



FIRST ITEM ON THE AGENDA

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

1. In November 2003, the ILO organized a symposium on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and related multilateral initiatives. The symposium brought together a small group of ILO tripartite constituents for an informal exchange of views with representatives of the European Commission, the Office of the High Commissioner for Human Rights, the Organisation for Economic Co-operation and Development, the United Nations Global Compact Office, and the World Bank Group. At its 289th Session in March 2004, the ILO Governing Body approved a recommendation by the Subcommittee on Multinational Enterprises that the international organizations represented at the symposium should be invited to attend, as observers, the sitting of the Subcommittee during the 291st Session of the Governing Body when it will discuss possible follow-up to the symposium. The Office has sent out invitations accordingly.
2. While, given its nature, the Symposium did not adopt any formal conclusions or recommendations, the participants agreed that the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy provided a useful and comprehensive framework to promote corporate social responsibility in the labour area. Participants also agreed that international organizations should work more closely together at the country level to try to ensure a greater positive impact of foreign direct investment on development and encourage greater respect for fundamental principles and rights at work. Participants further considered that better coordination of research and promotional activities in the area of corporate social responsibility by the different organizations was desirable. The purpose of this paper is to provide the Subcommittee with the necessary background information on the instruments and activities of the international organizations mentioned above and indicate possible avenues for closer cooperation.

The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

3. The increased importance of multinational enterprises in the world economy during the 1960s and 1970s provoked intense discussions that resulted in efforts to draw up international instruments to regulate their conduct and define the terms of their relationship with host countries. Following a process of extensive consultations and negotiations between representatives of governments, employers' and workers' organizations, the Governing Body in 1977 adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). In 2000, it revised the MNE Declaration to take account of the ILO Declaration on Fundamental Principles and Rights at Work. Today, the MNE Declaration represents a unique set of guidelines for voluntary action on labour issues and the only one agreed to by the social partners on the basis of universal standards. The MNE Declaration seeks to inspire good policy and practice in international investment and to promote partnerships based on social dialogue. As such it is an important tool in the ILO's Decent Work Agenda which aims at ensuring that work is freely chosen, recognizes the fundamental principles and rights at work, and provides an income to satisfy basic economic needs and an adequate level of social protection.
4. The MNE Declaration is inspired directly by the principles underlying relevant ILO Conventions and Recommendations. Its two interdependent aims are to encourage the positive contributions of multinational enterprises to economic and social progress, and to minimize and resolve the difficulties to which their operations may give rise. The MNE Declaration seeks to advance these aims by providing guidance for multinational enterprises as well as for governments, employers' and workers' organizations in host countries on the social policy measures and actions they can take individually and jointly. The MNE Declaration addresses, respectively, general policies, employment, training, conditions of work and life, and industrial relations.
5. Under general policies, the MNE Declaration recommends compliance with national legislation, respect for international standards, including explicitly the fundamental principles and rights at work, and support for development priorities of host countries. The MNE Declaration does not aim at special treatment of either multinational or domestic enterprises, and its principles reflect good practice and guidance for all types of enterprises.
6. In the area of employment, the MNE Declaration encourages the promotion of productive employment in multinational enterprises, directly and through linkages with local enterprises, employment of host country nationals, the pursuance of equality of opportunity and treatment, and enhanced employment security in the establishment and restructuring of operations.
7. The MNE Declaration encourages cooperation in developing policies and programmes for vocational training that meet the needs of the multinational enterprises and of host countries and link skills development and vocational guidance to employment. Furthermore, multinational enterprises are encouraged to aid in the development of the domestic private sector by participating, along with national enterprises, in local skills development programmes and making available resource people to help conduct training.
8. In the area of conditions of work and life, multinational enterprises are called upon to offer wages, benefits and conditions of work as favourable as those of comparable employers and ensure the highest standards of safety and health. In order to secure the abolition of

child labour, the MNE Declaration expects multinational and domestic enterprises to respect legislation regarding minimum age for employment.

9. In the area of industrial relations the parties are encouraged to respect freedom of association and the right to bargain collectively as well as to provide systems for consultations on matters of mutual concern.
10. In order to be able to highlight examples of good practice and identify trends, the ILO undertakes research and regular surveys on the application of the MNE Declaration in member States. The survey results are based on the replies to questionnaires approved by the Governing Body and sent to governments as well as to employers' and workers' organizations in all ILO member States.
11. The MNE Declaration also includes an interpretation procedure under which the Governing Body can be requested to clarify the meaning or applicability of one or more provisions of the MNE Declaration.

OECD Guidelines for Multinational Enterprises

12. Adopted in 1976 and revised in 2000, the OECD Guidelines for Multinational Enterprises (OECD Guidelines) have origins similar to those of the MNE Declaration. They contain non-binding recommendations that provide "voluntary principles and standards for responsible business conduct consistent with applicable laws". The OECD Guidelines have the following aims: to ensure that the operations of multinational enterprises are in harmony with government policies; to strengthen the basis of mutual confidence between enterprises and the societies in which they operate; to help improve the foreign investment climate; and to enhance the contribution to sustainable development made by multinational enterprises. The OECD Guidelines address not only multinational enterprises but also domestic enterprises, including SMEs. In addition, multinational enterprises are invited to encourage business partners to apply the Guidelines, where applicable.
13. The OECD Guidelines are comprehensive and cover a wide range of issues. Although less specific than the MNE Declaration on labour and social issues, the main text refers to the ILO Declaration on Fundamental Principles and Rights at Work while the commentary concerning employment and industrial relations "echoes relevant provisions of the 1998 Declaration and the MNE Declaration". The commentary also indicates that the MNE Declaration "can therefore be of use in understanding the Guidelines to the extent that it is of a greater degree of elaboration".
14. Thirty OECD member nations and eight non-OECD countries currently adhere to the Guidelines. Adhering governments are required to establish national contact points. These are usually senior government officials or governmental bodies. The national contact points inform enterprises about the OECD Guidelines (including by translating them into local languages), promote respect for them and respond to inquiries of interested parties. The national contact points offer a forum at national level for discussion with trade unions, employer organizations, NGOs and other interested parties, for all matters relating to the Guidelines, including practical cases when one of the parties feels that the Guidelines have not been properly observed. The national contact points investigate the cases and try to help the parties reach an agreement. In addition, national contact points submit reports and meet annually to share experiences. The reports of the national contact points are discussed by the OECD Committee on International Investment and Multinational Enterprises (CIME), which considers whether national contact points are fulfilling their responsibilities and interpret the Guidelines correctly. CIME always invites employers' and workers'

organizations, NGOs and other interested parties to express their views and reports periodically to the OECD Council on matters covered by the Guidelines.

15. The OECD Guidelines encourage multinational enterprises to develop internal rules of operation and to inform employees about these company policies (including through training programmes). They also invite companies to disclose information and report about performance (for the company as a whole) in relation to company policies (including information on relationships with employees and on health and safety). Companies are further invited to develop effective management systems that take account of the provisions of the Guidelines.

The Global Compact

16. At the 1999 World Economic Forum, United Nations Secretary-General Kofi Annan challenged business leaders to join with the United Nations “to make globalization work for everyone”. He called this challenge the Global Compact. What he had in mind was a partnership that would bring companies together with the United Nations, its agencies, organized labour and civil society, to show that a globalized economy can be both sustainable and inclusive. To achieve this, major stakeholders would need to have a common understanding of and respect for some basic universal values and principles. The Global Compact consists of ten principles in the areas of human rights, labour, the environment and transparency. These principles are based on the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UN Convention against Corruption.
17. In the area of human rights, the Global Compact asks business to support and respect the protection of international human rights within its sphere of influence; and to make sure that it is not complicit in human rights abuses. In the area of labour, the Global Compact asks business to uphold freedom of association and recognize the right to collective bargaining; to help eliminate all forms of forced and compulsory labour; to help abolish child labour; and eliminate discrimination in respect of employment and occupation. In the area of the environment the Global Compact asks business to support a precautionary approach to environmental challenges; to undertake initiatives to promote greater environmental responsibility; and to encourage the development and diffusion of environmentally friendly technologies. In the area of transparency, the Global Compact asks business to work against all forms of corruption, including extortion and bribery.
18. At the time of the Global Compact Leaders’ Summit in June 2004, which the Director-General attended, more than 1,700 companies, large and small, both from industrialized and developing countries, had formally taken up the challenge by writing to the Secretary-General and committing themselves to make the Global Compact and its principles part of their business strategy and operations, and to work with other stakeholders in support of the UN Millennium Development Goals.
19. To achieve its objectives, the Global Compact promotes four types of activities: policy dialogues; learning; local networks; and projects. Policy dialogues bring together business, UN agencies, trade unions, NGOs and others to jointly try to develop solutions to contemporary problems. Learning involves showcasing examples of corporate practices based on the Compact’s principles through annual reports and postings on its web site. In addition, the Global Compact has created a network that brings together companies, academics and organizations active in the area of corporate social responsibility. This network develops and analyses case studies to enable companies to learn from each other’s experiences. Local networks are designed to support the implementation of the principles;

mutual learning and information exchange; the convening of local/regional dialogues on globalization issues; and the recruitment of additional companies. The Global Compact also encourages companies to participate in partnership projects with UN agencies and civil society organizations in support of the UN Millennium Development Goals.

The European Commission

20. In 2001, the European Commission published a Green Paper on corporate social responsibility, followed by a communication in 2002. This latter document set in motion a consultative process in the form of the European Multi-Stakeholder Forum on Corporate Social Responsibility. The Forum organized a series of round tables that discussed such issues as the relationship between corporate social responsibility and competitiveness (“the business case”); the contribution of corporate social responsibility to sustainable development (in particular in developing countries) and to gender mainstreaming; aspects specific to SMEs and supply-chain issues; effectiveness and credibility of codes of conduct; development of commonly agreed guidelines and criteria for measurement, reporting and assurance; guidelines for labelling schemes (incorporating core labour standards and environmental standards); and disclosure on pension and retail funds socially responsible investment policies. The Forum report, published in June 2004, endorses the European Commission definition of corporate social responsibility as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis”. The report considers that corporate social responsibility can make “... a concrete and effective contribution to the overall implementation and reinforcement of fundamental values and principles ...” and recognizes the importance of the MNE Declaration, the OECD Guidelines and the UN Global Compact as essential points of reference in this respect. Following an analysis of corporate social responsibility drivers, obstacles and success factors, the report recommends to raise awareness and improve knowledge of corporate social responsibility; develop the capacities and competencies to help mainstream corporate social responsibility; and ensure an enabling environment for corporate social responsibility. The European Commission is expected to publish another communication towards the end of 2004 to follow up on the report.

The World Bank

21. Over the last few years the World Bank has become increasingly active in the area of corporate social responsibility. While initially focusing on promoting partnerships for sustainable development between the public and private sectors, more recently it has created a Corporate Social Responsibility Practice (CSR Practice). The main purpose is to provide technical advice to developing country governments on the role of the public sector in stimulating corporate social responsibility and assist them in developing policy instruments to encourage corporate social responsibility. It has developed a diagnostic framework and appraisal tool that includes checklists to examine the status of business activities in the field of corporate social responsibility, as well as an inventory of public policy options. These options include “mandating” (development of the legal framework and penalties), “facilitating” (incentives, stakeholder dialogue, harmonization of non-binding guidance and codes), “partnering” (combining public resources with those of business) and “endorsing” (showing political support for companies performing well on corporate social responsibility).
22. The CSR Practice also provides technical support to other units in the Bank, mainly on a sectoral basis, in connection with the Bank’s lending operations and economic analyses. The CSR Practice further collaborates with the Bank’s Foreign Investment Advisory

Service to advise national governments on corporate social responsibility frameworks that can enhance a country's attractiveness to foreign direct investment.

The International Finance Corporation

23. The International Finance Corporation (IFC) promotes corporate social responsibility in a number of ways. Most important is its review procedure to appraise the social and environmental impact of its lending operations in developing countries. The review is based on an exclusion list, ten safeguard policies and 30 guidelines, developed after consultations with stakeholders. To receive IFC funding, a project cannot involve activities mentioned in the exclusion list and has to comply with applicable safeguard policies and guidelines. If the IFC proceeds to invest in the project, performance is also monitored against the applicable standards. In addition, IFC has prepared good practice notes to give further guidance in specific areas. These, however, are not considered in the review procedure.
24. The IFC also provides advisory services to help sponsors identify the potentially negative social and environmental impact of a project. It conducts field visits to gain first-hand knowledge and meet with the sponsor and representatives of affected groups and undertakes project site visits to monitor the social and environmental performance of accepted projects. If non-compliance is observed, the IFC determines an appropriate course of action. After investment, the company concerned must submit annual social and environmental monitoring and performance reports to the IFC (including comprehensive information on health and safety and on action taken regarding child labour).
25. The IFC has created a Corporate Citizenship Facility to help clients and the wider private sector in emerging markets better understand corporate social responsibility issues. The Facility collects data and evidence on the business benefits of corporate social responsibility and addresses issues such as human rights, employment, training, occupational safety and health, employee ownership and shareholding, certification systems and HIV/AIDS, through training, workshops, good practice guides and discussion groups. The Facility usually undertakes such activities in partnership with multinational enterprises, business associations, trade unions, NGOs, UN agencies and others.
26. The Facility applies a sustainability framework to rank projects. Compliance with the provisions of ILO Conventions (even if these have not been ratified by the country concerned), acceptance of freedom of association and collective bargaining, provision of training, equal opportunities, payment of higher wages than average, provision of basic benefits such as staff health and pension plans, respect of working time regulations, education on HIV/AIDS, the inclusion of compliance clauses in supplier contracts as well as the employment of vulnerable people are all included in the list of indicators used by the framework.
27. Another IFC activity is the Sustainable Financial Markets Facility, which provides training and technical assistance to IFC financial intermediaries and the financial sector in emerging markets, in issues such as environmental finance, socially responsible investment and environmental and social risk management systems.
28. The IFC requires that projects comply with international law as well as "national laws of the host countries, including those that protect core labour standards". Its exclusion list currently includes provisions on child labour and forced labour. It has also issued a good practice note on addressing child labour in the workplace and supply chain. Following a review of its safeguard policies, the IFC is considering adding provisions on freedom of association and collective bargaining as well as discrimination to the exclusion list.

29. On employment, the good practice note on addressing the social dimensions of private sector projects recommends employment of host country nationals as well as the analysis of the impact of investment on women and vulnerable groups and an examination of socio-economic conditions that would preclude equitable access to opportunities provided by the investment. It draws attention to the impact of investment on employment, particularly in the context of downsizing and retrenchment, and points to training as a means to add value to investment projects.
30. The IFC has several guidelines on safety and health. Specific guidelines cover particular industries, sectors or types of project, while there is also a set of general safety and health guidelines. The guidelines require companies to introduce appropriate safety and health management systems (policy, preventive identification of hazards, employee training, emergency plans, monitoring, evaluation and performance disclosure). Project beneficiaries are expected to ensure that suppliers, service providers, contractors and subcontractors follow comparable practices.

Office of the High Commissioner for Human Rights

31. In 2003, the United Nations Sub-Commission on the Promotion and Protection of Human Rights, a body composed of 26 human rights experts, adopted a document entitled “Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights” and recommended that the UN Commission on Human Rights, which comprises 53 representatives of UN member States, review the document with a view to its formal adoption. During its April 2004 session, the Commission on Human Rights, taking note of the document, requested the Office of the High Commissioner for Human Rights (OHCHR) to compile a report on the scope and legal status of existing initiatives and standards relating to the responsibility of multinational corporations and related businesses with regard to human rights, and identify outstanding issues.
32. To prepare this report, the OHCHR has started an intense process of consultations with all relevant stakeholders, including States, multinational enterprises, employers’ and workers’ organizations, relevant international organizations and agencies, treaty monitoring bodies and NGOs. The report will be submitted to the next session of the Commission in March-April 2005 “... in order for it to identify options for strengthening standards on the responsibilities of transnational corporations ... with regard to human rights and possible means of interpretation”.

Cooperation

33. As evidenced, inter alia, by the final report of the European Multi-Stakeholder Forum on Corporate Social Responsibility, there is increasing recognition of the complementary nature of the MNE Declaration, the OECD Guidelines for Multinational Enterprises and the UN Global Compact. Taken together, these three instruments would seem to provide the necessary common ground to underpin the activities of international organizations in the area of corporate social responsibility, particularly in developing countries, where voluntary corporate social responsibility initiatives based on universal principles can make an important contribution to help promote and create decent work.
34. The following paragraphs provide some suggestions for consideration by the Subcommittee as to how the ILO could cooperate more closely with the international organizations represented at the symposium on the MNE Declaration in its efforts to promote wider observance of its provisions.

OECD

35. There would seem to be considerable scope for cooperation between the OECD and the ILO. One of the functions of the national contact points for the OECD Guidelines is to undertake promotional activities. These could conceivably also cover the provisions of the MNE Declaration. It would be relatively easy for national contact points to disseminate information on both instruments and highlight their complementary character. In order for national contact points to be able to do so effectively, the ILO could organize appropriate training for those not fully familiar with the Declaration's provisions.
36. Another area of cooperation could be with respect to the specific instances procedures. Most of the cases submitted to national contact points relate to labour and employment issues. The specific instances procedures in different national contact points depend largely on the knowledge that the national contact points have of the labour and employment issues to which the OECD guidelines refer. The ILO could share the relevant information it has, if and when requested by national contact points.

Global Compact

37. In its report *A fair globalization: Creating opportunities for all*, the World Commission on the Social Dimension of Globalization called upon the ILO "to monitor its involvement with the Global Compact and to assess its future potential and further increase its effectiveness". The suggestions below are meant to give effect to this recommendation.
38. A recent impact study of the Global Compact recommended the strengthening of country-level Global Compact networks. Such networks ideally include participating companies, employers' and workers' organizations, NGOs, academics, UN agency representatives and government officials. The ILO could help such networks become effective forums for social dialogue by strengthening the capacity of employers' and workers' organizations to actively participate in their activities.
39. Given the limited availability of human and financial resources and in order to avoid confusion and overlap between different local initiatives it would seem desirable for country-level Global Compact networks to promote and undertake activities based not only on the Global Compact principles but also on the MNE Declaration and on the OECD Guidelines. This is already being done in the context of an ILO-executed technical cooperation project funded by the Government of Italy. Such an approach, currently being piloted in Albania, Italy, Morocco and Tunisia could be replicated elsewhere at relatively little cost.
40. A central element of the Global Compact is its emphasis on learning and sharing good practices. Already, many case studies and examples have been submitted by participating companies, while a comprehensive integrated package of training materials on the ten Global Compact principles is under development. Information on the MNE Declaration and the OECD Guidelines could be added to this package.

European Commission

41. In July 2004, the European Commission and the ILO agreed on a strategic partnership to reinforce existing cooperation and intensify joint efforts to combat poverty and promote decent work in developing countries. One of the areas singled out in the partnership agreement for closer cooperation is that of corporate social responsibility. The two organizations will in the near future establish a working party to develop concrete

proposals for cooperation in this area. Such cooperation could, for instance, take the form of joint research, of seminars to increase awareness among the European Commission officials concerned of the provisions of the MNE Declaration, and of technical cooperation projects in developing countries.

World Bank

42. As outlined above, the World Bank CSR Practice helps developing country governments engage with corporate social responsibility initiatives. Its work in this area could benefit from greater ILO involvement in country assessments and labour-related pilot activities. In addition, the training in corporate social responsibility offered by the World Bank Institute could highlight the importance of the MNE Declaration as a widely recognized comprehensive and development-oriented frame of reference for corporate social responsibility activities in the labour area.

The International Finance Corporation

43. Cooperation with the IFC (and for that matter with other international finance institutions as well) could take the form of workshops on the approach and provisions of the MNE Declaration, highlighting in particular the fundamental principles and rights at work, for those officials who have to assess the social aspects of loan applications. It might further be worthwhile to explore the possibility of organizing training at the country level through employers' organizations and with the cooperation of workers' organizations for the beneficiaries of IFC credits to increase awareness among beneficiaries of the importance of social dialogue.

Office of the High Commissioner for Human Rights

44. Pending the outcome of the consultative process that OHCHR is currently engaged in and any subsequent decision by the UN Commission on Human Rights, it is too early to make any suggestions for future cooperation with OHCHR. It should be clear, however, that the ILO will need to be fully involved in the formulation of any draft proposals which may refer to it and to its instruments and procedures.
45. *The Subcommittee may wish to express its views on the suggestions for cooperation with other international organizations to promote wider observance of the provisions of the MNE Declaration.*

Geneva, 7 September 2004.

Point for decision: Paragraph 45.