



## **Governing Body**

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### TWELFTH ITEM ON THE AGENDA

## **Report of the Subcommittee on Multinational Enterprises**

1. The Subcommittee on Multinational Enterprises met on 16 March 2011. Mr Vandamme (Government, Belgium) was elected Chairperson. Ms Hornung-Draus (Employer, Germany) and Mr Gurney (Worker, United Kingdom) were the Employer and Worker Vice-Chairpersons, respectively.
2. The Chairperson and Vice-Chairpersons warmly thanked Ms Zappia (Government, Italy) for her valuable contribution during her tenure as Chairperson of the Subcommittee and wished her well in her new post.

## **Update on the review of the follow-up mechanism of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy with a view to identifying promotional options: Report of the Ad Hoc Working Group**

3. The Chairperson provided an update on the progress made by the Ad Hoc Working Group in reviewing the follow-up mechanism of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (the “MNE Declaration”) with a view to developing promotional options. The participants in the Working Group, which operated on an equal tripartite basis, included Employer members from Denmark, Germany and South Africa, Worker members from Italy, South Africa and the United Kingdom, and representatives of the Governments of Argentina, Azerbaijan, Belgium, China, Italy and South Africa.
4. All the participants affirmed the continuing relevance of the MNE Declaration, which set out the ILO’s guidance to companies relating to corporate social responsibility (CSR). The MNE Declaration should be promoted more actively within and outside the ILO to ensure that it was seen as the leading instrument concerning labour issues in CSR. However, as the number of CSR instruments and initiatives grew, there was a real risk that the MNE Declaration would be marginalized.

5. They added that the MNE Declaration was not only a CSR instrument. It was a much broader and richer document that promoted the role of multinational enterprises (MNEs) in economic and social development, as well as addressing the key responsibilities of governments and promoting social dialogue.
6. Much of the discussion centred on what could be done at the national level to promote dialogue involving MNEs, using the MNE Declaration as the basis. Although the follow-up mechanism, which took the form of a periodic survey to monitor the effect given to the Declaration, was not viewed as a success, it did serve as a “periodic reminder” to all ILO constituents at the national level. The discussion also focused on how best to encourage national discussions, without adding to existing reporting requirements, for example through ILO Regional Meetings and workplans, the preparation of Decent Work Country Programmes (DWCPs) and discussions in the International Labour Conference. The Office could help to facilitate the exchange of national experience in the implementation of the MNE Declaration. There were divergent views on whether or how the promotional options could include an approach at the sectoral level.
7. It was indicated that the Office would investigate and report to the Working Group on the options available that could incorporate a universal follow-up to national tripartite action to promote the MNE Declaration, without increasing existing tripartite reporting by member States. It would also explore how the principles of the MNE Declaration could most effectively and systematically be mainstreamed into existing work within ILO departments. Final recommendations would be presented to the Governing Body in November 2011.
8. The Employer Vice-Chairperson welcomed the rich discussion in the Ad Hoc Working Group on the follow-up to the MNE Declaration. The points reported by the Chairperson required further discussion. A second meeting was therefore needed to examine each idea in greater detail and come back with agreed concrete measures to be proposed to the Governing Body. The follow-up mechanism should not be bureaucratic. It should provide a global picture, supplemented by an in-depth focus on certain aspects and regional perspectives. The sectoral approach made little sense; studies focusing on specific countries and regions would be more effective. It was essential to continue to highlight the voluntary and cross-cutting nature of the MNE Declaration. The question of whether the MNE Declaration needed updating would require a separate discussion.
9. The Worker Vice-Chairperson requested the Office to continue to map the ongoing activities of the various departments in the areas covered by the MNE Declaration. The MNE Declaration should be used when companies engaged with the ILO, including through public–private partnerships (PPPs) and programmes such as the Better Work Programme and the Sustaining Competitive and Responsible Enterprises (SCORE) programme. It should also be used in DWCPs, technical cooperation projects and Regional Meetings, and to improve industrial relations between MNEs and global sectoral unions. Certain parts of the MNE Declaration, such as the paragraphs on employment security, the centrality of employment and job creation, occupational safety and health and the developmental role of MNEs in developing countries, should be used much more widely both within and outside the ILO. In particular, the parts on employment could be used to combat the drift towards precarious employment. The supervisory mechanism should be strengthened, as well as the manner in which the MNE Declaration contributed to other processes. More discussion was needed on national-level follow-up mechanisms, and how the promotion of the MNE Declaration in that context could encourage the expansion of meaningful social dialogue. The ILO’s increasing engagement in PPPs offered new opportunities, but also posed a number of risks. Lastly, he expressed support for a sectoral approach to promotion, as that was how industry tended to be organized and was the level

at which there were most likely to be examples of transferable best practices. He hoped agreement could be reached.

10. The representative of the Government of Kenya recalled the need to examine the extent to which MNEs influenced subcontractors and supply chains at the national level. That was a critical issue for developing countries, as MNEs set an example for national companies.
11. The representative of the Government of Austria sought clarification on the form that would be taken by future periodic surveys, and noted that it was pointless to ask governments what MNEs were doing.
12. The representative of the Director-General (Mr José Manuel Salazar-Xirinachs, Executive Director, Employment Sector) indicated in reply that discussions were still ongoing and that it was too early to say what would replace the traditional way of carrying out the survey.

## **Update on strategic priorities for 2010–11: Supplement – Selected examples**

13. A representative of the Director-General (Ms Ricarda McFalls, Chief, Multinational Enterprises Programme) introduced the paper,<sup>1</sup> which provided examples of the work undertaken across the Office in direct engagement with MNEs in topical areas covered by the MNE Declaration. She drew attention to the lessons learned and noted that the Office had initiated regular internal meetings to exchange experience, discuss common challenges and develop a more coordinated approach. She clarified that a PPP had been signed with a group of eight companies, and not nine as indicated in paragraph 5 of the paper.
14. The Worker Vice-Chairperson raised numerous points. Although the examples provided were useful, they did not explain how the MNE Declaration itself was promoted as part of the programmes, or provide information on how work in one area covered by the Declaration also promoted other areas so that the underlying causes of decent work deficits could be addressed. Programmes should include a component on freedom of association and collective bargaining, and should include the social partners. Furthermore, there was no information on the impact of the programmes on ongoing improvements in MNE operations. The Governing Body had adopted guiding principles on PPPs, but no modus operandi had been established to include awareness-raising activities with companies on the MNE Declaration. The Office should be cautious concerning initiatives that were aimed at rewarding business leaders, because they often consisted more of words than real actions. The ILO should promote real social dialogue, and not just the formulation of codes of conduct, as it was only through genuine social dialogue that such work could be sustainable. The project in the garment sector in Morocco showed that the sectoral approach was helpful in promoting the MNE Declaration. While research on international framework agreements (IFAs) was important, it would be beneficial to look into ways of facilitating engagement between companies and global unions in areas covered by the MNE Declaration and how the ILO could provide a space for dialogue.
15. The Worker Vice-Chairperson also questioned the value of developing a training tool with the Electronic Industry Citizenship Coalition (EICC), as the latter had so far been unwilling to enter into real social dialogue with the unions. Lastly, he broadly agreed with the lessons learned, particularly concerning the time required to build effective collaboration, the need to engage with the social partners early and the need for sustained

<sup>1</sup> GB.310/MNE/2.

and systematic collaboration across the Office. He clarified that the reference to “enterprise culture” should also include understanding of union structures and workers’ needs in the enterprises concerned. Finally, he introduced the new booklet *The ILO MNEs Declaration: What’s in it for Workers?*, produced by the Bureau for Workers’ Activities (ACTRAV).

- 16.** The Employer Vice-Chairperson also thanked the Office for the overview. Although the paper provided an interesting picture of many activities in areas covered by the MNE Declaration, vigilance was needed, as not all of the activities would fit with the strategic priorities. She welcomed the practical support provided by the Office to individual companies, but added that the Bureau for Employers’ Activities (ACT/EMP) should be kept informed. She welcomed the work with business on forced labour issues and the ILO Business and Disability Network, while emphasizing the need to involve the relevant employers’ organizations in those initiatives so that the tripartite structure of the ILO was not jeopardized. In response to the statement by the Worker Vice-Chairperson, she emphasized that not all ILO activities with enterprises should have a compulsory social dialogue element, as companies developed and implemented CSR activities in different ways, sometimes involving the social partners or multi-stakeholder initiatives, and sometimes driven only by the enterprise. It was not the role of the Office to promote IFAs, which were only one form of global social dialogue. She asked the Office to prepare a paper on its involvement in CSR activities, such as the United Nations Global Compact, ISO 26000 and the OECD Guidelines for Multinational Enterprises, with a view to further discussing the attempt to achieve policy coherence. She suggested inviting colleagues from the respective organizations to participate in the discussion. In conclusion, she expressed satisfaction at the operation of the ILO Helpdesk for Business and looked forward to the next meeting of the Helpdesk Advisory Group and its continuation after the reform of the Governing Body.
- 17.** The representative of the Government of Kenya, also speaking with the support of the Africa group, drew attention to various examples of good practice, and particularly those targeting supply chains, which was a very important issue in the African context. He encouraged further outreach by the Better Work Programme as an example of good practice for supply chain management. He called for the development of a monitoring, tracking and evaluation toolkit to benchmark good practices that were measurable, impact-oriented and which could be replicated, and emphasized the need to consolidate, integrate and mainstream international labour standards and good practices in all areas of work.
- 18.** The representative of the Government of India stressed that CSR could create an enabling environment between society and business. The responsibility of business should go beyond the realm of compliance and move towards contributing to socio-economic development. He expressed his appreciation of the ILO’s work in India, especially on HIV/AIDS in collaboration with MNEs and through the SCORE programme.
- 19.** The representative of the Government of Argentina, also speaking with the support of the Group of Latin American and Caribbean States (GRULAC), raised several questions. What actions could lead to more specific results in line with the needs of constituents? Had the Office developed tools to overcome the clash in organizational cultures so that the ILO could provide more focused technical assistance? And what specific actions would the Office take to achieve a more systematic approach?
- 20.** The representative of the Government of the Republic of Korea stated that the ILO should undertake more action in collaboration with the social partners to help MNEs live up to the principles of the MNE Declaration.
- 21.** The representative of the Office indicated that, although much work was being carried out in the areas covered by the MNE Declaration, all the programmes and technical

cooperation projects concerned had their own structure and reported to other committees. Discussions were being held with the various units engaged in such work on how best to promote the MNE Declaration in the context of their activities. Such discussions formed part of the research that was being carried out in the context of the Ad Hoc Working Group. Although partnerships with MNEs through PPPs were formally the domain of the Partnerships and Development Cooperation Department (PARDEV), the work of the Subcommittee on Multinational Enterprises should feed into the broader strategy of ILO engagement with MNEs. Further work was needed on the topic.

22. A representative of the Legal Adviser, in response to two questions, explained that the first concerned the composition of the Ad Hoc Working Group established by the Subcommittee to review the follow-up mechanism of the MNE Declaration and to report to the Governing Body in November 2011. Since the Working Group was composed of Subcommittee members, who were also members of the current Governing Body, its composition could change in June as a result of the dissolution of the current Governing Body and the election of the new Governing Body, and also in light of the expected Governing Body reform, following which the Subcommittee would no longer exist. In view of its time-bound mandate, a legally feasible solution could be to propose to the newly elected Governing Body in June 2011 that it should extend the composition of the Working Group as it currently existed until it had discharged its mandate by delivering its recommendations, through the Director-General, to the Governing Body in November 2011. Turning to the second question, she explained that the current structure of the Helpdesk Advisory Group included the Officers of the Subcommittee and was likely to be similarly affected by the reform of the Governing Body structure. Once the Subcommittee had been eliminated, the Advisory Group with its current structure would no longer be able to convene. She suggested that consultations should be held before June to see whether a solution could be found to reformulate the functioning of the Advisory Group in a manner that would be consistent with the future Governing Body structure.

### **Panel discussion: Government policies on corporate social responsibility – Experiences from Argentina and Germany**

23. As agreed by the Officers of the Subcommittee, the representatives of the Governments of Argentina and Germany were invited to share the action that was being carried out in their countries in the field of CSR. The presentations did not represent an endorsement or association of the ILO with any particular member State or business, and were offered for the purpose of an exchange of views on the subject.
24. The representative of the Government of Germany (Mr Rolf Böisinger, Deputy Director, Department for Labour Law and Occupational Safety, Ministry of Labour and Social Affairs) explained that the Government had convened a national CSR forum with the relevant stakeholders. Dialogue had led to the adoption of a common understanding of CSR and recommendations had been submitted to the Federal Government in October 2010. The Government had subsequently adopted an action plan for CSR, which focused mainly on small and medium-sized enterprises (SMEs) and included: a coaching programme to integrate CSR strategically into SMEs; increasing CSR credibility and visibility; integrating CSR into education; strengthening CSR in international and development policy contexts; the creation of a supportive environment for CSR; and the use of CSR to help countries manage social challenges. The next steps would be implementation and the continuation of discussions in the CSR Forum. Measures would also have to be implemented with strategic partners. Regional networks and alliances needed to be strengthened and CSR should be further promoted through awards and conferences. The international instruments referred to in the Action Plan for CSR included

the MNE Declaration, the ILO Declaration on Fundamental Principles and Rights at Work, the OECD Guidelines for Multinational Enterprises, the United Nations Global Compact, ISO 26000 and the Global Reporting Initiative.

- 25.** The representative of the Government of Argentina (Mr Julio Rosales, Director, International Affairs, Ministry of Labour, Employment and Social Security) described the launching in 2006 of the CSR and Decent Work Network, a multi-sectoral alliance for sustainable development, the promotion of decent work and social dialogue. The Network was composed of 100 leading enterprises, most of them affiliates of MNEs operating in the country. It collaborated with universities and civil society organizations and benefited from the technical assistance of the ILO and other UN agencies. The Network aimed to promote responsible subcontracting and outsourcing, employability and a culture of social responsibility in enterprises based on social dialogue. The programmes focused on training suppliers, encouraging youth employment and providing joint training for business and union leaders. The Network offered a good example of how governments could give effect to the provisions of the MNE Declaration.
- 26.** The Employer Vice-Chairperson thanked the panellists. The two examples showed respect for diversity at both the national and enterprise levels, while adhering to universal points of reference in their orientation. The MNE Declaration and ILO labour standards were the pillars of the CSR approaches described. With reference to the German Action Plan for CSR, she indicated that her own employers' organization had been actively engaged in its development. The Government's open approach had encouraged the participation of many stakeholders. The Action Plan rightly focused on small enterprises, as 80 per cent of German companies were SMEs. Although CSR was practised in SMEs, they needed support to improve their communication on CSR and their understanding of customer expectations concerning CSR. She was also impressed by the Argentinean experience of integrating CSR into its DWCP. The exchange of experience between countries and internationally was very important to avoid incoherence and duplication in government policies. In conclusion, she thanked the panel and proposed that such discussions should be continued with other governments with a view to the fruitful sharing of experience.
- 27.** The Worker Vice-Chairperson emphasized that CSR was not a basis or substitute for a robust legal system of workplace rights, nor for the operation of business in a transparent manner. He called for vigilance in the case of unilaterally decided CSR programmes that resulted in little more than glossy reports. CSR did have value, but only when it was founded on a basis of hard law and regulation. It could help to spread best practice to companies that wanted to lead and go further than their basic legal requirements. The partnership approach described by the panellists was valuable in showing the role that governments could play in facilitating social dialogue. However, the primary role of government was to enforce the law, and its first priority should therefore be to fund enforcement mechanisms, such as labour inspectorates, rather than grand CSR programmes.
- 28.** A Worker member from Germany reiterated that voluntary agreements could only supplement state laws. A fairer globalization was needed and international labour standards should be integrated into World Trade Organization principles. In her country, it was necessary to improve the efficiency of the National Contact Point of the Organisation for Economic Co-operation and Development (OECD) and to advance public procurement policies.
- 29.** A Worker member from Argentina recalled the value of the ILO country-level exercise involving over 90 trade unionists working in MNEs in the discussion of relevant issues and practices. He also referred to the issue of MNEs applying lower standards in host countries than in their home country, and emphasized the importance of involving unions and

developing IFAs. He described his experience, in collaboration with unions from several countries, in mediating dialogue with MNEs operating in the Panama Canal, where five workers had lost their lives.

- 30.** The issues raised during the open discussion included the involvement of SMEs, ways of benchmarking responsible and irresponsible companies (outsourcing) and public procurement.

Geneva, 19 March 2011