



Governing Body

312th Session, Geneva, November 2011

GB.312/POL/13

Policy Development Section
Multinational Enterprises Segment

POL

THIRTEENTH ITEM ON THE AGENDA

Update on strategic priorities 2010–11, including promotion of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in collaboration with intergovernmental and other international organizations

Overview

Summary

This paper updates the information provided in November 2010 and March 2011. It focuses on the Office's work in promoting the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy through collaboration with intergovernmental and other international organizations and highlights some of the policy implications arising from activities of such organizations.

Policy implications

See paragraphs 9, 12, 16, 20, 22 and 24.

Legal implications

None.

Financial implications

None.

Decision required

The document is submitted for debate and guidance.

Follow-up action required

Will depend on the guidance provided by the Governing Body.

Author unit

Multinational Enterprises Programme (EMP/MULTI).

References to other Governing Body documents and ILO instruments

GB.309/MNE/1; GB.310/MNE/1; GB.306/MNE/1; GB309/13(Rev.); GB.310/12(Rev.); GB.309/PV; dec-GB.311/7/2.

Introduction

1. This paper supplements the documents presented under this issue in November 2010¹ and March 2011.² The first one outlined overall strategic priorities and the second focused on ILO engagement with multinational enterprises. The present document provides an update on collaboration with other intergovernmental and international organizations on promotion of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), which was identified as one of the key means of action³ for realizing the strategic priorities endorsed by the Governing Body in November 2009.⁴
2. Several major multilateral institutions have recently developed or updated their respective instruments to address emerging trends, including the entry of new actors as a result of the shift of economic dynamism from West to East, increased South–South investment, and the growing proportion of small and medium-sized enterprises in global value chains.

Collaboration with intergovernmental and other international organizations

3. This section highlights recent work related to major intergovernmental instruments and initiatives, and to one private instrument (ISO 26000), in which the Office has engaged with respect to policy coherence and the integration of ILO principles.

Special Representative of the UN Secretary-General on Business and Human Rights

4. The Special Representative of the UN Secretary-General on Business and Human Rights, Professor John Ruggie, submitted his final report to the UN Human Rights Council in May 2011: *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*.⁵
5. The Framework,⁶ which was unanimously supported by the UN Human Rights Council in 2008, sets out three pillars for the protection of human rights: the duty of the State to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and greater access by victims to effective remedies, both judicial and non-judicial. The Guiding Principles set out in simplified form the three pillars and provide concise commentaries for each element to clearly illustrate the implications for States and business.

¹ GB.309/MNE/1.

² GB.310/MNE/1.

³ GB.309/MNE/1, para 3.

⁴ GB.306/MNE/1, para. 25.

⁵ Text available at <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>.

⁶ “*Protect, Respect and Remedy*”: *A Framework for Business and Human Rights*, Text available at: <http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf>.

6. Both the Framework and the Guiding Principles were developed based on extensive consultations with a wide range of business, trade union and civil society organizations totalling 47 international consultations, on all continents, as well as site visits to business operations and their local stakeholders in more than 20 countries. Both the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) were actively involved in the consultations. The Office was consulted on the development of the Framework, which includes references to the ILO Declaration on Fundamental Principles and Rights at Work and the MNE Declaration.
7. The Framework has become an important reference document on the roles of the State and business concerning human rights, and has been endorsed by individual governments, enterprises, business associations, civil society and workers' organizations, national human rights institutions and investors. The Guiding Principles, endorsed by the UN Human Rights Council in June 2011, are likely to further increase its influence.
8. The UN Human Rights Council also established follow-up mechanisms to the mandate of the Special Representative, including the creation of a new working group and an annual multistakeholder forum on business and human rights.⁷ In July 2011, the Office participated in a meeting on possible follow-up, sponsored by the Friedrich-Ebert-Stiftung Foundation, with the Office of the High Commissioner for Human Rights and the ITUC.

Implications for the ILO

9. Both workers' and employers' organizations welcomed the Guiding Principles as an important complement to the Framework. They give significant visibility to the fundamental principles and rights at work. However, the Guiding Principles do not establish a mechanism for coordination with the ILO in this regard nor do they refer to the MNE Declaration. At an operational level, the Framework and Guiding Principles thus risk causing confusion about what is within the mandate of the UN Human Rights Council and within the ILO. In this regard, the Office has informally agreed with the Office of the High Commissioner for Human Rights to pursue cooperation and coordination to ensure that technical issues are addressed within each agency's respective mandate. However, given the high level of international interest in implementation of the Framework, there might be considerable unforeseen staff resource demands during the next biennium.

Organisation for Economic Co-operation and Development (OECD)

10. The OECD adopted the updated text of the Guidelines for Multinational Enterprises in May 2011. The updating process involved the 42 governments adhering to the Guidelines, as well as intensive consultations with a wide range of stakeholders. The ILO provided technical assistance to the OECD throughout the process, further strengthening collaboration. Employers and workers were actively engaged in the process through the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC), and have endorsed the updated Guidelines.
11. The text of the updated Guidelines is closer to the text of the MNE Declaration than before the revision. It also takes into account some international labour standards adopted since 2006, such as the Employment Relationship Recommendation, 2006 (No. 198), and the HIV and AIDS Recommendation, 2010 (No. 200). A new section on human rights incorporates many of the concepts set out in the UN "*Protect, Respect and Remedy*":

⁷ See A/HRC/17/L.17/Rev.1, paras 6 and 13.

A Framework for Business and Human Rights, including the text on application of the Guidelines to supply chains and on due diligence. The update also includes additional guidance to the OECD National Contact Points (NCPs) responsible for the implementation of the Guidelines in adhering countries.

Implications for the ILO

12. The strong coherence of the Guidelines with the MNE Declaration helps to further promote the latter and is a positive example of inter-institutional collaboration. Discussions on activities to jointly promote the ILO and OECD instruments are under way – building on the revived interest in the *OECD Guidelines* to increase awareness of the MNE Declaration and encouraging NCPs to make use of the technical expertise available through the ILO Helpdesk for business on international labour standards.

UN Global Compact (UNGC)

13. The UNGC follow-up mechanism, communications on progress, now distinguishes between participants that are “Global Compact Active” and “Global Compact Advanced”. Non-reporting participants continue to be excluded. To date, some 2,400 companies, representing 24 per cent of all corporate participants, have been expelled for failure to submit a communication on progress. In January 2011, the UN Secretary-General launched the Global Compact LEAD⁸ initiative for companies playing a leading role with regard to UNGC issues, initiatives and local networks, as well as in partnering on the Millennium Development Goals (MDGs), other UN goals and development issues in general. LEAD companies pay an elevated annual fee and commit for a minimum of two years. The Children’s Rights and Business Principles Initiative, developed with UNICEF and Save the Children⁹ is in the final drafting process and will be launched in November as part of the anniversary of the UN Convention on the Rights of the Child. The Women’s Empowerment Principles, which were developed with the UN Entity for Gender Equality and the Empowerment of Women (UN Women) and launched in March 2010, are gaining further momentum as more chief executive officers are signing up in support.¹⁰
14. *The Labour Principles of the UN Global Compact: A Guide for Business*, produced by the UNGC Labour Working Group, has been translated into French, Spanish, Russian and Arabic.¹¹ The Office also facilitates and provides technical inputs into joint ILO–UNGC “webinars” on the labour principles¹² and continues to provide technical inputs for local

⁸ For more details on the action platform and the list of “LEAD companies” see <http://www.unglobalcompact.org/news/96-01-28-2011>.

⁹ For the draft text of the principles and consultation process, see http://www.unglobalcompact.org/Issues/human_rights/childrens_principles.html.

¹⁰ See http://www.unglobalcompact.org/Issues/human_rights/equality_means_business.html.

¹¹ See http://www.unglobalcompact.org/Issues/Labour/Tools_Guidance_Materials.html

¹² A “webinar” is a workshop or lecture conducted on the Internet. ILO webinars, open to all constituents, include “Equal pay for work of equal value – How do we get there?” (29 March 2011), “Children and youth in hazardous work/WDAFL 2011” (24 May 2011), “Disability in the workplace and the ILO Global Business and Disability network” (29 June 2011).

networks' activities concerning these principles. During the May 2011 UNGC week,¹³ the Office organized a meeting of the Labour Working Group, chaired by the IOE and the ITUC, in which representatives of the local networks and companies discussed lessons learned and challenges with respect to the labour principles. Activities related to these principles were also reported on during the plenary session, attracting some 450 participants.

15. The UNGC Office recently issued a guidance note for the local networks to enhance the participation of national employers' and workers' organizations at the country level so as to reflect the multistakeholder approach of the initiative at the global level.

Implications for the ILO

16. The UNGC and the Labour Working Group provide convening mechanisms for the promotion of ILO principles, information, tools and resources among business participants. The UNGC produces a very high volume of tools, resources and initiatives, many of which, in particular those of the Human Rights Working Group, relate to labour issues. As guardian of the labour principles, the ILO is often challenged to keep track of these, making it difficult to provide inputs based on consultation with the social partners.

European Commission Communication on corporate social responsibility (CSR)

17. The European Commission has issued two policy documents on CSR.¹⁴ Since 2002, it has convened an annual European Multistakeholder Forum on CSR with the aim to promote an increased understanding of CSR in the European Union (EU) by fostering a dialogue between the business community, trade unions, civil society organizations and other stakeholders.
18. In March 2010, the European Commission committed to "renew the EU strategy to promote CSR as a key element in ensuring long-term employee and consumer trust".¹⁵ In November 2010, the European Commission convened a meeting of the European Multistakeholder Forum on CSR¹⁶ to exchange views about the scope and content of a new European policy initiative in the field of CSR. The ILO and representatives of its constituents participated in the panel "The global dimension of CSR, including trade and development policies", highlighting the relevance of ILO standards and MNE Declaration for the normative and developmental impacts of European companies' operations outside the EU.

¹³ For more information on the UNGC week, see http://www.unglobalcompact.org/NewsAndEvents/global_compact_week.html.

¹⁴ *Corporate social responsibility: A business contribution to sustainable development* (July 2002) see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0347:FIN:en:PDF> and *Implementing the partnership for growth and jobs: Making Europe a pole of excellence on corporate social responsibility* (Mar. 2006), see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0136:FIN:en:PDF>.

¹⁵ See "European policy" in http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm.

¹⁶ For further information and minutes of the meeting, see http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/multi-stakeholder-forum/2010-meetings/index_en.htm.

19. The new communication on CSR is expected to be published in September 2011 and cover areas such as responsible consumption and production, CSR in public procurement, responsible investment, innovation and competitiveness, transparency, disclosure of environmental, social and governance information in addition to financial reporting by companies, human rights (incorporating the UN “*Protect, Respect and Remedy*” *Framework for Business and Human Rights*) and the global dimension of CSR. This last area could include reference to international guidance instruments such as the MNE Declaration and the *OECD Guidelines*, and cover the contribution companies can make to development goals.

Implications for the ILO

20. This new European Commission communication on CSR could provide an additional platform for the promotion of the MNE Declaration among European companies as a guidance instrument outlining responsibilities of governments and enterprises to maximize the positive contribution of their operations to social and economic development. The European Commission has indicated that it would in future apply more resources to the promotion of standards and CSR policy coherence. Non-financial reporting, including on labour standards, may increasingly be made compulsory in EU Member States’ policies.

International Organization for Standardization (ISO)

21. The ISO guidance document on social responsibility (ISO 26000), adopted in November 2010, is becoming an important reference instrument, particularly for other organizations. For instance, the ISO participated in discussions on the update of the *OECD Guidelines*. The text of ISO 26000 is compatible with ILO instruments and, if implemented consistently with the principles underlying the instruments, a means for promoting the importance of authoritative intergovernmental instruments and specifically international labour standards. Although ISO 26000 is not for certification, some national standards bodies (for example in Denmark and the Netherlands) have adapted ISO 26000 into a national certifiable standard. The ILO continues to support the ISO’s efforts to avoid further proliferation of certifiable standards which undermine the stated intent of ISO 26000 not to be for certification.

Implications for the ILO

22. During the 309th Session of the Governing Body (November 2010), the Workers expressed concern about the Office undertaking activities concerning ISO 26000, such as training.¹⁷ Since then, the Office has received several requests for assistance in better understanding the human rights and labour components of ISO 26000, including one request from an employers’ organization, which the Office has turned down. The Governing Body may wish to address the question of whether the Office should provide limited technical support, upon request, concerning the relationship between ISO 26000 and ILO instruments in order to promote the ILO’s values and interests among the constituents concerned.

¹⁷ GB.309/13(Rev.), para. 11.

Inter-agency Working Group on the Private Investment and Job Creation Pillar of the G20 Multi-year Action Plan on Development (IAWG)

23. As a member of the IAWG¹⁸ to support the G20 High-Level Development Working Group with respect to the private investment and job creation pillar of the multi-year action plan on development, the Office provided technical advice in the preparation of a report on *Promoting standards for responsible investment in value chains*,¹⁹ foreseen for interim discussion at the 2011 Summit of the G20.²⁰ The final report is expected in 2012. The G20 had requested the IAWG to take stock of existing standards of sustainable business conduct; to identify key issues with the current universe of standards; and to draw lessons for the further development, promotion and implementation of these standards. The report states that “Universal principles as recognized by international declarations and agreements are the source of the most prominent and authoritative CSR standards”,²¹ and puts prominent emphasis on the MNE Declaration and the *OECD Guidelines* as the leading instruments directed to business. The Office also provided technical input at an expert workshop of the same title organized by the German Federal Ministry for Economic Cooperation and Development in June.²²

Implications for the ILO

24. The report calls for, inter alia, further collaboration and coordination among intergovernmental agencies in the area of responsible investment in value chains. Collaboration efforts on the preparation of the report led to a strengthening of partnerships including new joint promotional and research activities with other IAWG members, in particular OECD and UNCTAD in the near term.

Mainstreaming the MNE Declaration into existing work of the Office

25. As a follow-up to the first meeting of the Ad Hoc Working Group of the MNE Subcommittee of the Governing Body held in February 2011, it was agreed that the Office would investigate and report to the Working Group on: (i) the options available that could incorporate a universal follow-up to national tripartite action to promote the MNE Declaration; and (ii) how the principles of the MNE Declaration could most effectively and systematically be mainstreamed into existing work within ILO departments,²³ including

¹⁸ The IAWG comprises representatives of UNCTAD (coordinator), UNDP, ILO, OECD and the World Bank, as well as the co-facilitators of the Private Investment and Job Creation Pillar (Germany and Saudi Arabia) and other invited organizations.

¹⁹ See http://www.moital.gov.il/NR/rdonlyres/0D794CF9-4710-44A7-89C5-53EAF0797459/0/G20_CSRStandards_Report.pdf.

²⁰ The next summit of the G20 is scheduled to take place in Cannes, France, on 3–4 November 2011.

²¹ IAWG: *Promoting standards for responsible investment in value chains*, item 1, report to the High-Level Development Working Group, June 2011, p. 5.

²² See <http://gc21.inwent.org/ibt/GC21/area=gc21/main/en/modules/gc21/ws-dialogues-portal/info/ibt/PDF/2011-06-24-TN-Liste.pdf>.

²³ GB310/12(Rev.), para. 7.

sectoral activities and public–private partnerships. The Ad Hoc Working Group is to hold its second and final meeting to review findings in September 2011 and will present recommendations to the Governing Body at its 313th Session in March 2012 on its review of the follow-up mechanism of the MNE Declaration with a view to developing promotional options.²⁴

26. The ILO Helpdesk for business on international labour standards has significantly contributed to the visibility and mainstreaming of the MNE Declaration. It has provided expert technical advice on a free and confidential basis to users seeking guidance on implementation of international labour standards and principles of the MNE Declaration. During the period from 15 March 2009 to 15 August 2011, it responded to 477 queries. Users include workers, employers, governments, voluntary initiatives, trade unions and NGOs from across regions and economic sectors. The operation of the Helpdesk is guided by a tripartite advisory group. To increase outreach, the Helpdesk’s website was launched in late 2010 in English, and in spring 2011 in French and Spanish. It provides users with access to a wide range of questions and answers processed by the Helpdesk and with links to an array of ILO tools designed for a business audience. Thanks to the successful promotion through employers’ and workers’ organizations, ILO field offices, the UNGC, and a range of non-governmental organizations, the site attracted 12,650 visitors (55 per cent of these unique) from all regions in its first eight months of operations. Top referring sites include those of the UNGC, the Better Work Programme and the International Training Centre of the ILO, Turin. A detailed overview of the Helpdesk’s activities is available on the Governing Body website.²⁵

Points for discussion and guidance

27. The Governing Body is invited to express its views on ILO collaboration with intergovernmental and other international organizations to promote the principles of the MNE Declaration.

Geneva, 16 September 2011

²⁴ GB.309/PV, para. 311 and dec-GB.311/7/2.

²⁵ See GB.312/POL/13/REF.