128. The representative of the Government of the United Kingdom expressed concerns about the statement in paragraph 190, calling on governments and employers’ and workers’ organizations to work jointly in setting wage policies; the United Kingdom did not have such a system. In light of this, she emphasized that her Government could not accept this paragraph.
129. The representative of the Government of the United States agreed with the statement of the Government of the United Kingdom.
130. The Worker Vice-Chairperson pointed out that the language was not there to spell out what mechanism should be applied in setting wage policies, but was intended to encourage governments to establish dialogue in setting wage policies, recognizing that prior tripartite dialogue could be helpful and that the form of such dialogue would differ greatly from country to country.
131. The Employer Vice-Chairperson noted the views of the delegates from the United Kingdom and the United States. He recommended that the words “working jointly in setting wage policies” and “ensuring respect for the principle of equal pay for work of equal value” be deleted from paragraph 190. He stated that slight redrafting of the remaining text would capture the issue of governments and employers’ and workers’

organizations working jointly in effectively recognizing the right to have recourse to collective bargaining for determining wages, benefits and working conditions, and when governments drew up relevant legislation.

132. The Worker Vice-Chairperson noted that, in the recommendations of the Sixth Survey, the relevant language used was “the Working Group recommends that the Governing Body call on governments and through them employers, including multinational enterprises, and workers’ organizations to work jointly in setting wage policies and in the drawing up of relevant legislation thereon to ensure respect for the principle of equal pay for work of equal value and to have recourse to collective bargaining for determining wages and working conditions”.
133. The representative of the Government of Italy did not have a problem with the reference to the principle of equal wages for work of equal value nor did she believe that there could be problems in the drawing up of rules or concepts to establish the relevant wage policies, with reference to social dialogue.
134. The Employer Vice-Chairperson noted that the origin of the wording of the current document was not relevant and recalled that the United Kingdom and the United States had indicated their opposition, and so a resolution was required.
135. The representative of the Government of the United States suggested the deletion of the first sentence of paragraph 190 so the paragraph would focus solely on the language beginning with “Further study is recommended ...”.
136. The representative of the Government of the United Kingdom believed the issue was now one of drafting. To work jointly in setting wage policies was absolutely unacceptable to her while she understood and fully agreed with both the Workers and the Employers. She suggested the Office come up with a redrafted paragraph.
137. The Worker Vice-Chairperson supported the proposal to have a redrafted proposal, adding that wording such as “in line with existing practice” might indicate that no new interpretation or new meaning was intended by the reference to equal pay for equal work. However, the Workers did not see merit in the United States Government proposal for deletion of the first sentence.
138. The Employer Vice-Chairperson agreed but considered that more time might be needed in redrafting.
139. With regard to paragraphs 191 and 192, the Employer Vice-Chairperson pointed out that the decision point in paragraph 192 also made reference to the Eighth Survey and so it would need to be amended in light of the decision on paragraph 170.
140. The Worker Vice-Chairperson supported paragraph 192 in its current form, but suggested that the Eighth Survey reference be square bracketed, that one might see where else such a reference occurred and then reconcile all such references with the decision taken with respect to paragraph 170.
141. The Subcommittee confirmed the approach proposed to square bracket all references to “the Eighth Survey”, whereupon the representative of the Government of Namibia supported the point for decision in paragraph 192, requesting that a reference be made to the next survey including the issue of HIV/AIDS in the workplace.
142. The Worker Vice-Chairperson supported the proposal by the representative of the Government of Namibia in the event that the focus was on occupational safety and health.

143. The Employer Vice-Chairperson supported the proposal in principle, suggesting that consideration to specific items be put to one side and reviewed at a future time.
144. The Worker Vice-Chairperson proposed that, consistent with the previous decision, the wording “give consideration to including HIV/AIDS” be added to paragraph 192.
145. Paragraph 192, with “in the Eighth Survey” in square brackets, was adopted as amended.
146. With regard to paragraphs 193-197, with a decision point in paragraph 197, the Employer Vice-Chairperson asked for the deletion of the last sentence in paragraph 197, because the MNE Declaration and the Declaration on Fundamental Principles and Rights at Work were two separate instruments, which were both important, had their own value and had their own follow-up. He stated that the Employers could not see any advantage in confusing the two and taking information from one and putting it into the other process.
147. The Worker Vice-Chairperson broadly supported the point for decision, but suggested to delete the words “with satisfaction” in the third sentence of paragraph 197, which read: “The Working Group observes with satisfaction that, in many countries, incentives to attract FDI had not limited workers’ freedom of association or right to organize and bargain collectively.” He sought further explanation from the Employers on the motivation behind their proposal to delete the final sentence since he saw merit in trying to integrate the work of the ILO.
148. The Employer Vice-Chairperson suggested a compromise, given time constraints: he would agree to the Worker Vice-Chairperson’s proposal if the Worker Vice-Chairperson agreed with the Employers’ proposal to delete the sentence.
149. The representative of the Government of the United Kingdom pointed out that the reason the MNE Declaration was republished was to take account of the Declaration on Fundamental Principles and Rights at Work, incorporating the core labour standards. She argued that they should not be promoted entirely separately as one related to the other and one incorporated the other. The ILO would not be an effective organization if it worked in a set of isolated fields rather than in a coherent fashion.
150. The representative of the Government of Italy agreed with the statement of the Government of the United Kingdom and further stated that the ILO must really act as an organization that had one goal, and thus everything should be related. To separate the MNE Declaration and other activities which dealt with multinationals from the rest of the activity of the ILO was unacceptable.
151. The Worker Vice-Chairperson suggested adding the words “as appropriate” in the final sentence to read as follows: “the information contained in the present Survey on the application of freedom of association and the right to organize and bargain collectively be included as appropriate in the action plan”.
152. The Employer Vice-Chairperson agreed to this amendment.
153. The representative of the Government of Namibia, while fully supporting the point for decision, observed that national labour market policies and international labour standards could not be compromised because it was not rare that multinational enterprises put governments under undue pressure with conditions that resulted in the relaxation of labour standards.
154. The representative of the Government of the United States had reservations about keeping the last sentence, since the MNE Declaration and the Declaration on Fundamental

Principles and Rights at Work were different and should be treated separately, but she would accept the change since the Employers had.

155. The decision point in paragraph 197 was adopted, as amended.
156. With regard to paragraphs 198 and 199, the Worker Vice-Chairperson supported the point for decision.
157. With no further comments, the decision point in paragraph 199 was adopted.
158. With regard to paragraphs 200-203 (point for decision being in paragraph 203), the Employer Vice-Chairperson noted that, consistent with what had already been decided in other paragraphs, there should be a reference in square brackets as follows: “consideration be given to certain matters being included or addressed in any future survey”.
159. The Worker Vice-Chairperson supported the amendment.
160. The point for decision in paragraph 203 was adopted, with the amendment as clarified by the Chairperson to read: “consideration should be given to the issue of the labour and employment effects of MNE operations ...”, with a square bracket around the words “the Eighth Survey”.
161. With regard to paragraphs 204 and 205 (the decision point being in paragraph 205), the Worker Vice-Chairperson supported the point for decision.
162. With no further comments, the decision point in paragraph 205 was adopted.
163. The Chairperson noted that the Office had drafted some wording to modify the phrases at issue in paragraph 190 and to reflect the proposal by the United Kingdom and others: “the Working Group recommends that the Governing Body call on governments and employers, (including MNEs), and workers’ organizations, in whatever their system of determining wages, to ensure respect for the internationally recognized principle of equal pay for work of equal value”.
164. The Employer Vice-Chairperson reminded the Subcommittee that there was no internationally recognized principle of equal pay for work of equal value; it came from Convention No. 100, and dealt with equal pay for work of equal value for men and women.
165. The Worker Vice-Chairperson was willing to accept the Office proposal, noting that the advantage of the words “internationally recognized principle” was that they required consistency with the generally accepted approach to the issue. He also offered another wording: “the Working Group recommends that the Governing Body call on employers, including MNEs, and workers to work jointly in setting wage policies, ensuring non-discrimination in relation to wages, benefits and conditions of work, effectively recognizing the right to have recourse to collective bargaining for determining wages, and calls on governments to promote such policies and draw up relevant legislation”.
166. The Employer Vice-Chairperson suggested replacing the reference to the principle of equal pay for work of equal value with a reference to the principle of non-discrimination in wage setting, which would apply in respect of gender, race, religion, amongst others.
167. The representative of the Government of the United States reiterated his Government’s earlier proposal to delete the bulk of the first sentence of the paragraph so it would read: “The Working Group recommends that the Governing Body call for further study to explore the extent to which foreign MNE affiliates ...” and then continue the paragraph

with the language from the second sentence. He emphasized that part of the reason for making this proposal was the fact that the document was received far, far too late to permit effective coordination of well-reflected positions within his delegation and he would prefer the item be put off until November 2001, when his Government would have prepared a well-reflected, coordinated position on this important subject matter.

- 168.** The Worker Vice-Chairperson indicated he had earlier responded to the United States Government position, and now accepted the thrust of the proposal of the Employers.
- 169.** The Employer Vice-Chairperson recalled that his proposal was an amendment to the proposed Office text.
- 170.** The representative of the Government of the United States pointed out that his country did not have a system of determining wages, and a reference to a governmental system of determining wages was inappropriate.
- 171.** The Chairperson indicated that the Subcommittee had square bracketed the words in paragraphs 173, 192 and 203, and wondered whether the Committee would agree to adopt those paragraphs along with paragraph 190, subject to the Working Group finalizing the wording in paragraph 190, and the bracketed text in paragraphs 173, 192 and 203.
- 172.** The Worker Vice-Chairperson supported the proposal of the Chairperson.
- 173.** With no further comments, paragraphs 173, 190, 192 and 203 were adopted, subject to the Working Group finalizing the wording in paragraph 190 and the bracketed text in paragraphs 173, 192 and 203.
- 174. Accordingly, the Subcommittee:**
- (1) recommends that the Governing Body endorse the report of the Working Group of the Subcommittee, as revised;*
 - (2) invites the Governing Body to endorse the recommendations adopted by the Subcommittee in paragraphs 169, 170, 171, 172, 173, 178, 182, 184, 186, 188, 190, 192, 197, 199, 203 and 205;*
 - (3) requests the Governing Body to invite the Director-General to distribute, as broadly as possible, the results of the Seventh Survey in line with the views expressed by the Subcommittee in its discussion of this item as reflected in the report of the Subcommittee to the Governing Body that the full summary of the reports submitted by governments and by employers' and workers' organizations for the Seventh Survey, would be supplied on request.*

II. Operational prospectus for promotional activities and research, including a tripartite forum

- 175.** The representative of the Director-General (Ms. Diller) introduced the agenda item, explaining that the paper for discussion (GB.280/MNE/1/3) proposed a framework for action to carry forward the MNE Declaration in today's context of international investment, which was seen as one of rapid growth fuelled by globalization. It had been prepared in consultation with the constituents and other units in the Office. She invited the

Subcommittee to clarify the main objectives of pursuing promotion of the MNE Declaration today, pointing to the possible objectives identified in the paper together with examples of past work in those areas. Those objectives were: to enhance awareness of the principles of the MNE Declaration and how to apply them; to mainstream implementation of the MNE Declaration within existing ILO programmes since the themes of that Declaration cut across the four strategic objectives of the ILO; to facilitate effective application of the MNE Declaration at national and regional levels; and to advocate the aims of the MNE Declaration in cooperation with international organizations and with constituents. Several guiding principles were proposed to strengthen coherence between the work on multinational enterprises and the rest of the work of the ILO, including an emphasis on linkages between research work and promotional activities on the MNE Declaration. The paper contained, as requested by the Governing Body, a proposal for a tripartite forum to stimulate a dialogue on the aims and application of the MNE Declaration. The forum, and the series of activities in the paper, went well beyond the resources that were currently allocated for already envisioned activities. Any financial consequences of recommendations by the Subcommittee and decisions by the Governing Body to undertake some or all of the proposed activities would need to be discussed by the Programme, Financial and Administrative Committee since their cost was not foreseen in the current budget of the Multinational Enterprises Bureau or in its proposed allocations for 2002-03.

- 176.** The Employer Vice-Chairperson welcomed the paper since it helped focus the work of the Subcommittee. The emphasis on the need for consultation with constituents was especially welcome. With reference to the proposed user's guide he felt that this should also be prepared in consultation with constituents. Although he accepted in principle the proposal to hold a tripartite forum, the Employers felt that if there were to be well-known panellists, those panellists should come from the participants themselves. He supported the proposed format but would like to be consulted on the details. He proposed that the forum take place early in 2002, preferably in connection with another ILO event so as to reduce travel costs. He had no difficulty with the proposed cost of the forum and suggested that the proposal be referred to the Programme, Financial and Administrative Committee.
- 177.** The Worker Vice-Chairperson endorsed the paper as providing a very helpful basis for promotional activity. With respect to paragraph 4, which he supported, he felt that the whole body of international labour standards, not just the MNE Declaration, constituted the primary benchmark for good social practice but that was a nuance. He endorsed paragraph 5 regarding the framework and objective of promotional activity. He noted that the proposal to conduct the work in consultation with the constituents, as stated in paragraph 7, would lend great authority to that activity. The Workers strongly supported all the proposals under the first objective and, in particular, appreciated the language chosen by the Office in emphasizing an ongoing process of dialogue among governments, employers and workers, including MNEs, on the aims of the Declaration and its effective promotion. He proposed that the updating of existing translations of the MNE Declaration should continue and particularly welcomed the proposals for a user's guide, noting that visual materials such as posters should also be considered. The Workers equally supported the second objective which would help leverage the current work of the ILO towards the realization of the MNE Declaration. Concerning the third objective, which he supported, the Workers particularly welcomed the emphasis on a balanced regional approach, and would urge, within the constraints of the budget, that the pace of those promotional activities and the interface between research and other activities be improved significantly. The Workers supported the fourth objective and all the comments proposed thereunder. Turning to the proposed forum, which the Workers supported, he emphasized, as referenced in the paper, that the forum should seek an innovative format and real interaction, draw senior-level participants with experience in the area, and create a basis for ongoing dialogue to work out how to have an effective partnership to realize the goals

of the MNE Declaration. His group was flexible as to whether the well-known panellists would be participants within or outside those invited as part of group delegations. The forum should look, not only at successful tripartite models and experiences, but also at bipartite ones between MNEs and trade unions. He agreed that early 2002 was a good time for the forum and that the venue should be Geneva.

- 178.** The representative of the Government of the United Kingdom, speaking with the support of Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Lithuania, Portugal, Switzerland and the United States, not all of whom were members of the Subcommittee, proposed another promotional activity, which would not necessarily take the place of the proposed tripartite seminar on the MNE Declaration, which would be directed at the boardroom level of multinational companies to promote the Declaration on Fundamental Principles and Rights at Work. Many senior executives had little knowledge of core labour standards and the Office had not yet been able to take up the issue of the Declaration on Fundamental Principles and Rights at Work with this target audience. Such an event could be held around the time of the annual World Economic Forum meeting in Davos and might serve to attract and influence more of the audience the ILO was trying to target and open the door to further contact on the MNE Declaration. Such an event would obviously need to be funded out of the IFP/Declaration budget, not from the reduced MNE budget. She was aware that, although the Subcommittee dealt with multinational enterprises, the proposal was not just the business of the Subcommittee and might need to be considered further elsewhere.
- 179.** The representative of the Government of Italy supported the proposals in the paper. His Government considered the MNE Declaration to be of great importance since it was the primary benchmark for the ILO to evaluate social practice in the context of international investment. Since the MNE Declaration incorporated the Declaration on Fundamental Principles and Rights at Work, it was essential that the latter Declaration became known as a point of reference for those concerned. He also supported the proposal just made by the Government representative of the United Kingdom.
- 180.** The representative of the Government of the United States, reiterating its support for the United Kingdom's proposal, expressed support for the proposed objectives and activities in the paper, including the tripartite forum.
- 181.** The representative of the Government of Namibia, speaking with the support of the African group, supported the proposed promotion and advocacy of the MNE Declaration, stressing in particular the need to focus on developing countries and MNEs operating in developing countries since most of the problems occurred when multinational companies were hosted by developing rather than developed countries. She also supported the statement of the United Kingdom.
- 182.** The Employer Vice-Chairperson felt that the proposal made by the United Kingdom, while interesting, had been put forward in the wrong place and reminded the Subcommittee that a number of governments supporting the proposal were not members of the Subcommittee. The MNE Declaration and the Declaration on Fundamental Principles and Rights at Work should not be confused, and the latter applied not just to multinational enterprises but to all types of enterprises. This was particularly important at the national level. The Subcommittee could therefore not endorse the proposal to the Governing Body. Returning to the issue of the proposed tripartite forum, he noted the support for the proposal from all who had spoken and emphasized that the forum should be promotional in character, constructive in operation, and not a forum for criticism or finger-pointing.
- 183.** The Worker Vice-Chairperson endorsed the comments of the Employer Vice-Chairperson that the forum would be constructive, take a positive tone, and highlight best practice. He

considered that the proposal made by the United Kingdom was excellent and would be a useful way to combine what the Subcommittee was doing with what the ILO as a whole was trying to do in promoting the Declaration on Fundamental Principles and Rights at Work, since the MNE Declaration referred to many issues crucial to the other Declaration. The proposal would need further discussion but he was sure a consensus could be reached to host such an activity.

- 184.** On the suggestion of the Chairperson, the Subcommittee agreed to reflect the proposal made by the representative of the Government of the United Kingdom, and the various responses thereto, in its report to the Governing Body, since the Subcommittee was not necessarily the place to follow up that proposal. This was supported by both groups.
- 185.** Following a clarification by the Office regarding the estimated cost of the proposed tripartite forum, the Subcommittee supported the framework for future research and promotional activities, and specifically endorsed the proposal concerning a tripartite forum on promoting the MNE Declaration, which should be held in early 2002.
- 186.** *Accordingly, the Subcommittee recommends that the Governing Body endorse the approach outlined in document GB.280/MNE/1/3, taking into account the views expressed by the Subcommittee in its discussion of this agenda item as reflected in the report of the Subcommittee, and refer any financial questions arising from the activities endorsed, including the tripartite forum on promoting the MNE Declaration to be held on 25-26 March 2002, to the Programme, Financial and Administrative Committee.*

Geneva, 28 March 2001.

(Signed) Ms. Robinson,
Chairperson.

Points for decision: Paragraph 174;
Paragraph 186.

Appendix

Points for decision as adopted by the Subcommittee on Multinational Enterprises¹

General conclusions

169. The information provided by governments and by employers' and workers' organizations that responded to the Survey can contribute significantly to achieving the objectives of the MNE Declaration in and across regional, country and sectoral contexts. It can strengthen the understanding of how to put into practice the aims and principles of the MNE Declaration with respect to employment promotion and security, representation and fundamental rights at work, and how to measure progress along the way. *The Working Group therefore recommends that the Governing Body call on the Director-General to ensure that the International Labour Office – at headquarters and in the field – take into account the opinions expressed, the issues raised and recommendations made, when discussing and designing programmes to assist governments and employers' and workers' organizations in member States to implement the objectives of the MNE Declaration.*
170. Global FDI has grown steadily over the reporting period, with a new record level of inward investment reported at the end of the period. Globalization and the emergence of the knowledge-based economy (including e-commerce) are having profound effects both on the rationale behind and the types of FDI. MNEs play an increasingly important role in the knowledge-creating process, and as a source of management, technology and external funding for developing and transition economies. The consequences of these processes on development, and in particular on ILO objectives, have been reported in this Survey as both positive and negative. The MNE Declaration addresses key aspects of that process in its guidelines on the strategies, roles, and responsibilities of governments, the social partners and MNEs. FDI is constantly shifting in its search for international investment opportunities, and the continuously changing situations and impacts of such shifts should be carefully evaluated. *Consequently, the Working Group recommends that a further survey in a new format be carried out covering the years 2000, 2001, 2002 and 2003, or other appropriate action be taken to invite periodic reports in accordance with the decisions of the 205th and 248th Sessions of the Governing Body and the 65th Session of the International Labour Conference.*
171. This Survey has attracted the largest number of responses since the introduction of periodic surveys. The increase in the number of respondents from a greater number of countries, combined with higher levels of participation among governments and employers' and workers' organizations, reflects a growing interest among constituents generally in the social impact of multinational enterprise activities contributing to both inward and outward FDI in the global economy. However, the current sample includes 24 countries from which only employers' and workers' organizations replied and there were no responses from a small number of countries with significant FDI activity. *In order to further improve results, the Working Group recommends that the Governing Body call for the views of constituents on the survey process to be fully taken into account, including on how the Office might improve its assistance, both at headquarters and in the field, to governments and the most representative employers' and workers' organizations in replying to the questionnaire.*
172. The Working Group notes that a number of respondents indicated that they had difficulties in replying or had views on improvements to the questionnaire. In addition, in cases in which responses were likely influenced by specific contexts, the Working Group notes that requests for information based on sectoral, economic, or other relevant categories could enhance the usefulness

¹ Footnote cross-references to GB.280/MNE/1/1 and GB.280/MNE/1/2, which appear in the proposed conclusions and recommendations found in GB.280/MNE/1/1, sec. III, have been omitted for purposes of this Appendix.

of information gathered. Moreover, requests for examples of good practices of MNEs could perhaps help to bridge the gap between law and practice in several significant areas. The Working Group further notes that in situations where government replies are not notified to employers' or workers' organizations, the Office should undertake to communicate these replies to the social partners for comment in line with the current practice of notifying governments of responses received from employers' and/or workers' organizations which are not transmitted directly to governments. *Accordingly, the Working Group recommends that any questionnaire to be sent out in connection with a future survey should cover the main issues dealt with in the Declaration. The draft text of such questionnaire should be examined by the Subcommittee in November 2003 and dispatched early in 2004, and the replies thereto should be examined by the Subcommittee and the Governing Body in November 2005. Such questionnaire should seek to clarify terms where appropriate, achieve as great a comparability of data as possible, and request information that will enable the Working Group to draw conclusions by and across specifically relevant categories. In addition, the replies of each respondent should be made available to the other(s) in the same country, preferably directly but, if not, by the Office.*

173. As observed by a number of respondents, the Working Group notes that a further questionnaire could focus on changes in MNE operations in the current context of globalization, and relate to home country issues as well as operations of inward FDI and foreign MNEs. In addition, as reflected in the survey replies, subnational regions, particularly within some of the larger countries, are becoming increasingly important influencing factors on MNE activity and related policy-making. As further highlighted in the replies, licensing, export and franchise agreements with MNEs are becoming increasingly visible effects of globalization as much as increasing FDI; these were reflected, for example, in responses relating to linkages. As further noted, mergers and acquisitions are becoming increasingly common entry points for MNEs and the impact modalities are perceived as distinct from that of greenfield ventures. Finally, some of the responses reflect that, in law and policy-making or data collection, no distinctions are made between MNEs and other enterprises. *Accordingly, the Working Group recommends that in designing a future survey questionnaire, consideration should be given to including themes within the ambit of the MNE Declaration relevant to current experiences with MNEs, including MNE operations in home as well as host countries, subnational level relationships, and distinctions among mergers and acquisitions, greenfield investments, and linkages with other enterprises. Such questionnaire should seek to examine policies and measures relating to leading MNE practices in areas critical to the aims of the MNE Declaration for which typically no legal distinctions are made between MNEs and national enterprises.*

Background, aim and general policies: Paragraphs 1-12 of the Declaration

178. *The Working Group reiterates the importance of consultation and cooperation among governments, MNEs, and employers' and workers' organizations, through laws, policies, measures and other actions, with a view to enhancing the positive contributions which MNEs can make to economic and social progress and minimizing the difficulties to which their operations can give rise. Good social practice, based on respect for international labour standards² and for the fundamental principles and rights at work, reflected in particular in the Declaration on Fundamental Principles and Rights at Work adopted during the reporting period, and in accordance with the MNE Declaration and its listed Conventions and Recommendations, is of particular importance. To assist the parties concerned in advancing such practice, the Working Group recommends further study of the contributions by MNEs within specific areas of development policy and in particular, exploration of the conditions influencing consultations between MNEs, the government and employers' and workers' organizations. Further research on the relationship between concentration of economic power and multinational enterprise strategies in particular sectors of operation may prove helpful to understanding the conduct of MNEs bearing on national policy objectives.*

² In particular, Conventions Nos. 29, 87, 98, 100, 105, 111, 122, 138 and 182.

Employment promotion: Paragraphs 13-20 of the Declaration

182. *The Working Group notes the pressing need to further promote the positive contributions of MNEs to employment opportunities and standards, including from technology and linkages with national/indigenous enterprises, while preventing or mitigating the adverse effects of MNE operations. The Working Group accordingly recommends that the Governing Body urge MNEs and governments, when discussing and implementing investment arrangements, to take into consideration the importance of creating jobs consistent with the aims of the MNE Declaration, e.g. employment promotion, equality of opportunity and treatment, security of employment, and training. Further research should be pursued to understand better how trends in MNE contributions to FDI, particularly mergers and acquisitions and sectoral strategies, affect employment and linkages with national enterprises in order to inform strategies and activities to further realize the aims of the MNE Declaration within and across specific sectors, countries, and regions. The Working Group also recommends that the Governing Body call for action, on the part of governments, MNEs, and the social partners, separately and collectively, to develop strategies and programmes that will improve the capacity and quality of local networks to benefit from MNE activities. The active assistance of the ILO, alone or in conjunction with other intergovernmental organizations, should be considered. Paragraphs 18-20 of the Declaration are particularly relevant to these concerns.*

Equality of opportunity and treatment: Paragraphs 21-23 of the Declaration

184. *The Working Group recognizes that, while governments have the responsibility of pursuing policies designed to promote equality of opportunity and treatment in employment, MNEs should be guided by this general principle throughout their operations, and notes with disappointment the lack of response regarding consultations with MNEs on equality related policies. The Working Group therefore recommends that further research be undertaken, in cooperation as appropriate among governments, MNEs and employers' and workers' organizations, with a view to identifying contributions of MNEs on the issue of employment equality, taking into account sector, country and region of operation, and in particular the role played by governments and the social partners.*

Security of employment: Paragraphs 24-28 of the Declaration

186. *The Working Group notes that, although some respondents report that steps have been taken by MNEs to promote stability and security of employment, experiences of negative effects persist, and MNEs should strive, in line with the MNE Declaration, to assume a leading role in promoting security of employment, particularly where closure of operations is likely to accentuate long-term unemployment. The Working Group recommends that follow-up research be conducted with a view to identifying distinctions relevant to decision-making and programme design, and based on determinative factors which might include source of FDI, skilled/unskilled labour, age of MNE operation in the host country, product type, outsourcing practice, and host government strategies, including legal and policy frameworks.*

Training: Paragraphs 29-32 of the Declaration

188. *The Working Group notes with satisfaction that the contributions to development that MNEs can make through training as elaborated in the MNE Declaration are recalled in the conclusions concerning human resources training and development adopted by the 88th Session of the International Labour Conference in June 2000. In particular, the Working Group reiterates that, in this context, MNEs should be encouraged to enter into fair technology transfer agreements, to develop local high-level skills in developing countries, and to help create the infrastructure for the new knowledge economy. Recognizing that these measures, taken together, can contribute to development and realization of the aims of the MNE Declaration in even the poorest countries, the Working Group recommends further examination of such contextual factors as regions, sectors and size of MNEs, and general level of consultations*

between MNEs and host governments. The information thus collected could enhance the database and benchmarks on investment in training, differentiated by region, enterprise size and sector, which is under development by the Office in connection with the implementation of the ILC conclusions referred to above.

Wages, benefits and conditions of work: Paragraphs 33-35 of the Declaration

190. *The Working Group recommends that the Governing Body call on governments, organizations of employers (including MNEs) and organizations of workers, in whatever the system of determining wages, to ensure respect for the principle of non-discrimination, effectively recognizing the right to have recourse to collective bargaining for determining wages, benefits and working conditions, and recognizing the role of governments in drawing up relevant legislation. Further study is recommended to explore the extent to which foreign MNE affiliates conform with principles of the MNE Declaration on consultation in the context of MNE strategy and legal and other incentives. The Working Group further notes that specific focus in future research or survey work on the impact of measures to enable lower income groups and less developed areas to benefit from MNE activities, may assist related efforts at local and national levels.*

Safety and health: Paragraphs 36-39 of the Declaration

192. *The Working Group reiterates that, in view of their experience and resources, MNEs' cooperation with governments and the social partners, as well as local institutions, on health and safety matters, is most desirable. MNEs should also make available to workers' representatives in the enterprise, and upon request to the authorities, information on the OSH standards relevant to their local operations which they observe in other countries. It recommends that consideration be given to including questions on specific safety and health practices and management systems at enterprise and sectoral levels, and HIV/AIDS in the workplace, as well as queries on national standards relating to health and safety committees, in a future survey, in line with the guidelines of the Declaration and based on the principles underlying Conventions Nos. 155 and 161 and other relevant standards. The Working Group further notes, in view of the range of comments on this issue, the advisability of considering the treatment of health and safety matters in a broader context, including practices at sectoral and regional levels. It could also be useful to specifically consider how health and safety standards are upgraded over time and transferred from one country to another in the context of MNE operations.*

Industrial relations: Paragraphs 40-58 of the Declaration

197. *In light of the above, the Working Group recommends further research, at national level, of MNE standards and operations of industrial relations in the context of laws and regulations giving effect to the principles contained in the MNE Declaration. It is noted that sectoral variations in industrial relations practices were reported in some cases, though not requested, and further follow-up study of industrial relations of MNEs at sectoral level of operation, including as a function of type of FDI (labour-intensive and/or export-seeking), could inform policy and programme options. The Working Group observes that, in many countries, incentives to attract FDI had not limited workers' freedom of association or right to organize and bargain collectively. The Working Group observes with regret some instances where the contrary is the case. It further commends the efforts being taken to promote collective bargaining but finds that many such reports did not specifically address the role of MNEs in the promotion of collective bargaining. The Working Group expresses concern that reports of refusal by MNEs to provide information required by workers' representatives for meaningful negotiation, and threats by MNEs to transfer operations, made in the context of collective bargaining or organizing, still persist. Given the critical importance of national law and practice and tripartite cooperation to the climate of industrial relations, the Working Group recommends that the Governing Body call on governments which have not yet done so to ratify and to fully implement Conventions Nos. 87 and 98 in line with the MNE Declaration. The Working Group further recommends the Governing Body to call on the Director-General to ensure that the information contained in the*

present Survey on the application of freedom of association and the right to organize and bargain collectively be included, as appropriate, in the action plan implemented under the Declaration on Fundamental Principles and Rights at Work, as well as the strategic plan of MNE Declaration activities.

Promotion of the observance of the Declaration

199. *The Working Group recommends that the Governing Body request the Director-General to intensify knowledge and advocacy activities relating to implementation of the MNE Declaration at regional, national, sectoral and enterprise levels and, in this respect, to convene a tripartite forum on promotion of the Declaration in the context of current FDI trends with a view to enhancing its effectiveness. The Working Group further recommends that the revised MNE Declaration be translated and reproduced as widely as possible, for use in promoting and advocating the aims of the Declaration.*

The Tripartite Declaration and various economic zones and industrial sectors

203. *The Working Group notes that the response to this question overall leads it to query the effectiveness of the application of the MNE Declaration in EPZs/SEZs and recommends exploration of further means for promotion of its principles in such settings. The Working Group thus recommends that further study and consultations, combined with ongoing programmes in the Office, be conducted to promote the application of the Declaration by MNEs in EPZs. It further recommends that consideration be given to the issue of the labour and employment effects of MNE operations in the context of privatized and deregulated industries as a separate question in a future survey.*

Disputes concerning interpretation of the provisions of the Declaration

205. *The Working Group notes the low response rate to the questions relating to the interpretation procedure and the difficulties perceived in monitoring and implementing the MNE Declaration and appreciates the suggestions made for advancing the aims of the Declaration and, in particular, its interpretation procedure. The Working Group, accordingly, recommends that the Subcommittee give consideration to means of promoting knowledge of, and application of, the procedure to promote effective follow-up on the MNE Declaration.*