



TENTH ITEM ON THE AGENDA

Report of the Subcommittee on Multinational Enterprises

1. The Subcommittee on Multinational Enterprises met on 12 November 2004. Ms. Niven (Government, United Kingdom) chaired the meeting. Ms. Hornung-Draus (Employer, Germany) and Ms. Burrow (Worker, Australia) were Vice-Chairpersons.

Follow-up to the Symposium on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and related multilateral initiatives

2. The Chairperson welcomed the representatives of the European Commission, the Global Compact Office and the World Bank. She felt that the paper¹ before the Subcommittee was in line with the Director-General's call for greater policy coherence.
3. The representative of the Director-General (Mr. Hofmeijer, Director a.i. of the Multinational Enterprises Programme), welcoming the observers, explained that unfortunately the Office of the High Commissioner for Human Rights (OHCHR) and the Organisation for Economic Development and Cooperation (OECD) had not been able to send observers to the meeting. He felt that a consensus was emerging that the work of international organizations in the area of corporate social responsibility (CSR) be underpinned by universal principles as reflected in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), the OECD Guidelines for Multinational Enterprises (OECD Guidelines) and the Global Compact. The importance of these three instruments had been reaffirmed in the conclusions of the recent Dutch EU Presidency Conference on CSR in Maastricht.
4. The representative of the World Bank shared information on the review process under way in the International Finance Corporation (IFC) to introduce new performance standards and corresponding implementation notes. These covered not only the fundamental principles and rights at work but also human resources policy, occupational safety and health and retrenchment issues. The purpose of the new procedures was to encourage engagement and development rather than disengagement in case of problems. As part of the review process, the IFC was undertaking consultations with a wide range of stakeholders, including global unions.

¹ GB.291/MNE/1.

5. Research by the World Bank on codes of conduct had shown that multi-stakeholder involvement was essential to ensure greater impact. The World Bank was undertaking research on supply chains, on the involvement of small and medium-sized enterprises (SMEs) in CSR initiatives and on the impact of the phase-out of the Multi-Fiber Agreement. At the country level the World Bank provided investment advisory services to help governments promote responsible behaviour by companies. In the case of Cambodia, the World Bank had closely cooperated with the ILO.
6. The representative of the European Commission mentioned that the Commission planned to publish a second Communication on CSR in 2005 to reflect recent developments, including the report of the Multi-Stakeholder Forum on CSR. The Commission's CSR strategy aimed at a greater uptake of CSR practices, increased transparency and mainstreaming CSR. Cooperation between the Commission and the Office in this area was foreseen both under the ongoing dialogue on the follow-up to the report of the World Commission on the Social Dimension of Globalization and under the recent strategic partnership agreement. The Commission considered the MNE Declaration as the primary global CSR instrument.
7. The representative of the UN Global Compact pointed out that the MNE Declaration, the OECD Guidelines, and the Global Compact were complementary and yet distinct instruments that could mutually reinforce each other. The Compact was undertaking consultations that would lead to a new governance structure – including for country networks. She encouraged ILO constituents to join such networks to ensure that the Compact's multi-stakeholder character was also reflected at the country level. While efforts were under way to develop a more formal mechanism for cooperation between the UN agencies supporting the Compact, cooperation with the ILO was already quite extensive.
8. The Employer Vice-Chairperson considered that the Maastricht Conference had been very successful from an ILO perspective, including the parallel session dedicated to the MNE Declaration. She was particularly happy that the Conference had acknowledged that CSR was a global issue and that the European Union should avoid imposing its model on other regions. The debate had also reflected the complexity of CSR and the challenge it represented.
9. While coherence and cooperation in the work of international organizations were important, the specific competencies of each organization also needed to be recognized. The ILO should therefore actively promote the MNE Declaration. It was important to avoid that other organizations interpret international labour standards since this would create confusion. For instance, those who submitted complaints under the OECD specific instance procedure referring to ILO standards should be advised to use the ILO supervisory mechanisms and processes. The follow-up procedures under the MNE Declaration were of a different nature than those of the OECD Guidelines. While the MNE Declaration had an interpretation procedure and a survey to follow up its implementation, the OECD Guidelines included a complaint procedure. It was important to be aware of these differences.
10. While satisfied with the current active involvement of the Office in Global Compact activities, the Employers' group was concerned about the governance structure of the Compact, particularly of local networks, which sometimes seemed arbitrary and unrepresentative. A minimum requirement for the composition of local networks should be that they include ILO constituents. The Office should also make sure that the information on the labour principles in Global Compact activities and materials was coherent and that the ILO be given proper visibility.
11. Regarding collaboration with the European Commission, the Employer Vice-Chairperson requested more information on the strategic partnership between the Office and the

Commission. Concerning OHCHR, she was aware that consultations were under way and requested that a copy of the letter that the Office had sent to OHCHR be made available to the members of the Subcommittee.

12. Closer cooperation with other international organizations would no doubt require more resources for the Multinational Enterprises Programme. She proposed that the Office should prepare a workplan for discussion at the next sitting of the Subcommittee specifying the resources needed for this as well as for other work items, including the preparation of a document that would help constituents better understand the provisions of the MNE Declaration and the collection and dissemination of good practice examples in cooperation with the International Organisation of Employers (IOE) and the International Confederation of Free Trade Unions (ICFTU) starting with the area of youth employment and followed by other areas covered by the MNE Declaration. In closing, she welcomed the research the World Bank was undertaking on SMEs and CSR, an issue on which the ILO should also work in the future.
13. The Worker Vice-Chairperson considered that the Symposium in 2003 had marked a constructive beginning from which a consensus on the value of cooperation across multilateral initiatives had emerged. It was now time to take that consensus forward and agree on an agenda to deepen cooperation. The report of the World Commission addressed corporate governance and corporate social responsibility, areas of particular relevance to the work of the Subcommittee. It also emphasized the need for policy coherence and partnerships between international organizations. The Director-General had recognized the importance of voluntary initiatives and had called for greater transparency and accountability in CSR. He had invited proposals, including the possibility of holding an international forum that would bring together ILO constituents and representatives of voluntary initiatives. She felt that the Subcommittee should therefore make specific recommendations in this respect. While the Subcommittee was tasked with promoting the observance of the provisions of the MNE Declaration, this would be more successful if there was greater coherence between different initiatives and a greater recognition of the importance of national legislation.
14. The Worker Vice-Chairperson suggested that the Global Compact, the OECD Guidelines and the MNE Declaration represent a complementary triangle – with the Tripartite Declaration providing the foundation stone for the labour principles. The Global Compact training materials being developed should reference the MNE Declaration and the OECD Guidelines. This was crucial for partnerships and for policy coherence. Similarly, the OECD national contact points should not only promote the OECD Guidelines but also refer to the complementarities between the three instruments.
15. The Worker Vice-Chairperson welcomed the cooperation between the Global Compact and the ILO; however, doubts had been expressed regarding the commitment of some of the companies that had participated in the initiative. It was therefore critical that the Global Compact adopt integrity measures to underpin its governance structure. The activities of the World Bank were heartening and she encouraged the World Bank to consult frequently with the Office, the IOE and the ICFTU. Concerning the European Commission, she was encouraged by the fact that the Conference in Maastricht had recognized the need to extend the application of CSR beyond the European context. The activities of the Commission should be clearly linked to the area of supply chains and SMEs in developing countries. The Maastricht Conference had further highlighted the importance of effective national legislation based on international labour standards.
16. It was important to avoid the risk of diluting international labour standards by ensuring that there would be no room for reinterpreting them at the national or regional level. It was further necessary for sustainable development to promote CSR in supply chains. The

OECD Guidelines and the Global Compact needed to deal with the application of labour standards in supply chains of multinational enterprises. The importance of global production schemes needed to be reflected in the work of the Office. While case studies to identify good practice examples regarding youth employment initiatives by companies were welcome, they should cover all areas of the MNE Declaration and provide a model. It was further necessary to promote an effective national legislative framework in the context of CSR initiatives. The Workers' group was concerned by the commercialization of CSR, which had the potential of diluting and undermining the standards agreed upon by intergovernmental bodies. All these issues required substantial work on the part of the Office and it was necessary to have a three-year workplan for discussion at the next sitting of the Subcommittee. The workplan should also include the coordination of work on CSR within the Office, training for employers' and workers' organizations and the organization of an international forum. Policy cohesion required the different programmes in the Office concerned to work together on CSR issues and this should be reflected in the workplan.

17. The representative of the Government of France, while noting the importance of CSR, believed the attractiveness of a territory should be judged on the basis of the quality of social dialogue, and the efficacy of labour regulation provisions.
18. The representative of the Government of Kenya informed the Subcommittee that the Africa group had agreed that the MNE Declaration was still highly relevant. Wider observance of its provisions could play a crucial role in realizing decent work, particularly in Africa. The group supported closer cooperation between the ILO and the international organizations. This could help disseminate the MNE Declaration among a wider audience. The MNE Declaration was still not well known in Africa and this should be taken into account in the planning of activities. The Africa group also supported the other recommendations made in the paper.
19. The representative of the Government of the United States considered that the sharing of good practice examples among international organizations would be most useful.
20. The representative of the Government of Canada agreed on the complementary character of the OECD Guidelines, the MNE Declaration and the Global Compact. The ILO should explore ways to deepen cooperation with other institutions. The requested workplan should include a priority listing and performance measures along with budget proposals. She recalled that a users' guide had been prepared earlier. This could serve as a basis for preparing a document with information on the MNE Declaration in more accessible language.
21. Mr. Parra (Worker, Paraguay), mentioned two cases where multinational enterprises in his country had acted contrary to the provisions of the MNE Declaration. Mr. Etty (Worker, Netherlands) wondered about progress on the Eighth Survey. He suggested that the Subcommittee could be informed of the conclusions on specific instances by OECD national contact points. He considered that information on multinational enterprises that had withdrawn from Myanmar should be included in the report of the Eighth Survey.
22. The representative of the Government of the United Kingdom informed the Subcommittee that his Government would be organizing the next major European CSR Conference as part of its presidency of the European Union in 2005. It would focus on socially responsible investment and reporting. He supported the views of others, in particular concerning the need for a workplan, collection of case studies and follow-up to the World Commission recommendations.
23. The Employer Vice-Chairperson agreed with the views of the Worker Vice-Chairperson on the role of governance and the importance of labour legislation. She reminded the Subcommittee that the programme of work of the Office was decided by the Governing

Body. Therefore, only those recommendations of the World Commission that were endorsed by the Governing Body would become part of the work programme. It was understood that when she spoke about CSR in the Subcommittee she referred to those aspects of CSR that related to labour and employment issues.

24. The representative of the Global Compact Office emphasized that participation in local networks was evolving and should indeed include ILO constituents; the Global Compact Office in no way interpreted the principles and the initiative could not be a substitute for national law.
25. The Chairperson concluded that: the discussion had reflected broad support for closer collaboration with other international organizations; the practical aspects needed to be worked in more detail; and this should be done in the workplan requested by the Subcommittee. She noted the request from the representative of the Government of Kenya for more promotional seminars and welcomed the request for a simple introduction to the MNE Declaration.
26. The representative of the Director-General informed the Subcommittee that to date only eight replies had been received to the questionnaire for the Eighth Survey. He noted, however, that this was normal and he anticipated that many would arrive close to the 31 December deadline, especially since the ILO field structure was actively involved in soliciting more responses. He suggested that for reports under the specific instances procedure of the OECD Guidelines, only the relevant web links be included given current restrictions on the size of Governing Body papers. Concerning Myanmar the representative of the Government of Canada pointed out that the information sought would be included in the report of the Eighth Survey if the constituents included it in their replies.

Other questions

27. The Worker Vice-Chairperson informed the Subcommittee that the Office, the ICFTU and the IOE had served on an advisory committee set up by the International Standards Organization (ISO) to make recommendations on the desirability and feasibility of ISO becoming active in the area of social responsibility. The committee had recommended that the ISO should only become involved in this area if certain conditions were met. Two conditions were of particular relevance to the ILO. The first stipulated that the ISO should recognize the fundamental difference between international instruments adopted by global intergovernmental organizations and private, voluntary CSR initiatives, which might or might not reflect the universal principles contained in the above instruments. The second stipulated that the ISO should recognize “ILO’s unique mandate as the organization that defines, on a tripartite basis, international norms with respect to a broad range of social issues”. The ISO was now going ahead, by seeking approval from its member institutions for the establishment of a working group, to develop a guidance document on social responsibility, without in effect meeting the two conditions. She therefore suggested that the Subcommittee recommend the Governing Body to request the Director-General to inform the ISO of the ILO’s concerns that the ISO was proceeding without an understanding between the two organizations, whereas the advisory committee had considered this a prerequisite and ask it to postpone any further action until a memorandum of understanding on this issue was signed between the two organizations. The Office should send a copy of the Director-General’s communication to constituents so that they could inform the respective national standard bodies accordingly.
28. The Worker Vice-Chairperson further suggested that consultations should take place to give effect to an earlier recommendation concerning a more balanced composition of the Subcommittee. The Subcommittee could then make a concrete recommendation at its next sitting.

29. The Employer Vice-Chairperson shared the concerns expressed by the Worker Vice-Chairperson regarding the ISO process and welcomed the recommended course of action.
30. The Chairperson wondered whether the recommendation on the ISO issue proposed by the Worker Vice-Chairperson and backed by the Employer Vice-Chairperson was also supported by Government members. In response the representative of the Government of Canada expressed her support, trusting that the Director-General's communication would be factual. Other Government members did not object to the recommendation.
31. The Chairperson supported the call for informal consultations on the composition of the Subcommittee and asked the representative of the Director-General to undertake such consultations, with a view to submitting a concrete proposal to achieve a more balanced composition at the next sitting of the Subcommittee.
32. The representative of the Director-General thanked the Subcommittee for its support and the many useful comments and suggestions made. It was clear that if the Subcommittee expected the Multinational Enterprises Programme to undertake the proposed activities, additional resources would be required. Since the Programme, Financial and Administrative Committee would meet once more during the current session of the Governing Body to discuss the Strategic Policy Framework, the members of the Subcommittee might wish to inform their colleagues in that committee of their concerns and proposals; indeed, it would probably be too late if the Subcommittee only decided to recommend more adequate resource levels for the Multinational Enterprises Programme at its next sitting. He agreed with the representative of the Government of Canada that it would be logical to use the existing users' guide to develop a document explaining the provisions of the MNE Declaration in more accessible language, possibly in the form of a CD-ROM that could also include the full text and more good practice examples. He further noted that in the context of the technical cooperation project funded by Italy the Office was already working with the OECD national contact point in Italy.
33. The Chairperson summarized the discussions and proposed the following recommendations which were adopted.
34. *The Subcommittee recommends that the Governing Body request the Multinational Enterprises Programme to prepare a workplan covering the period 2005-07 for consideration by the Subcommittee at its next sitting based on the suggestions made by the Subcommittee, including possible activities, to be approved by the Governing Body, to follow up on the recommendations made by the World Commission on the Social Dimension of Globalization in the area of corporate social responsibility.*
35. *The Subcommittee recommends that the Governing Body request the Director-General to inform the ISO of the ILO's concerns with respect to the process under way to start work on an ISO standard on CSR and to ask the ISO to postpone any further action until a memorandum of understanding that recognizes and respects the ILO's unique mandate concerning international labour standards and views relating to a broad range of social issues has been signed between the two organizations.*

Geneva, 15 November 2004.

Points for decision: Paragraph 34;
Paragraph 35.