



Governing Body

309th Session, Geneva, November 2010

GB.309/13(Rev.)

THIRTEENTH ITEM ON THE AGENDA

Report of the Subcommittee on Multinational Enterprises

1. The Subcommittee on Multinational Enterprises met on 10 November 2010. Ms Zappia (Government, Italy) chaired the meeting. Ms Hornung-Draus (Employer, Germany) and Mr Gurney (Worker, United Kingdom) were Vice-Chairpersons. The Chairperson welcomed the members and invited the representative of the Director-General to present the paper.¹

Overview of Office activities

2. The representative of the Director-General (Ms McFalls, Chief, Multinational Enterprises Programme) suggested reviewing the paper in three parts to allow for feedback and discussion at intervals. The first part contained updates on the activities of the ILO Helpdesk for Business, the Global Business Schools' Network and country-level exercises, including action-oriented research. The new Helpdesk website (www.ilo.org/business) was presented by Ms Roelans (Senior Specialist, Multinational Enterprises Programme).
3. The Employer Vice-Chairperson congratulated the Office on its good work in setting up and operationalizing the Helpdesk, saying that it was very useful for all constituents and was a key point in fulfilling the mandate of the ILO. The Helpdesk made available a huge pool of knowledge and experience useful to organizations on the ground. She appreciated the close collaboration seen with ILO constituents in its implementation. She underlined that it was work in progress and that the text on the website should be worded in language understood by business, and not using the political and abstract language often employed by the Office. The Employers appreciated the work that had been done in conjunction with the International Training Centre of the ILO in Turin (Turin Centre) and with the Global Business Schools' Network, which had contributed to making the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) better known. The Office's efforts to raise the profile of the MNE Declaration had proven successful over the past decade. On the subject of research activities, she was pleased with the constructive and practical work that had been undertaken and with the way in which research had been conducted involving ILO constituents, and encouraged the Office to continue in the same vein. Lastly, she clarified the name of an employers' organization that had participated in a country-level study in the Russian Federation (the Russian Union of

¹ GB.309/MNE/1.

Industrialists and Entrepreneurs – RSPP) and expressed her satisfaction that it had been part of the exercise.

4. The Worker Vice-Chairperson thanked the Office for the presentation of the new website, which he found useful and lively. While there had been improvements in the way issues were presented in the paper, it still needed to provide a more strategic overview focused on concrete outcomes. With regard to the Helpdesk, he raised concerns about some of the answers provided to date, in particular in relation to freedom of association and the right to collective bargaining. Concerns had been expressed by trade unions confronted with answers from the Helpdesk, or interpretations of answers, in their day-to-day interaction with employers, that had turned out to be not just unhelpful, but in fact damaging to their attempts to negotiate with employers. He therefore requested that Helpdesk answers should receive further detailed scrutiny before they were published on the website. It was vital to understand that Helpdesk responses were deemed to constitute reliable and accurate guidance containing clear references to the agreed standards and authoritative jurisprudence created under the ILO's constitutional structures. He welcomed the strong disclaimer put on every Helpdesk answer and said that he might refer to the issue again. Regarding collaboration with the Turin Centre, he requested reporting on how specific activities were related to strategies, planned activities and follow-up, including information on country-level activities and the development of modules on supply chains. Regarding the Global Business Schools' Network, he emphasized the need for clarity regarding the development of training modules, especially with regard to the criteria used to define who was involved, how inputs were provided and how references to standards and the ILO were addressed in the courses. He recalled that the Bureau for Workers' Activities (ACTRAV) had suggested a cross-fertilization, inviting the Office to bring together the representatives of the business schools and of the Global Labour University (GLU), institutions focusing on the same issues and having the same level of academic recognition, but taking a sometimes different perspective. With regard to the research on the effect given to the MNE Declaration, he wished to know if the elements of the research were indeed included in Decent Work Country Programmes. He requested additional information on the role of workers' organizations in the research done in Côte d'Ivoire and Liberia. He expressed concern that the research and country activities often failed to cover all aspects of the MNE Declaration. Lastly, he hoped that the reform of the Governing Body would promote coherent reporting of the Office's research on multinational enterprises and global supply chains.
5. The representative of the Government of Germany explained that the German federal Government had defined a "National Strategy for the Social Responsibility of Enterprises" in October 2010 as part of its Corporate Social Responsibility (CSR) Action Plan. The federal Government had been supported in that task by relevant social stakeholders, such as the national Corporate Social Responsibility Forum, constituted of 44 CSR experts from industry, unions, non-governmental organizations and the political sphere. The purpose of the CSR Action Plan was to better anchor CSR in businesses and public administration, engage small and medium-sized enterprises (SMEs) in CSR-related activities, increase the visibility and credibility of CSR, optimize the political framework for CSR and, finally, to contribute to the social and ecological shaping of globalization. A further fundamental element of the CSR Action Plan was to strengthen CSR in international and development settings. It might be useful for member States that had developed CSR strategies to exchange their experiences with others that were in the process of developing such strategies. The representative of the Government of Germany proposed that the Office organize a side event during the March 2011 session of the Governing Body where various government CSR strategies could be presented.
6. The representative of the Government of India said that CSR was an effective way to encourage sustainable growth and socio-economic welfare, and that it could play a vital

role in achieving global goals, including decent work and the Millennium Development Goals (MDGs). The role to be played by the ILO and other international organizations in national and international contexts should be defined. He provided information about CSR initiatives in India. He noted that the ILO Helpdesk had met the basic information needs of business on the MNE Declaration and hoped that the Office would continue to promote the Helpdesk in awareness-raising and capacity-building activities.

7. The representative of the Director-General noted the request to replace or remove the Helpdesk questions of concern, and stressed the importance of dialogue and attention to agreed standards and authoritative jurisprudence when formulating the content. She also took note of the interesting input, especially with regard to business schools, and explained how the partnership with academics was based on mutual exchange, in which the ILO benefited from the academics' overall expertise in CSR, while they in turn benefited from the ILO's expertise in labour-related matters. She welcomed the suggestion to draw on the academic experience of ACTRAV. With regard to research work in West Africa, she acknowledged the importance of linking that work with the Decent Work Country Programmes and confirmed that the Office was always eager to involve the tripartite constituents in implementing activities at the country level. She concluded by thanking the representative of the Government of Germany for the proposal to organize a discussion on the role of States in promoting CSR during the March 2011 session of the Governing Body and agreed that other member States might wish to participate in the exchange of policy information.
8. The representative of the Government of Kenya, speaking on behalf of the Africa group, expressed appreciation for the work of the ILO Helpdesk and noted the increase in uptake. He welcomed the collaboration with the Turin Centre and the work with the Global Business Schools' Network, which could help to scale up the commitment of companies to the MDGs.
9. The representative of the Government of Nigeria commended the launch of the web pages for the ILO Helpdesk for Business, and encouraged the Office to develop more innovations to improve access to the Helpdesk. He noted the Office's research work on the effect given to the MNE Declaration and encouraged further work in other African countries.

Awareness raising and promotion of the MNE Declaration through intergovernmental collaboration

10. The representative of the Director-General introduced the second part of the paper. She provided updates on the Office's collaboration with the International Organization for Standardization (ISO) on the new ISO 26000 standard; with the UN Global Compact, including the recent publication of *The Labour Principles of the United Nations Global Compact: A Guide for Business* in Spanish; and with the Organisation for Economic Co-operation and Development (OECD) on the revision process of the *OECD Guidelines for Multinational Enterprises*. She informed the Subcommittee about the work of Professor Ruggie, the Special Representative of the UN Secretary-General on Business and Human Rights. With respect to the adoption of the new ISO 26000 guidance standard, Ms Sims (Manager, ILO Helpdesk for Business) shared insights into the development process and the possible implications of the instrument. A short video was screened containing key remarks made by Professor Ruggie during the June 2010 session of the International Labour Conference (ILC).
11. The Worker Vice-Chairperson thanked the Office for organizing the side event during the UN Global Compact Leaders' Summit and for making ILO materials available there,

including materials on freedom of association and collective bargaining. While the UN Global Compact was indeed an avenue the Office should continue to pursue in order to reach out to business, the Workers still had serious concerns about the initiative, and he stressed that the ILO–UN Global Compact relationship should be further examined. The upcoming Joint Inspection Unit report on the UN Global Compact could provide an opportunity to do so. He had been very pleased with the ILC side event in which Professor Ruggie had participated, and it had indeed proved very successful. He urged the Office to respond to Professor Ruggie’s request for guidance on precarious work. The Workers were closely following the revision process of the *OECD Guidelines*, in which the Office should be fully engaged. Both processes had constituted a major push for the ILO to reaffirm its leadership on labour rights through the role played by its instruments, which were central to the debate. It was therefore high time for the Organization and the Office to start the process, which would enhance the promotion of the MNE Declaration. He thanked the Office for the shared insights and concerns on the newly adopted ISO 26000 standard. The Workers considered that the standard would be in line with ILO standards if it was correctly understood and applied. However, major questions remained concerning what would happen on the implementation side if a pick-and-choose attitude were adopted. He suggested a possible briefing session on the standard at a subsequent meeting of the Subcommittee. He wondered whether the ILO should ask the ISO for any resources if follow-up work were requested with respect to the labour chapter. He also confirmed that, according to the International Trade Union Confederation (ITUC), only the ILO had the mandate to set international standards in the world of work, and that the private sector should not replace public policy developed on the basis of tripartite dialogue. He emphasized that the Workers therefore “clearly refused” the concept that ISO 26000 could become an issue for “training courses, capacity building and assistance under ILO projects and activities, including through Decent Work Country Programmes” as stated in the Office document. While the ILO could assist the ISO in discharging its mandate, the Organization should be very clear about maintaining the use of its instruments for its own activities.

12. The Employer Vice-Chairperson commented on the rich and substantive work of the Office with regard to those international collaborative efforts. She congratulated the Office on its role in the ISO 26000 process and agreed with many of the concerns raised by the Office and the Worker Vice-Chairperson regarding the possible misuse of the standard. It should be made clear, in accordance with the ILO–ISO Memorandum of Understanding, that labour and employment came under the competence of the ILO and not of a private standard-setting organization without any formal representation of workers and employers. The standard must be carefully monitored, because it could potentially lead to a new proliferation of standards in the area, such as the proposed ISO standard on sustainable development and human resources management, creating even more confusion for enterprises and further fuelling the growth of the certification industry. CSR development was not helped by certification. The Governing Body should pronounce itself against that ISO proposed standard. She referred to the role of governments in standardization processes and said that confusion was possible regarding the precise nature of the new ISO 26000 standard. She stressed that the standard was voluntary and was a guidance document consisting of a checklist covering many fields, some of which were more relevant to business than others. Businesses should be made aware that it was a standard for guidance and not a standard for certification. She highlighted the statement issued on ISO 26000 by the German Government together with the German employers, stating that the standard was not to be used for certification and that any certification activity on the standard would constitute an abuse. With respect to the OECD revision process, it was important that the ILO had the right cooperation and voice in the process. The right collaboration should be sought. She recommended using the same approach as with the ISO to ensure that the OECD consulted the ILO on matters within its competence. The ILO should also consult its constituents throughout the process. She very much welcomed

the ILC side event involving Professor Ruggie and confirmed the Employers' participation in the consultative meetings with the Special Representative on implementing the UN Business and Human Rights Framework. With regard to the Workers' comments on Professor Ruggie's request for ILO guidance on precarious work, she stressed that the Employers were against extending the notion of human rights too far so as to include precarious work. While the issue of precarious work should be discussed within the ILO, it did not have a place within the Framework. She therefore did not support the Office proactively responding to Professor Ruggie's remark on precarious employment.

13. The representative of the Director-General took note of the comments on ISO 26000. Concerning Professor Ruggie's remark on precarious work, the Office had not provided input on that point and would act only if a formal request came directly from the Special Representative of the Secretary-General. With regard to the OECD revision process, the Office was acting in the framework of the long-standing ILO–OECD cooperation agreement. If the Officers of the Subcommittee wished to send a letter to the OECD, that action would have to be taken through the Governing Body. She proposed a further discussion among the Officers on the issue.
14. The representative of the Government of the Bolivarian Republic of Venezuela welcomed the engagement of the Office in the Business and Human Rights Framework discussions and reminded members that the MNE Declaration had been born out of UN discussions on human rights and business. He congratulated the Office on the ILC side event with Professor Ruggie, and thanked it for being creative and thinking out of the box in terms of the promotion of the MNE Declaration.
15. The representative of the Government of Argentina thanked the Office for the paper and for its recent appeal to the Government to conduct action-oriented research on the effect given to the MNE Declaration in Argentina. He also thanked the Office for sharing insights into ISO 26000 and supported the proposal for a more detailed briefing on the standard during the March 2011 session. He made a link between the standard and certification, pointing out that the ISO, as a private standard-setting organization, would want the standard to be used. It was important for the ILO to closely monitor possible developments on certification processes since, compared to other ISO standards, the one under discussion was far more complex and politically sensitive.
16. The representative of the Director-General thanked the Government representatives for their suggestions and expressed appreciation for the comments on how to be more creative in promoting the MNE Declaration, as that fed into the third part on the follow-up to the recommendations of the recurrent discussion on employment held in June 2010.
17. The representative of the Government of Kenya, speaking on behalf of the Africa group, welcomed the Office's involvement in the updating of the *OECD Guidelines* and the ILO's participation in the development of ISO 26000.
18. The representative of the Government of Nigeria had appreciated the UN Global Compact Leaders' Summit, which could have a positive effect on attaining the MDGs.

The 2010 ILC recurrent discussion on employment

19. The representative of the Director-General presented paragraphs 19 and 20 of the paper, and elaborated on the thinking behind the proposal. The Office had been successful in mainstreaming the MNE Declaration into other processes and those continued collaborations were examples of a positive realization of the ILO Declaration on Social

Justice for a Fair Globalization. However, more strategic thinking was needed in areas where the ILO could assert more leadership in respect of CSR. The ILO had last undertaken a major strategic review of CSR during the InFocus Initiative of 2006. Since then, the crisis had amplified States' interest in CSR and several high-profile initiatives had elevated the discourse, such as the new Framework developed by the Special Representative of the UN Secretary-General on Business and Human Rights, the adoption of ISO 26000 on social responsibility, and the updating of the *OECD Guidelines*. Furthermore, the United Nations was increasingly seeking to collaborate with business through public-private partnerships. Those developments called for fresh thinking by the Office about how best to ensure that the ILO remained relevant to a debate that was central to its mandate. However, the very limited time available during the Governing Body did not allow for a meaningful discussion that could lead to more strategic guidance for the Office. It was therefore proposed to establish a temporary, ad hoc working group to address those points and to undertake a review of the follow-up mechanism of the MNE Declaration, with a view to developing promotional options to be presented to the Governing Body. The proposal was reflected in the suggested point for decision.²

20. The Employer Vice-Chairperson thought the proposal was sensible as it would allow the ad hoc working group to look at key issues in depth. However, it should be made very clear that the ad hoc working group would report to the Subcommittee and did not have any authority to make decisions on its own.
21. The Worker Vice-Chairperson also welcomed the proposal. It was important to ensure that the ad hoc working group took an integrated approach. The Employers' and Workers' groups must be free to nominate anyone from their sides. He concurred with the Employer Vice-Chairperson that the ad hoc working group would report back to the Governing Body and stressed the ad hoc nature of the proposed working group, which would feed into existing decision-making structures.
22. The representative of the Government of Kenya, speaking on behalf of the Africa group, endorsed the point for decision. The work of the Office concerning multinational enterprises was very important as good practices by multinationals in the labour sphere could influence the operations of their suppliers, which were generally SMEs and enterprises operating in the informal economy. The representative of the Government of Nigeria concurred.
23. The representative of the Government of the United Kingdom supported the point for decision as far as it related to establishing an ad hoc working group. However, he questioned the value of a high-level activity in Geneva, as it would not have any impact on giving visibility to the MNE Declaration at the country level. He requested that a report be subsequently provided on the costs associated with the ad hoc working group.
24. The representative of the Government of Argentina, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), requested more information on establishing an ad hoc working group, including the impact on the budget. He wanted assurances that there would be no additional costs involved.
25. The representative of the Director-General clarified that the proposal for an ad hoc working group was independent of a proposal for a high-level activity, which could be deleted from paragraph 20. She explained that it was difficult to precisely cost the meetings of the ad hoc working group without first knowing where the participants would be travelling from but, in any event, it would be good to separate the question of whether

² GB.309/MNE/1, para. 20.

the Subcommittee supported the idea to form an ad hoc working group from the issue of cost. She reiterated that the Office intended to use resources from its existing budget, thus ensuring that no financial expenditure needed to be reported to the Programme, Financial and Administrative Committee before the Governing Body decided the matter. Once the composition of the working group was finalized, the Office could explore various alternatives to minimize costs.

26. The representative of the Government of Argentina, speaking on behalf of GRULAC, supported the idea of establishing an ad hoc working group but considered that the budget matters should be discussed during the following session of the Governing Body.
27. The representative of the Government of the Bolivarian Republic of Venezuela suggested eliminating the reference to a high-level activity, which was the expensive part of the proposal.
28. *Accordingly, the Subcommittee recommends that the Governing Body:*
 - (a) *establish a tripartite ad hoc working group of the Subcommittee, composed of three representatives each from the Workers' and Employers' groups and up to five Government representatives, to meet once prior to the 310th Session of the Governing Body in March 2011 and once prior to the 312th Session of the Governing Body in November 2011 for the purpose of undertaking a review of the follow-up mechanism of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy with a view to developing promotional options;*
 - (b) *request the Director-General to modify the Office's workplan to accommodate the costs of the ad hoc working group within existing resources; and*
 - (c) *request the Director-General to communicate a summary of the working group's views and recommendations on the promotional options for the follow-up mechanism to the Governing Body, through the MNE Subcommittee.*

Geneva, 10 November 2010

Point for decision: Paragraph 28