



TWELFTH ITEM ON THE AGENDA

**Report of the Subcommittee on  
Multinational Enterprises**

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1. The Subcommittee on Multinational Enterprises met on 20 March 2000. It was chaired by Ms. Perlin (Government, Canada). The Employer and Worker Vice-Chairpersons were Mr Noakes (Employer, Australia) and Mr. Patel (Worker, South Africa) respectively.
2. The Chairperson welcomed the members of the Subcommittee as well as the unusually large number of observers. This signalled that the Subcommittee's agenda was of interest to a broader membership within the Governing Body. She commended the Office on the high quality of the documents presented. She was also pleased to welcome Mr. Hultin, Executive Director responsible for the Employment Sector, now responsible for ILO activities concerning multinational enterprises (MNEs).
3. Mr. Hultin stated that the ILO's work relating to MNEs played an important role in the overall challenge of employment promotion. The importance of MNEs had increased as a result of the process of globalization. Increasingly, they were seen as part of the solution to many of the issues of social and economic development. There was clear growing interest on the part of MNEs in the issues addressed by the ILO. The rate of response to the questionnaire for the preparation of the seventh survey, which the Office was preparing for the Subcommittee for its meeting in November 2000, indicated that greater importance and attention was being given to the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. At present, the Office has received 83 responses when at the same period on previous occasions the response rate normally has been as low as 20 responses. Referring to the first agenda item, he proposed that the Subcommittee not merely consider an account of promotional activities, but also take part in a fundamental reflection on an overall long-term strategy on such activities for the Office, assess their impact and determine how effectively the Office could involve constituents. What distinguished the ILO from other organizations in this field was that its work in the employment sector was designed to benefit developing countries, and it would be very useful for the Subcommittee to examine in a more concerted way what proactive measures could be adopted to enable the Office to make MNE-related activities a more effective part of the overall employment strategy.
4. Mr. Noakes (Employer Vice-Chairperson) welcomed the proposal to give increasing attention to the job creation and employment effects of the activities of MNEs. He was also pleased to note the large attendance of government delegates and observers, which was an indication of increased interest in the work of the Subcommittee.
5. Mr. Patel (Worker Vice-Chairperson) endorsed Mr. Noakes' comments. The Workers had noted the renewed interest in MNEs, not only in the ILO but also in the media and elsewhere. This provided the Subcommittee with a useful reference point for rethinking its own work, and indeed that of the ILO. The Subcommittee should take up Mr. Hultin's challenge to conduct an in-depth reflection on the success of the Office's promotional activities. The employment challenge was fundamental, and the concept of decent work was a useful paradigm in this regard.
6. The representative of the Director-General (Mr. Abate, Chief, Bureau for Multinational Enterprise Activities) introduced the three agenda items. The first paper<sup>1</sup> provided information on specific activities undertaken by the Office, including meetings held in Tokyo, Gdansk, Berlin, Kuala Lumpur, Bangkok and Singapore. While the Office had been able to send representatives to those meetings to make presentations, there were

<sup>1</sup> GB.277/MNE/1.

numerous other instances when it had provided advice, clarification and guidance and dispatched texts of the Tripartite Declaration or related documents for use in round tables and seminars, or as reference material to assist authorities in member States in drafting legislation. Due to manpower constraints, the Office had unfortunately been unable to participate in other meetings to which it had been invited in Europe, Asia and Africa. Referring to paragraphs 34 to 43, he informed the Subcommittee of further developments that had taken place in Thailand. For the first time a round table bringing together all the trade unions in Thailand had been held in Bangkok on 10 March 2000 to discuss the Tripartite Declaration and labour and social issues in foreign direct investment (FDI) or MNE-related activities. One important outcome of the meeting was a unanimous request to the ILO to bring the unions together to define their problems jointly, discuss remedies, and prepare for constructive and meaningful participation in a round table with government and employer representatives to be held soon. Attendance at the Bangkok meeting had also enabled the ILO representatives to hold discussions with the Ministry of Labour and Social Welfare and to advance preparations for the round table, where for the first time the Government would discuss MNE-related activities with its counterparts in labour and management. A meeting had also been held with the Board of Investment in the Office of the Prime Minister of Thailand, where legislation was currently being reviewed to enhance further investment in the country. Discussions had also been held with the Employers' Confederation of Thailand. In view of the rapidly increasing influx into Cambodia of investment from both industrialized and newly industrializing countries and requests for assistance, the Office had commissioned a translation of the Tripartite Declaration into Khmer, which when completed would bring the number of languages in which the Declaration was available to 32. Referring to paragraphs 50 and 51 concerning the Working Paper series, he stated that these publications would be the basis of round tables or seminars in the countries concerned.

7. With regard to developments in other organizations, the Office paper under the second agenda item<sup>2</sup> summarized information received from the European Commission, the FAO, OECD, the World Bank and UNCTAD. Given the affinity of the OECD's Guidelines on Multinational Enterprises with the Tripartite Declaration and the interest this held for the ILO, he confirmed that discussions on the revision of the Guidelines were still continuing and that a draft integrated text of all chapters, as well as relevant commentaries thereon, had been distributed on 16 March. The Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and a number of NGOs were expected to meet informally with the Chairman of the OECD Working Party and selected government representatives and secretariat staff in The Hague on 20, 21 and 22 March. The last of the consultations with BIAC, TUAC and the NGOs were scheduled for 13 and 14 April in Paris and the OECD would meet formally on 17 and 19 April to draft a final recommendation to the ministers, who were due to meet in June. At present, given the disparity of views, it might not be possible to finish the exercise in time for the June meeting.
8. The Office paper on the third agenda item,<sup>3</sup> which related to the updating of references annexed to the Tripartite Declaration, proposed the addition of a reference to the Declaration on Fundamental Principles and Rights at Work in an addendum to the Tripartite Declaration, since the subject-matter dealt with in both texts promoted the same set of basic principles reflected in ILO instruments already listed in the annex to the Tripartite Declaration 23 years previously.

<sup>2</sup> GB.277/MNE/2.

<sup>3</sup> GB.277/MNE/3.

## **1. Follow-up on and promotion of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy: Promotional activities, technical advisory services, completed studies and current research by the Office**

9. Mr. Noakes (Employer Vice-Chairperson) stated that the Office paper contained much interesting and useful information. He particularly welcomed the substantial efforts made by the Office to contact national employers' organizations. Notwithstanding the quality of the information it contained, the information could have been presented in a more orderly fashion, and in a number of cases the paper referred to the activities of the ILO without making a clear distinction between the Office and the Organization. Commenting on Part I, which referred to the International Council of Toy Industries as being composed of national toy industry associations, he stated that the Council represented national and multinational enterprises. In paragraph 11, which concerned the mission to Poland, the paper indicated that during the meetings in Gdansk and Warsaw concerns were expressed on all sides, yet he doubted if the employers had shared the concern expressed. Regarding the reference in paragraph 46 to contacts with NGOs, he reiterated the Employers' view that the Office's activities should not be concerned with non-governmental organizations other than employers' and workers' organizations, which were the constituent bodies of the ILO. Concerning the research papers contained in Part II, the Employers were familiar with some of the publications, but not with others. He asked the Office to ensure that all members received copies of the studies that had been published.
10. Mr. Patel (Worker Vice-Chairperson) felt that the Subcommittee should carefully consider the interesting case of the World Toy Conference. As indicated in paragraph 5 of the Office paper, the toy and game manufacturers had established backward and forward linkages with suppliers and distributors, and it was hoped that the ILO would be in a position to respond to requests for information, cooperation and assistance. It was interesting to note that since the 1970s the toy manufacturers had established a number of guidelines concerning, inter alia, the number of hours worked, minimum wages, occupational safety and child labour. Until now, no assessment had been made of the implementation of these guidelines. It was well known that many of the toy factories were run by subcontractors, who in some cases did not observe basic safety standards, often with tragic consequences. While he did not wish to prejudge the practices of the toy manufacturers concerned, the Subcommittee's work would be greatly enhanced if it were informed of how well these guidelines were implemented. He asked what was the Office's perception of the toy and game manufacturers' attitude to the Tripartite Declaration and whether they had expressed their desire to continue dialogue with the ILO, which could lead to cooperation with the Organization's constituents, in particular trade unions.
11. Regarding the ILO's activities in Poland, the Worker member from Poland had given a useful insight into the operation of MNEs in that country. One interesting comment was that the impact and experience of multinational enterprises was quite uneven. There were some very good practices as well as negative ones. It would be helpful for the Office to find out what could be learned from this and determine, for example, how country of origin affected the behaviour of MNEs in host countries. The Office should also explore whether anything could be done in conducting promotional activities to help both multinational enterprises and member States.

12. While he recognized the cyclical nature of promotional activities and that the Office's activities could not be judged over a 12-month period, he felt that the Office could take more proactive steps to ensure more consistent regional distribution of these activities.
13. Referring to paragraph 48, which concerned the compendium of codes of conduct, he felt that this compendium would be useful if it went beyond the mere content of the codes and tried to compile information on their monitoring and verification mechanisms. He asked the secretariat whether the text would be ready for submission to the Subcommittee at its meeting in November.
14. While some of the Office's promotional activities were indeed helpful, much more needed to be done. Since there were major MNEs, businesses and indeed trade unions that were not fully informed about the Tripartite Declaration, he made the following suggestions aimed at placing the promotional activities in a more substantial framework.
15. First, consideration should be given to the convening of an appropriately structured and constituted forum to promote the Tripartite Declaration. While this forum should be fully tripartite, it should also include representatives from multinational enterprises who would give the necessary feedback to the ILO regarding their practices.
16. Secondly, drawing on the experience of the Philippines, the Office should promote national memoranda of understanding between the three parties to take the Tripartite Declaration further and monitor on an ongoing basis progress in its implementation at the national level. In this connection, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), could be used and the national tripartite committees that flowed from it could examine the promotional activities related to the Tripartite Declaration that could be conducted at national level.
17. Thirdly, the publications programme related to the Tripartite Declaration should also be revised: it was not sufficient merely to increase the number of languages into which the Declaration was translated; two additional measures could be taken. A short, executive summary could be made of the Declaration, listing the 10 or 12 key points contained therein. This summary could be made available in a glossy publication that would target a much broader readership. This could form the basis of a public awareness campaign. If this proved successful, the Office could bring out a standard poster that could draw public attention. It should be remembered that the ILO was competing with publications that were more reader-friendly.
18. Fourthly, the Office should showcase some examples of successful interfaces between trade unions and MNEs, cases where agreements were established and where these parties were talking to one another, often on matters covered by the Declaration. Three such agreements had been signed in recent weeks. In Germany, Faber Kastell had signed with IG Metall and the IFBWW on 3 March 2000 a framework agreement which covered the core ILO standards and affected 5,500 workers in 14 production centres in 18 sales companies. The agreement concerned not only developing countries, but also included countries such as Australia, Austria and the United States. A second agreement had been signed on 7 March by Del Monte and the International Union of Food and Agricultural Workers in Guatemala, which set a framework for negotiations between the company and workers in Guatemala and committed the company to respect minimum labour standards. A third agreement had been signed on 15 March by IGBau and Hochtief and the IFBWW on 15 March, which included a commitment by the company to observe the ILO's standards in its building activities worldwide.
19. Finally, the ILO should tap into the renewed media interest in MNEs and prepare promotional information briefs such as op-ed articles in major newspapers and magazines and submit

articles to the publications of employers' organizations and trade unions. Thus, in addition to responding to invitations to meetings and conducting research, the ILO would have an independent output. Concerning Part II of the document, on complete studies and current research in areas covered by the Tripartite Declaration, it might be helpful if the Subcommittee had a synthesis report outlining its past research, what could be learned from it and what gaps needed to be filled over the next few years. Research in this field could perhaps be undertaken along the lines of the strategic objectives: The Office should provide a dossier on experience in interpreting the Tripartite Declaration. Research conducted elsewhere in the ILO and the International Institute for Labour Studies should also be carefully examined in order to maximize convergence in the research agenda. He further proposed that high-level research should be conducted, for example on the wave of mergers and acquisitions that had taken place recently and on their impact on the areas covered by the Declaration, including employment. He recalled that a similar study had been requested two years previously on the impact of the Asian financial crisis on employment in MNEs. As in the case of Asia, not all the research needed to be done internally; the Office could identify what research had been done elsewhere, as well as external resources and researchers. He requested information on the relationship between the promotional activities and research. For example, would research undertaken in Namibia and Zimbabwe be followed by a promotional activity? If this were the case, it could be ensured that the research would benefit not only a small number of persons who would read the study, but a larger cross-section of the population.

- 20.** Mr. Noakes (Employer Vice-Chairperson), in response to Mr. Patel's proposals, stated that this was an extensive and ambitious programme. The Employers had always been supportive of promotional activities, provided that these were targeted and appropriate, that they had clear objectives and were designed to produce tangible results and were within the limits of the Office's resources. The Employers could therefore support the idea of a forum in principle, provided that it was appropriately organized and had clear objectives. On no account should it be some kind of "witch-hunt" where certain enterprises were singled out for criticism. He would also agree with the proposal concerning publications with the same proviso mentioned above. Some of the questions raised by Mr. Patel would be further clarified in the report on the seventh survey, which he hoped would soon be available. As regards Mr. Patel's proposal concerning the compendium, as indicated in paragraph 48 of the report, this book was intended to assist the Office in carrying out its promotional activities. It was important to maintain the voluntary nature of such initiatives. The parties concerned could not be forced to enter into such agreements, which grew out of understanding and negotiations.
- 21.** The representative of the Government of the United States indicated that over the past 23 years much had been done by the former Committee and the Subcommittee on the promotion of the historic Declaration. The Declaration had indeed stood the test of time. Referring to the meetings mentioned in the paper, he complimented the Office on its ingenuity and its very substantial efforts, which showed the catalytic role of the intelligent and insightful use of the Tripartite Declaration by the Office. Regarding the final section, which outlined the main research papers, it would be very useful to have information on the major findings and the operational application of this research. The Subcommittee would also benefit from a brief insight into what the results of these research topics might be. The Employers and Workers had put forward interesting proposals and he hoped that careful consideration would be given to these and other suggestions.
- 22.** The representative of the Government of Namibia pointed out that smaller economies experienced the activities of MNEs in a different way from developed countries. The decisions of MNEs could have either a positive or disastrous effect even if the action within the MNE appeared insignificant. For example, three mines had recently been closed in Namibia, and the economic impact of this action was comparable to the simultaneous closure

of Daimler Benz, Volkswagen and BMW in Germany. Because of these differences, there was a greater need for promotional activities in MNEs in smaller economies. This proposal was also justified by the fact that multinationals moved parts of their workforces across borders, for example in the SADCC region. The Tripartite Declaration could be used to enhance or facilitate the standardization of working conditions or collective agreements in those countries. He thanked the Office for including Namibia in its research programme. However, the activities should not end there – the research should also be used for promotional programmes.

- 23.** The representative of the United Kingdom Government stated that the Office paper could be compared to a good newsletter. While it undoubtedly contained extremely interesting information, such as the reference to the Third World Toy Conference, she agreed with Mr. Noakes that it should be more structured. She found Mr. Patel's proposals highly interesting and was pleased to note that the Employers supported the idea of a forum, which was an excellent one. She was not aware of the Office's public relations campaign, and it was perhaps time for it to coordinate its efforts in this direction. Such a campaign should definitely ensure that the necessary information reached not just the ILO's constituents, but the multinationals themselves. As regards the summary of the Declaration, it should be possible to publish any declaration worthy of the name on one page of a newspaper. While she conceded that there might be difficulties in doing this, it should not be beyond the Office's capacity to prepare a good publicity campaign based on a one-page text. She requested further clarification as to what Mr. Patel meant by national tripartite memoranda of understanding. The Office should explore how the Tripartite Declaration and the OECD Guidelines could complement one another and ensure coherence at the national level in their respective follow-up activities. She did not consider that the issue of the compendium was in dispute. She expected that the compendium would include a description of process, in particular the monitoring and verification processes, and would not entail any judgement of the MNEs concerned. Finally, concerning the research papers listed in Part II of the Office paper, she looked forward to that entitled "Multinational enterprises and social policy: Reflections on 20 years of the Tripartite Declaration" in order to measure the effect of this research. She hoped that the document would indicate the effect of the research and, if it proved negligible, that it would set out comprehensively what could be done to improve the situation.
- 24.** The representative of the Government of Canada considered that the Office should continue its promotional activities related to the Declaration not only because it was a key instrument in guiding MNEs in making a contribution to economic and social progress, but also because it was an excellent reference point for similar initiatives in other forums. Mr. Patel's proposals should be given further consideration.
- 25.** In reply to the discussion, the Chief of the Bureau for Multinational Enterprises stated that the Office had taken note of the comments, criticisms and suggestions made. These would be reflected in the Office's work, and it would present further ideas and proposals to the Subcommittee in November. When the Declaration had been adopted in 1977, the MNE programme had enjoyed wide-ranging support in terms of resources and manpower. The work had been done by no less than five Professional staff and about four or five associate experts, as opposed to the two Professional staff of today. It was sheer financial and manpower constraints that prevented the Office from doing much of the work that was of relevance to its programme. There was one saving grace, however, and this was that other programmes in the ILO also did MNE-related work. In response to Mr. Patel's request for information concerning the grouping of research and promotional activities in the same paper, he stated that in the past the two issues had been reported in two separate documents. Here again, as manpower and resources dwindled over the years, they were now presented together as an economy measure. Concerning follow-up on research, it was

the Office's intention to hold meetings in the countries on which studies had been conducted. The working papers prepared would form the basis of discussions at those meetings. He reminded the representative of the Government of Namibia that the Office's offer to hold a meeting in that country was still open. The idea of a forum proposed by Mr. Patel was an interesting one, which would be followed up. There was no doubt that MNEs were more important today than 25 years previously. Similarly, the fact that the Tripartite Declaration was more relevant today than when it was adopted was a tribute to the foresight of its architects. The issue now at hand was how it could effectively be promoted and implemented. He regretted that the compendium of the codes of conduct had not yet been prepared. This was due not only to manpower constraints, but also to the fact that the Office did not simply wish to reproduce the codes of conduct, but wanted to comment constructively on them. Given the Office's tripartite constituency and the need for balance, it wished to ensure that the comments made sense and did not create controversy, but should lead to harmony at the workplace.

- 26.** Mr. Patel (Worker Vice-Chairperson) thanked previous speakers for their constructive comments on the promotional activities proposed by his group. He agreed in particular with Mr. Noakes that there should be a targeted approach, clear objectives and tangible results, as this would ensure that the Office derived the maximum benefit from these activities. While he supposed that the required work should be done within the limits of the existing resources, he hoped that the comments made by the Subcommittee and the renewed general interest in MNEs would help to attract more resources for such activities. Like the representative of the United Kingdom Government, he felt that the compendium was not a subject of controversy. As indicated in paragraph 48 of the Office paper, the compendium was intended to assist the work of the Office in promotional activities and providing model texts to enterprises. Concerning the query by the representative of the United Kingdom Government regarding the national memoranda of understanding, he had taken the idea from the mechanism introduced in the Philippines, as reported to the Subcommittee in November 1999: constituents had come together to promote the Declaration within the country. Promotional activities could take a number of forms: a condensed version of the Declaration on half a page in the local newspapers, discussion on local television chat shows, an information note in indigenous languages or the convening of a tripartite committee to discuss some aspect of the Declaration in order to promote it. The responsibility of promoting the Declaration thus lay not only with the Office; it could also be devolved to institutions at the national level, which could monitor the manner in which the Declaration was implemented on an ongoing basis. In this way, at the time of the four-year survey, a critical mass of information could already be available at the national level.
- 27.** Mr. Noakes (Employer Vice-Chairperson) stated that the proposal to determine the influence of country of origin on the actions of MNEs was not a useful one. Singling out certain MNEs for criticism would lead to a divisive debate. If there were to be criticisms of MNEs, this would emerge from the report on the seventh survey.
- 28.** The representative of the Government of Guatemala agreed with Mr. Patel that it was necessary to make the application of the Tripartite Declaration more operational and effective. In this connection, she referred to the framework agreement signed between Del Monte and the International Union of Food and Agricultural Workers in her country, which had contributed largely to the solution of a major problem involving the redundancy of 900 workers in contradiction with the collective agreement that had been signed. The framework agreement was thus one direct application of the Tripartite Declaration.

## 2. Developments in other organizations

29. Mr. Noakes (Employer Vice-Chairperson) expressed concern about the European Commission's Initiative for Ethical Production and Consumption in Europe (IEPCE), the purpose of which was not clear, and the involvement in that initiative of NGOs and what was termed "civil society". Employers were seriously concerned about developments concerning the review of the OECD Guidelines on Multinational Enterprises.
30. Mr. Patel (Worker Vice-Chairperson), referring to the IEPCE, stated that many trade unions had been party to ethical trade initiatives and had found them helpful. The concept of ethical trade was not only about codes of conduct, but also concerned core labour standards. Ethical trade should therefore not be seen as negative; these initiatives often promoted the ILO's work and were favourable to its Conventions. Secondly, Mr. Abate had stated that the deadline for the comprehensive review of the OECD's Guidelines was June. Though they went beyond the Tripartite Declaration, the review of these Guidelines would be of great interest to the Subcommittee, since many FDI flows took place within, or originated in, the OECD countries. He proposed that the Office submit information to the Subcommittee on this subject in November. Thirdly, the Office should investigate developments in the International Organisation for Standardization (ISO), as some of that organization's recent work dealt with safety and health issues. Fourthly, the paper did not provide information on the UN Global Compact proposed at the Davos Forum in January 1999 and which advocated strong links between the United Nations and the private sector. The Global Compact was intended to promote corporate social responsibility for sustainable development, and covered workers' rights. Trade unions and employers had responded favourably to it. Regular reports on this issue would be helpful to the Subcommittee.
31. The representative of the United Kingdom Government echoed Mr. Patel's comments concerning the review of the OECD Guidelines.
32. The representative of Guatemala agreed with Mr. Patel that the Office should take into consideration the work of the OECD and the ISO, as well as follow-up on the Global Compact. All initiatives taken in the UN and elsewhere that were related to the Subcommittee's work should be included in its agenda.
33. Mr. Noakes (Employer Vice-Chairperson) said that it was pointless for the Subcommittee to consider the ISO's work, since it did not produce specific standards for MNEs in the field of occupational safety and health. The Subcommittee should not consider the work of institutions all around the world, but should focus only on activities that were of relevance to MNEs.
34. Mr. Patel (Worker Vice-Chairperson) concurred with Mr. Noakes that the chief criterion to be applied in this regard was relevance, and requested that this criterion be applied when presenting information. He regretted that some of the bodies that had failed to send information to the Subcommittee were significant organizations, such as the Economic Commission for Africa, and requested that further efforts be made to obtain information from such organizations.
35. The Chief of the Multinational Enterprises Bureau stated that further appeals would be made to the organizations that had not responded, and any information sent by them would be made available to the Subcommittee in November.

### **3. Updating of references to Conventions and Recommendations annexed to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy**

- 36.** Mr. Noakes (Employer Vice-Chairperson), referring to paragraph 1 of the Office paper,<sup>4</sup> said that it was incorrect to state in the first sentence that MNEs were the driving force behind globalization. While MNEs contributed to the phenomenon, the chief factors responsible for globalization were technology, technological change and the desire of many countries for open trade. Regarding the proposed addendum to the Tripartite Declaration, he stated that while he did not object to it in principle, its wording should be modified. He proposed the following amendments. The word “mainly” should be removed from the third sentence, as the ILO Declaration on Fundamental Principles and Rights at Work applied not “mainly to States” but to member States; the fourth sentence should be deleted; in the fifth sentence, the phrase “in this context” should be deleted and the phrase “whose objective is to encourage multinational enterprises” be replaced by “one of the objectives of which was to encourage multinational enterprises”, since this was not the only objective of the Declaration, which was addressed to all parties concerned – governments, employers, workers, as well as MNEs. With these changes the Employers could support the proposed addendum.
- 37.** The Deputy Legal Adviser (Mr. Picard) stated that while legally there was no objection to Mr. Noakes’ first two amendments, the changes proposed to the wording of the fifth sentence would have legal implications since it had been taken from paragraph 2 of the Tripartite Declaration, which spoke of only one aim.
- 38.** Mr. Patel (Worker Vice-Chairperson) supported the concept of an addendum in order to bring the Tripartite Declaration into line with the Declaration on Fundamental Principles and Rights at Work and to make up for the absence of a reference to child labour in the Tripartite Declaration. The Workers were prepared to accept the Office text. As regards Mr. Noakes’ first amendment, he asked the Deputy Legal Adviser what the intention of the original text had been when it was drafted: what value, if any, was added by the word “mainly”? With regard to the second amendment proposed by Mr. Noakes concerning the deletion of the fourth sentence, he asked whether it had been included to suggest an obligation on the part of MNEs or to reinforce a positive benchmark. In the latter case, the sentence should be maintained. As regards the final amendment, he felt that the word “aim” should replace the word “objectives” in the text and the addendum would thus be in line with paragraph 2 of the Tripartite Declaration, from which the text had been taken. He expressed concern at adding the words “one of the objectives”, since this could be interpreted as a change in the content of the Tripartite Declaration.
- 39.** Mr. Noakes (Employer Vice-Chairperson), referring to the comments of the two previous speakers concerning paragraph 2, stated that paragraphs 3, 4 and 5 of the Tripartite Declaration made it clear that governments, as well as workers’ organizations and employers’ organizations, were just as involved as multinational enterprises themselves in implementing its provisions.

<sup>4</sup> GB.277/MNE/3.

40. The Deputy Legal Adviser (Mr. Picard), in response to Mr. Patel's question about the original wording of the text of the ILO Declaration on Fundamental Principles and Rights at Work, pointed out that when it had been drafted, reference had been made mainly to member States of the ILO. This did not mean that the Workers and Employers had no role to play in its application; indeed, in the follow-up it was specifically stated that the Employers and Workers had a role to play. According to article 1, paragraph 2 of the Constitution, "Members" were States which are members of the Organization.
41. Mr. Noakes (Employer Vice-Chairperson) conceded Mr. Patel's point about maintaining the fourth sentence and deleting the phrase concerning objectives.
42. The representative of the Government of Namibia asked the Office to explain whether the inclusion of the addendum would affect reporting mechanisms already in place for both instruments under discussion. His Government was prepared to accept the Office text, as amended. He requested clarification as to whether the phrase at the beginning of the fifth sentence, "In this context", referred only to the context of the addendum or whether the Declaration on Fundamental Principles and Rights at Work should always be taken into account. If this were the case, he proposed the deletion of the phrase.
43. The representative of the Government of the United States commended the Subcommittee on the spirit of compromise in which the debate had been held. Concerning Mr. Noakes' first amendment for a reference to be made to member States in the third sentence of the addendum, it would be preferable to align the addendum's language with that of the Declaration itself, which spoke of all Members. He would join any consensus reached by the Subcommittee on this matter.
44. The representative of the Government of Japan, speaking also on behalf of the Government of the Netherlands, welcomed the Office's initiative in proposing the addendum. The minimum amendments should be made to the text of the Tripartite Declaration itself in order to reflect the principles embodied in the 1998 Declaration. The first amendment would be to mention all eight fundamental Conventions specified in the Declaration on Fundamental Principles and Rights at Work in paragraph 9 of the present Tripartite Declaration. The second amendment would be to introduce, under the section entitled "Wages, benefits and conditions of work", a new paragraph dealing with the abolition of child labour, especially its worst forms. The third amendment would concern the inclusion of Conventions Nos. 138 and 182 in the list of Conventions annexed to the Tripartite Declaration. Without these three amendments, the Tripartite Declaration would lose its influence and remain far behind the OECD, which planned to adopt the revised Guidelines in June 2000. The OECD text was expected to reflect the 1998 Declaration and Convention No. 182.
45. The representative of the Government of the United Kingdom strongly supported the comments by the previous speaker and asked, as a new member of the Subcommittee, whether there was any procedural reason why the Subcommittee was not seeking to introduce a new paragraph under the section on general policies in the Tripartite Declaration so as to refer to the Declaration, particularly since it was one of the most important developments in the ILO in recent years.
46. Speaking on a point of order, Mr. Noakes stated that there was an important procedural issue at hand since there was an agenda item concerning a proposal made by the Office and there were now proposals which had not been notified in advance and which constituted a fundamental change to the Tripartite Declaration. While he was not opposed to the intent of the amendments proposed by the Government of Japan and he was sympathetic to the views expressed by that Government, the proper procedure would be to request that these

proposals be placed as an item on the agenda of the next meeting of the Subcommittee. The representative of the Government of Japan would have to provide a written text of the proposals for inclusion in an Office paper which could be circulated to members in due time. The Subcommittee would then be able to give the necessary careful consideration to an exercise as delicate as attempting to amend the Tripartite Declaration.

47. The representative of the United Kingdom Government proposed that the Subcommittee defer its decision on the addendum until the Subcommittee had a text that would incorporate the ILO Declaration on Fundamental Principles and Rights at Work more fully into the Tripartite Declaration.
48. Mr. Patel (Worker Vice-Chairperson) supported the request by the Employers' group to defer the proposals made by the Government of Japan to the Subcommittee's meeting in November 2000. He noted that the Employers' group had stated that it was not opposed to the proposed amendments, but had on the grounds of proper procedure requested that the matter be placed formally on the agenda. On this basis the Workers' group looked forward to a consensus on the matter at the next meeting, and supported the adoption of the addendum, as amended, at the present meeting.
49. The Chairperson proposed that the Subcommittee now adopt the present addendum and defer its consideration of the amendments proposed by Japan until November 2000.
50. The Employer and Worker Vice-Chairpersons concurred with the Chairperson, as it would be unfortunate to waste the opportunity of adopting the existing addendum, as amended. The text proposed by Japan could be the subject of a focused discussion at the November meeting of the Subcommittee.
51. The representative of the Government of Italy was in favour of the addendum, as amended. The addendum was a first step in the right direction, and an additional effort should be made to incorporate the principles of the 1998 Declaration more fully into the Tripartite Declaration.
52. Mr. Noakes (Employer Vice-Chairperson) considered that there were a number of factors to be taken into consideration. It may prove impossible to change one or two of the provisions of the Tripartite Declaration in isolation, and it might be necessary to examine other parts. There might also be further proposals. He therefore did not wish to commit his group at this stage.
53. The representative of the Government of Japan suggested that the Subcommittee agree in principle to the proposed addendum, but that a final decision on the insertion of the text as an addendum to the Tripartite Declaration not be made until the November 2000 Session of the Governing Body, when her Government's proposal with regard to amendments to the text of the Tripartite Declaration would be tabled and discussed.
54. The representative of the United Kingdom stated that she would prefer an adjournment of the decision on the addendum but, like Mr. Noakes and Mr. Patel, appreciated that it would be a pity to lose the opportunity of adopting the text. She asked whether the Tripartite Declaration would be reprinted to include the addendum, as this would be a waste of resources if it was the Subcommittee's intention to re-examine the wording. She would therefore oppose reprinting the document now before a discussion was held on how the wording of the Tripartite Declaration could be changed integrally to reflect the 1998 Declaration as well as Convention No. 182.

55. The Chief of the Multinational Enterprises Bureau, in reply to the questions asked by Namibia, stated that there were no additional reporting procedures related to the addendum apart from those currently conducted by the Office. In response to the question asked by the representative of the Government of the United Kingdom, the Office would issue an insert into the text. Whenever the current stock was exhausted and the budgetary situation permitted it, a new revised text incorporating the latest changes would be issued. The current edition was the second one and it was hoped that the third edition would be available in about two years' time.
56. The representative of the Government of Guatemala asked the Deputy Legal Adviser why the addendum did not include a reference to the two points raised by the representative of the Government of Japan when they had already been recognized in paragraph 6 of the Office paper. She too preferred a postponement of the discussion on the addendum and the new proposals.
57. The Deputy Legal Adviser stated that, following discussions with the Officers of the Subcommittee, the Office had been asked to see how the Tripartite Declaration could take into account the ILO Declaration on Fundamental Principles and Rights at Work of 1998. This had been done by means of the proposed addendum. If the members of the Subcommittee wished to propose a modification of the wording of the Tripartite Declaration itself, they were free to do so in accordance with the established procedure. However, they now had the possibility of a flexible solution in the form of the proposed addendum. It was up to the Subcommittee to decide whether it wished to go further in this regard at a subsequent meeting.
58. The Chief of the Multinational Enterprises Bureau explained that Conventions and Recommendations were referred to in the Tripartite Declaration in two ways: first, by specific reference to the Conventions in the text of the Tripartite Declaration (paragraph 9) and, secondly, in footnotes. Regarding the latter case, the Conventions and Recommendations constituted the normative source from which certain general principles were enunciated in the Tripartite Declaration. If the questions of minimum age and child labour had not previously been mentioned in the Declaration, this was because they had not been regarded as a major issue at the time. The justification used by the Subcommittee to annex texts to the Tripartite Declaration was that instruments adopted by the International Labour Conference and which dealt specifically with any of the issues raised in the text of the Tripartite Declaration should be annexed to it. Those were the decisions taken by the Committee on Multinational Enterprises and the Governing Body in the past. Today, the Subcommittee was faced with a different situation in that two of the eight instruments to which indirect reference was made in the 1998 Declaration were not in any way mentioned in the Tripartite Declaration.
59. The representative of the Government of the United States said that Mr. Abate had made an excellent summary of Subcommittee practice and this had demonstrated the flexibility that prevailed in the Subcommittee as the situation evolved and Conventions changed over the years. Like the representative of the Government of the United Kingdom, he felt that the proposed addendum should be adopted at the current session. The addendum was appropriate and timely and it seemed that the Subcommittee had reached a consensus on the matter.
60. The Subcommittee agreed to adopt the proposed addendum, as amended, and to defer the decision on the other proposals until November 2000. The Chairperson thanked the members of the Subcommittee for the constructive spirit in which an agreement had been made on this matter.

61. *With a view to cementing the relationship between the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the Declaration on Fundamental Principles and Rights at Work, the Subcommittee recommends to the Governing Body the adoption of the following addendum:*

**Addendum to the Tripartite Declaration of Principles concerning  
Multinational Enterprises and Social Policy, adopted by the  
Governing Body at its 277th Session (Geneva, March 2000)**

The International Labour Conference adopted in June 1998 the ILO Declaration on Fundamental Principles and Rights at Work. By this adoption, Members renewed their commitment to respect, promote and realize the following fundamental principles and rights at work, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation. The ILO Declaration on Fundamental Principles and Rights at Work applies to all Members. Nevertheless, the contribution of multinational enterprises to its implementation can prove an important element in the attainment of its objectives. In this context, the interpretation and application of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy should fully take into account the objectives of the ILO Declaration on Fundamental Principles and Rights at Work.

This reference does not in any way affect the voluntary character or the meaning of the provisions of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

#### 4. Other business

62. Concerning the forthcoming seventh survey, Mr. Abate confirmed that the Office had to date received 83 country replies, which was exceptional since at no corresponding time had there been more than 23 during any of the past surveys. The breakdown of replies by group was as follows: Governments – 47; Employers – 24; and Workers – 41. The Office was anticipating further responses soon and if the present trend continued, it should receive more than 100 replies by the end of April or early May. He urged those governments and organizations of employers and workers that had not yet replied to do so urgently, and appealed to all members of the Subcommittee to assist in this effort
63. The Worker Vice-Chairperson informed the Subcommittee of the death on Saturday, 11 March of Mr. Charles Ford, who had been a member of the Drafting Group that had prepared the Tripartite Declaration in 1977.
64. On behalf of the Employers, Mr. Noakes extended his sympathy to Mr. Ford's family.
65. The Subcommittee extended its condolences to the family of Mr. Charles Ford.

- 66.** The Chairperson noted that the various issues raised would be followed up by the Office and appropriate proposals submitted to the Subcommittee in November. She thanked the Employers' and Workers' Vice-Chairmen, as well as all delegates that had taken part in the meeting, and expressed her appreciation to all staff, including interpreters, that had serviced the meeting.

Geneva, 24 March 2000.

*Point for decision:* Paragraph 61.