# 2 Tripartite ILO-verklaring inzake multinationale ondernemingen en sociaal beleid

## 2.1 Beschrijving en toelichting

De verklaring werd oorspronkelijk in 1977 opgesteld door regeringen en werkgevers- en werknemersorganisaties en werd vervolgens in 2000 herzien, waarbij ook de fundamentele beginselen en rechten op het werk werden opgenomen. Meer recent werd de verklaring in 2006 aangepast om de verwijzingen naar andere ILO-instrumenten bij te werken.

*Belang van de verklaring*
De tripartite ILO-verklaring inzake multinationale ondernemingen (MNE declaration) is van belang omdat het een zeer brede internationale tripartiete consensus verwoordt ten aanzien van wenselijk gedrag van ondernemingen op het gebied van arbeid en sociaal beleid.

*Doel van de verklaring*
De verklaring is erop gericht de positieve bijdrage die mno's kunnen leveren aan economische en maatschappelijke vooruitgang te stimuleren, en de problemen die voortvloeien uit hun bedrijfsactiviteiten te minimaliseren en op te lossen. De uitgangspunten van de ILO-verklaring zijn bedoeld als richtlijnen voor multinationals, regeringen, werkgeversorganisaties en vakbonden voor de vormgeving van het sociaal beleid en als inspiratiebron voor multinationals om good practices in te voeren

*Relatie met andere elementen normatieve kader*
De ILO-verklaring integreert de belangrijkste ILO-verklaringen en conventies en dus ook de fundamentele arbeidsnormen. De verklaring expliciteert wat op dit vlak van de mno's mag worden verwacht. De ILO-verklaring bevat de meest omvattende samenvatting van arbeidsrechten die van belang zijn voor mno's. De belangrijkste punten daarvan zijn ook opgenomen in deel IV van de OECD-richtlijnen voor multinationale ondernemingen over werkgelegenheid en arbeidsverhoudingen.

*Tot wie richt zich de verklaring?*
De verklaring bevat zowel aanbevelingen aan overheden als naar mno's. In de verklaring is opgenomen (paragraaf 6) dat het doel van de verklaring geen nauwkeurige definitie van een multinationale onderneming vereist. In algemene zin verstaat de verklaring onder een multinationale onderneming een onderneming die activiteiten ontplooit op het terrein van productie, distributie, diensten of anderszins in andere landen dan het vestigingsland. De eigendomsvorm van de onderneming doet er daarbij niet toe. De aanbevelingen zijn bedoeld voor alle onderdelen van mno's (moedermaatschappij en/of lokale vestigingen). Afhankelijk van de feitelijke verdeling van verantwoordelijkheden

worden de verschillende onderdelen geacht samen te werken en elkaar te helpen bij het handhaven van de normen.
De verklaring heeft niet de bedoeling om aan multinationals hogere eisen op te leggen dan aan nationaal opererende bedrijven. Dit zou hun concurrentiepositie kunnen schaden. Daarom is uitdrukkelijk bepaald dat de verklaring niet de bedoeling heeft om te discrimineren tussen multinationaal en nationaal opererende bedrijven: de in de verklaring neergelegde verwachtingen en principes gelden voor alle bedrijven.

*Elementen verklaring ten aanzien van verwachtingen gedrag mno's*
Het onderstaande geeft een overzicht van de aanbevelingen naar multinationale ondernemingen.

**Uitgangspunten en mensenrechten:** Respecteer nationale wetgeving en relevante internationale normen zoals de Verklaring universele mensenrechten. Draag bij aan de realisatie van de fundamentele arbeidsnormen. Raadpleeg de overheid en sociale partners om te verzekeren dat activiteiten aansluiten bij de ontwikkelingsprioriteiten en sociale doelstellingen en structuur van het gastland.

**Werkgelegenheid:** Steef naar verbetering werkgelegenheidskansen en normen, werkzekerheid en lange-termijnontwikkeling van de onderneming. Geef prioriteit aan de tewerkstelling, training en promotie van lokale mensen. Maak zo veel mogelijk gebruik van lokale afnemers. Pas het principe van gelijke behandeling overal toe. Streef naar stabiele arbeidsplaatsen en geef hierbij een voorbeeldfunctie. Maak tijdig melding bij ontslag en vermijd arbitrair ontslag.

**Training:** Geef relevante trainingen aan werknemers op alle niveaus zowel met oog op belangen van het bedrijf als met het oog op de ontwikkeling van het gastland. Draag bij aan programma's gericht op training, vaardigheidsontwikkeling en beroepskeuze.
Geef waar mogelijk ruimte aan lokaal management om ervaringen op te doen op terreinen als arbeidsverhoudingen.

**Arbeids- en leefomstandigheden:** Bied geen lonen, voorzieningen en arbeidsomstandigheden aan die minder gunstig zijn dan die van vergelijkbare ondernemingen in het gastland. Als er geen vergelijkbare werkgevers bestaan, streef dan naar het aanbieden van zo goed mogelijke lonen, voorzieningen en arbeidsomstandigheden, overeenkomstig het overheidsbeleid en gericht op de basisbehoefte van werknemers en hun gezinnen. Respecteer de minimumleeftijd voor tewerkstelling. Doe al het mogelijke om de ergste vormen van kinderarbeid uit te bannen. Hanteer de hoogst mogelijke veiligheids- en gezondheidsnormen, wees transparant over de gehanteerde normen en onderzoek mogelijke risico's.

**Arbeidsverhoudingen**: Hanteer geen normen op het terrein van de arbeidsverhoudingen die minder gunstig zijn dan die van ondernemingen in het gastland. Geef werknemers het recht om zich te organiseren en om collectieve onderhandelingen te voeren en bescherm hen tegen anti-vakbondsdiscriminatie. Steun representatieve lokale werkgeversorganisaties. Dreig niet met overplaatsing van mensen of bedrijfsonderdelen om in goeder trouw gevoerde onderhandelingen onbillijk te beïnvloeden of om werknemers te verhinderen om zich te organiseren. Zorg dat de vertegenwoordigers van werknemers over relevante informatie over de onderneming beschikken om betekenisvolle onderhandelingen te voeren en zich een beeld te vormen van de onderneming. Voer regelmatig overleg met werknemers over zaken van wederzijds belang. Zorg voor een goede klachtenregeling.

*Toezichtmechanismen*

Het bestuur van de ILO heeft in 1993 het zogeheten Subcommittee on Multinational Enterprises ingesteld als onderdeel van het Committee on Legal Issues and International Labour Standards. Het mandaat van dit comité bestaat uit het doen van periodiek onderzoek naar de doorwerking van de verklaring en het uitleg geven aan de bepalingen van de verklaring.

International Labour Organization

# TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY

*(adopted by the Governing Body of the International Labour Office at its 204th Session (Geneva, November 1977) as amended at its 279th (November 2000) and 295th Session(March 2006))*

The Governing Body of the International Labour Office;

Recalling that the International Labour Organization for many years has been involved with certain social issues related to the activities of multinational enterprises;

Noting in particular that various Industrial Committees, Regional Conferences, and the International Labour Conference since the mid-1960s have requested appropriate action by the Governing Body in the field of multinational enterprises and social policy;

Having been informed of the activities of other international bodies, in particular the UN Commission on Transnational Corporations and the Organization for Economic Cooperation and Development (OECD);

Considering that the ILO, with its unique tripartite structure, its competence, and its long-standing experience in the social field, has an essential role to play in evolving principles for the guidance of governments, workers' and employers' organizations, and multinational enterprises themselves;

Recalling that it convened a Tripartite Meeting of Experts on the Relationship between Multinational Enterprises and Social Policy in 1972, which recommended an ILO programme of research and study, and a Tripartite Advisory Meeting on the Relationship of Multinational Enterprises and Social Policy in 1976 for the purpose of reviewing the ILO programme of research and suggesting appropriate ILO action in the social and labour field;

Bearing in mind the deliberations of the World Employment Conference;

Having thereafter decided to establish a tripartite group to prepare a Draft Tripartite Declaration of Principles covering all of the areas of ILO concern which relate to the social aspects of the activities of multinational enterprises, including employment creation in the developing countries, all the while bearing in mind the recommendations made by the Tripartite Advisory Meeting held in 1976;

Having also decided to reconvene the Tripartite Advisory Meeting to consider the Draft Declaration of Principles as prepared by the tripartite group;

Having considered the Report and the Draft Declaration of Principles submitted to it by the reconvened Tripartite Advisory Meeting;

Hereby approves the following Declaration which may be cited as the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the International Labour Office, and invites governments of States Members of the ILO, the employers' and workers' organizations concerned and the multinational enterprises operating in their territories to observe the principles embodied therein.

1. Multinational enterprises play an important part in the economies of most countries and in international economic relations. This is of increasing interest to governments as well as to employers and workers and their respective organizations. Through international direct investment and other means such enterprises can bring substantial benefits to home and host countries by contributing to the more efficient utilization of capital, technology and labour. Within the framework of

development policies established by governments, they can also make an important contribution to the promotion of economic and social welfare; to the improvement of living standards and the satisfaction of basic needs; to the creation of employment opportunities, both directly and indirectly; and to the enjoyment of basic human rights, including freedom of association, throughout the world. On the other hand, the advances made by multinational enterprises in organizing their operations beyond the national framework may lead to abuse of concentrations of economic power and to conflicts with national policy objectives and with the interest of the workers. In addition, the complexity of multinational enterprises and the difficulty of clearly perceiving their diverse structures, operations and policies sometimes give rise to concern either in the home or in the host countries, or in both.

2. The aim of this Tripartite Declaration of Principles is to encourage the positive contribution which multinational enterprises can make to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise, taking into account the United Nations resolutions advocating the establishment of a New International Economic Order, as well as subsequent developments within the United Nations, for example, the Global Compact and the Millennium Development Goals.

3. This aim will be furthered by appropriate laws and policies, measures and actions adopted by the governments and by cooperation among the governments and the employers' and workers' organizations of all countries.

4. The principles set out in this Declaration are commended to the governments, the employers' and workers' organizations of home and host countries and to the multinational enterprises themselves.

5. These principles are intended to guide the governments, the employers' and workers' organizations and the multinational enterprises in taking such measures and actions and adopting such social policies, including those based on the principles laid down in the Constitution and the relevant Conventions and Recommendations of the ILO, as would further social progress.

6. To serve its purpose this Declaration does not require a precise legal definition of multinational enterprises; this paragraph is designed to facilitate the understanding of the Declaration and not to provide such a definition. Multinational enterprises include enterprises, whether they are of public, mixed or private ownership, which own or control production, distribution, services or other facilities outside the country in which they are based. The degree of autonomy of entities within multinational enterprises in relation to each other varies widely from one such enterprise to another, depending on the nature of the links between such entities and their fields of activity and having regard to the great diversity in the form of ownership, in the size, in the nature and location of the operations of the enterprises concerned. Unless otherwise specified, the term "multinational enterprise" is used in this Declaration to designate the various entities (parent companies or local entities or both or the organization as a whole) according to the distribution of responsibilities among them, in the expectation that they will cooperate and provide assistance to one another as necessary to facilitate observance of the principles laid down in the Declaration.

7. This Declaration sets out principles in the fields of employment, training, conditions of work and life and industrial relations which governments, employers' and workers' organizations and multinational enterprises are recommended to observe on a voluntary basis; its provisions shall not limit or otherwise affect obligations arising out of ratification of any ILO Convention.

## GENERAL POLICIES

8. All the parties concerned by this Declaration should respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards. They should respect the Universal Declaration of Human Rights and the corresponding International Covenants adopted by the General Assembly of the United Nations as well as the Constitution of the International Labour Organization and its principles according to which freedom of expression and association are essential to sustained progress. They should contribute to the realization of the ILO Declaration on Fundamental Principles and Rights and Work and its Follow-up, adopted in 1998. They should also honour commitments which they have freely entered into, in conformity with the national law and accepted international obligations.

9. Governments of States which have not yet ratified Conventions Nos. 29, 87, 98, 100, 105, 111, 122, 138 and 182 are urged to do so and in any event to apply, to the greatest extent possible, through their national policies, the principles embodied therein and in Recommendations Nos. 35, 90, 111, 119, 122, 146, 169, 189 and 190[1]. Without prejudice to the obligation of governments to ensure compliance with Conventions they have ratified, in countries in which the Conventions and Recommendations cited in this paragraph are not complied with, all parties should refer to them for guidance in their social policy.

10. Multinational enterprises should take fully into account established general policy objectives of the countries in which they operate. Their activities should be in harmony with the development priorities and social aims and structure of the country in which they operate. To this effect, consultations should be held between multinational enterprises, the government and, wherever appropriate, the national employers' and workers' organizations concerned.

11. The principles laid down in this Declaration do not aim at introducing or maintaining inequalities of treatment between multinational and national enterprises. They reflect good practice for all. Multinational and national enterprises, wherever the principles of this Declaration are relevant to both, should be subject to the same expectations in respect of their conduct in general and their social practices in particular.

12. Governments of home countries should promote good social practice in accordance with this Declaration of Principles, having regard to the social and labour law, regulations and practices in host countries as well as to relevant international standards. Both host and home country governments should be prepared to have consultations with each other, whenever the need arises, on the initiative of either.

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1 Convention (No. 29) concerning Forced or Compulsory Labour; Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise; Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention (No. 105) concerning the Abolition of Forced Labour; Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation; Convention (No. 122) concerning Employment Policy; Convention (No. 138) concerning Minimum Age for Admission to Employment; Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Recommendation (No. 35) concerning Indirect Compulsion to Labour; Recommendation (No. 90) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Recommendation (No. 111) concerning Discrimination in Respect of Employment and Occupation; Recommendation (No. 119) concerning Termination of Employment at the Initiative of the Employer; Recommendation (No. 122) concerning Employment Policy; Recommendation (No. 146) concerning Minimum Age for Admission to Employment; Recommendation (No. 169) concerning Employment Policy; Recommendation (No. 189) concerning General Conditions to stimulate Job Creation in Small and Medium-Sized Enterprises; Recommendation (No. 190) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

## EMPLOYMENT

*Employment promotion*

13. With a view to stimulating economic growth and development, raising living standards, meeting manpower requirements and overcoming unemployment and underemployment, governments should declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.[2]

14. This is particularly important in the case of host country governments in developing areas of the world where the problems of unemployment and underemployment are at their most serious. In this connection, the general conclusions adopted by the Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour (Geneva, June 1976),[3] and the Global Employment Agenda (Geneva, March 2003)[4] should be kept in mind.

15. Paragraphs 13 and 14 above establish the framework within which due attention should be paid, in both home and host countries, to the employment impact of multinational enterprises.

16. Multinational enterprises, particularly when operating in developing countries, should endeavour to increase employment opportunities and standards, taking into account the employment policies and objectives of the governments, as well as security of employment and the long-term development of the enterprise.

17. Before starting operations, multinational enterprises should, wherever appropriate, consult the competent authorities and the national employers' and workers' organizations in order to keep their manpower plans, as far as practicable, in harmony with national social development policies. Such consultation, as in the case of national enterprises, should continue between the multinational enterprises and all parties concerned, including the workers' organizations.

18. Multinational enterprises should give priority to the employment, occupational development, promotion and advancement of nationals of the host country at all levels in cooperation, as appropriate, with representatives of the workers employed by them or of the organizations of these workers and governmental authorities.

19. Multinational enterprises, when investing in developing countries, should have regard to the importance of using technologies which generate employment, both directly and indirectly. To the extent permitted by the nature of the process and the conditions prevailing in the economic sector concerned, they should adapt technologies to the needs and characteristics of the host countries. They should also, where possible, take part in the development of appropriate technology in host countries.

20. To promote employment in developing countries, in the context of an expanding world economy, multinational enterprises, wherever practicable, should give consideration to the conclusion of contracts with national enterprises for the manufacture of parts and equipment, to the use of local raw materials and to the progressive promotion of the local processing of raw materials. Such arrangements should not be used by multinational enterprises to avoid the responsibilities embodied in the principles of this Declaration.

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2 Convention (No. 122) and Recommendation (No. 122) concerning Employment Policy; Recommendation (No. 169) concerning Employment Policy; and Recommendation (No. 189) concerning General Conditions to stimulate Job Creation in Small and Medium-Sized Enterprises.

3 ILO, World Employment Conference, Geneva, 4-17 June 1976.

4 ILO Global Employment Agenda, 2003, ILO, Geneva.

*Equality of opportunity and treatment*

21. All governments should pursue policies designed to promote equality of opportunity and treatment in employment, with a view to eliminating any discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin.[5]

22. Multinational enterprises should be guided by this general principle throughout their operations without prejudice to the measures envisaged in paragraph 18 or to government policies designed to correct historical patterns of discrimination and thereby to extend equality of opportunity and treatment in employment.[6] Multinational enterprises should accordingly make qualifications, skill and experience the basis for the recruitment, placement, training and advancement of their staff at all levels.

23. Governments should never require or encourage multinational enterprises to discriminate on any of the grounds mentioned in paragraph 21, and continuing guidance from governments, where appropriate, on the avoidance of such discrimination in employment is encouraged.

*Security of employment*

24. Governments should carefully study the impact of multinational enterprises on employment in different industrial sectors. Governments, as well as multinational enterprises themselves, in all countries should take suitable measures to deal with the employment and labour market impacts of the operations of multinational enterprises.

25. Multinational enterprises equally with national enterprises, through active manpower planning, should endeavour to provide stable employment for their employees and should observe freely negotiated obligations concerning employment stability and social security. In view of the flexibility which multinational enterprises may have, they should strive to assume a leading role in promoting security of employment, particularly in countries where the discontinuation of operations is likely to accentuate long-term unemployment.

26. In considering changes in operations (including those resulting from mergers, take-overs or transfers of production) which would have major employment effects, multinational enterprises should provide reasonable notice of such changes to the appropriate government authorities and representatives of the workers in their employment and their organizations so that the implications may be examined jointly in order to mitigate adverse effects to the greatest possible extent. This is particularly important in the case of the closure of an entity involving collective lay-offs or dismissals.

27. Arbitrary dismissal procedures should be avoided.[7]

28. Governments, in cooperation with multinational as well as national enterprises, should provide some form of income protection for workers whose employment has been terminated.[8]

5 Convention (No. 111) and Recommendation (No. 111) concerning Discrimination in Respect of Employment and Occupation; Convention (No. 100) and Recommendation (No. 90) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value.

6 See the two following ILO codes of practice: *HIV/AIDS and the world of work*, ILO code of practice, 2001, ILO, Geneva; *Managing disability in the workplace*, ILO code of practice, 2002, ILO, Geneva.

7 Recommendation (No. 119) concerning Termination of Employment at the Initiative of the Employer.

8 ibid.

## TRAINING

29. Governments, in cooperation with all the parties concerned, should develop national policies for vocational training and guidance, closely linked with employment.[9] This is the framework within which multinational enterprises should pursue their training policies.

30. In their operations, multinational enterprises should ensure that relevant training is provided for all levels of their employees in the host country, as appropriate, to meet the needs of the enterprise as well as the development policies of the country. Such training should, to the extent possible, develop generally useful skills and promote career opportunities. This responsibility should be carried out, where appropriate, in cooperation with the authorities of the country, employers' and workers' organizations and the competent local, national or international institutions.

31. Multinational enterprises operating in developing countries should participate, along with national enterprises, in programmes, inluding special funds, encouraged by host governments and supported by employers' and workers' organizations. These programmes should have the aim of encouraging skill formation and development as well as providing vocational guidance, and should be jointly administered by the parties which support them. Wherever practicable, multinational enterprises should make the services of skilled resource personnel available to help in training programmes organized by governments as part of a contribution to national development.

32. Multinational enterprises, with the cooperation of governments and to the extent consistent with the efficient operation of the enterprise, should afford opportunities within the enterprise as a whole to broaden the experience of local management in suitable fields such as industrial relations.

## CONDITIONS OF WORK AND LIFE

*Wages, benefits and conditions of work*

33. Wages, benefits and conditions of work offered by multinational enterprises should be not less favourable to the workers than those offered by comparable employers in the country concerned.

34. When multinational enterprises operate in developing countries, where comparable employers may not exist, they should provide the best possible wages, benefits and conditions of work, within the framework of government policies.[10] These should be related to the economic position of the enterprise, but should be at least adequate to satisfy basic needs of the workers and their families. Where they provide workers with basic amenities such as housing, medical care or food, these amenities should be of a good standard.[11]

35. Governments, especially in developing countries, should endeavour to adopt suitable measures to ensure that lower income groups and less developed areas benefit as much as possible from the activities of multinational enterprises.

9 Convention (No. 142) concerning Human Resources Development and Recommendation (No. 195) concerning Human Resources Development: Education, Training and Lifelong Learning, recalling the voluntary nature of the substance and levels of collective bargaining.

10 Recommendation (No. 116) concerning Reduction of Hours of Work.

11 Convention (No. 110) and Recommendation (No. 110) concerning Conditions of Employment of Plantation Workers; Recommendation (No. 115) concerning Workers' Housing; Recommendation (No. 69) concerning Medical Care; Convention (No. 130) and Recommendation (No. 134) concerning Medical Care and Sickness Benefits.

*Minimum age*

36. Multinational enterprises, as well as national enterprises, should respect the minimum age for admission to employment or work in order to secure the effective abolition of child labour and should take immediate and effective measures within their own competence to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.[12]

*Safety and health*

37. Governments should ensure that both multinational and national enterprises provide adequate safety and health standards for their employees. Those governments which have not yet ratified the ILO Conventions on Guarding of Machinery (No. 119), Ionising Radiation (No. 115), Benzene (No. 136) and Occupational Cancer (No. 139) are urged nevertheless to apply to the greatest extent possible the principles embodied in these Conventions and in their related Recommendations (Nos. 118, 114, 144 and 147). The list of occupational diseases and the codes of practice and guides in the current list of ILO publications on occupational safety and health should also be taken into account.[13]

38. Multinational enterprises should maintain the highest standards of safety and health, in conformity with national requirements, bearing in mind their relevant experience within the enterprise as a whole, including any knowledge of special hazards. They should also make available to the representatives of the workers in the enterprise, and upon request, to the competent authorities and the workers' and employers' organizations in all countries in which they operate, information on the safety and health standards relevant to their local operations, which they observe in other countries. In particular, they should make known to those concerned any special hazards and related protective measures associated with new products and processes. They, like comparable domestic enterprises, should be expected to play a leading role in the examination of causes of industrial safety and health hazards and in the application of resulting improvements within the enterprise as a whole.

39. Multinational enterprises should cooperate in the work of international organizations concerned with the preparation and adoption of international safety and health standards.

40. In accordance with national practice, multinational enterprises should cooperate fully with the competent safety and health authorities, the representatives of the workers and their organizations, and established safety and health organizations. Where appropriate, matters relating to safety and health should be incorporated in agreements with the representatives of the workers and their organizations.

12 Convention No. 138, Article 1; Convention No. 182, Article 1.

13 Recommendation (No. 194) concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases. The ILO Conventions and Recommendations referred to are listed in the Catalogue of ILO Publications on Occupational Safety and Health, ed. 2000, ILO, Geneva. See also <http://www.ilo.org/public/english/protection/safework/publicat/index.htm.

## INDUSTRIAL RELATIONS

41. Multinational enterprises should observe standards of industrial relations not less favourable than those observed by comparable employers in the country concerned.

*Freedom of association and the right to organize*

42. Workers employed by multinational enterprises as well as those employed by national enterprises should, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorisation.[14]They should also enjoy adequate protection against acts of anti-union discrimination in respect of their employment.[15]

43. Organizations representing multinational enterprises or the workers in their employment should enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.[16]

44. Where appropriate, in the local circumstances, multinational enterprises should support representative employers' organizations.

45. Governments, where they do not already do so, are urged to apply the principles of Convention No. 87, Article 5, in view of the importance, in relation to multinational enterprises, of permitting organizations representing such enterprises or the workers in their employment to affiliate with international organizations of employers and workers of their own choosing.

46. Where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively.

47. Representatives of the workers in multinational enterprises should not be hindered from meeting for consultation and exchange of views among themselves, provided that the functioning of the operations of the enterprise and the normal procedures which govern relationships with representatives of the workers and their organizations are not thereby prejudiced.

48. Governments should not restrict the entry of representatives of employers' and workers' organizations who come from other countries at the invitation of the local or national organizations concerned for the purpose of consultation on matters of mutual concern, solely on the grounds that they seek entry in that capacity.

*Collective bargaining*

49. Workers employed by multinational enterprises should have the right, in accordance with national law and practice, to have representative organizations of their own choosing recognized for the purpose of collective bargaining.

50. Measures appropriate to national conditions should be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between

14 Convention No. 87, Article 2.
15 Convention No. 98, Article 1(1).
16 Convention No. 98, Article 2(1).

employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements[17].

51. Multinational enterprises, as well as national enterprises, should provide workers' representatives with such facilities as may be necessary to assist in the development of effective collective agreements.[18]

52. Multinational enterprises should enable duly authorized representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorized to take decisions on the matters under negotiation.

53. Multinational enterprises, in the context of bona fide negotiations with the workers' representatives on conditions of employment, or while workers are exercising the right to organize, should not threaten to utilize a capacity to transfer the whole or part of an operating unit from the country concerned in order to influence unfairly those negotiations or to hinder the exercise of the right to organize; nor should they transfer workers from affiliates in foreign countries with a view to undermining bona fide negotiations with the workers' representatives or the workers' exercise of their right to organize.

54. Collective agreements should include provisions for the settlement of disputes arising over their interpretation and application and for ensuring mutually respected rights and responsibilities.

55. Multinational enterprises should provide workers' representatives with information required for meaningful negotiations with the entity involved and, where this accords with local law and practices, should also provide information to enable them to obtain a true and fair view of the performance of the entity or, where appropriate, of the enterprise as a whole.[19]

56. Governments should supply to the representatives of workers' organizations on request, where law and practice so permit, information on the industries in which the enterprise operates, which would help in laying down objective criteria in the collective bargaining process. In this context, multinational as well as national enterprises should respond constructively to requests by governments for relevant information on their operations.

*Consultation*

57. In multinational as well as in national enterprises, systems devised by mutual agreement between employers and workers and their representatives should provide, in accordance with national law and practice, for regular consultation on matters of mutual concern. Such consultation should not be a substitute for collective bargaining.[20]

17 Convention No. 98, Article 4.
18 Convention (No. 135) concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking.
19 Recommendation (No. 129) concerning Communications between Management and Workers within the Undertaking.
20 Recommendation (No. 94) concerning Consultation and Co-operation between Employers and Workers at the Level of Undertaking; Recommendation (No. 129) concerning Communications within the Undertaking.

*Examination of grievances*

58. Multinational as well as national enterprises should respect the right of the workers whom they employ to have all their grievances processed in a manner consistent with the following provision: any worker who, acting individually or jointly with other workers, considers that he has grounds for a grievance should have the right to submit such grievance without suffering any prejudice whatsoever as a result, and to have such grievance examined pursuant to an appropriate procedure.[21] This is particularly important whenever the multinational enterprises operate in countries which do not abide by the principles of ILO Conventions pertaining to freedom of association, to the right to organize and bargain collectively, to discrimination, to child labour and to forced labour.[22]

*Settlement of industrial disputes*

59. Multinational as well as national enterprises jointly with the representatives and organizations of the workers whom they employ should seek to establish voluntary conciliation machinery, appropriate to national conditions, which may include provisions for voluntary arbitration, to assist in the prevention and settlement of industrial disputes between employers and workers. The voluntary conciliation machinery should include equal representation of employers and workers[23].

Geneva, 28 March 2006

21 Recommendation (No. 130) concerning the Examination of Grievances within the Undertaking with a View to Their Settlement.

22 Convention (No. 29) concerning Forced or Compulsory Labour; Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise; Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention (No. 100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention (No. 105) concerning the Abolition of Forced Labour; Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation; Convention (No. 138) concerning Minimum Age for Admission to Employment; Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Recommendation (No. 35) concerning Indirect Compulsion to Labour; Recommendation (No. 90) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Recommendation (No. 111) concerning Discrimination in Respect of Employment and Occupation; Recommendation (No. 146) concerning Minimum Age for Admission to Employment, and Recommendation (No. 190) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

23 Recommendation (No. 92) concerning Voluntary Conciliation and Arbitration.

ANNEX

## List of international labour Conventions and Recommendations referred to in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

*(adopted by the Governing Body of the International Labour Office at its 204th Session (Geneva, November 1977) as amended at its 279th (November 2000) and 295th Session (March 2006))*

### CONVENTIONS

| | |
|---|---|
| No. 29 | concerning Forced or Compulsory Labour, 1930 |
| No. 87 | concerning Freedom of Association and Protection of the Right to Organise, 1948 |
| No. 98 | concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 |
| No. 100 | concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 |
| No. 105 | concerning the Abolition of Forced Labour, 1957 |
| No. 110 | concerning Conditions of Employment of Plantation Workers, 1958 |
| No. 111 | concerning Discrimination in Respect of Employment and Occupation, 1958 |
| No. 115 | concerning the Protection of Workers against Ionising Radiations,1960 |
| No. 119 | concerning the Guarding of Machinery, 1963 |
| No. 122 | concerning Employment Policy, 1964 |
| No. 130 | concerning Medical Care and Sickness Benefits, 1969 |
| No. 135 | concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, 1971 |
| No. 136 | concerning Protection against Hazards of Poisoning arising from Benzene, 1971 |
| No. 138 | concerning Minimum Age for Admission to Employment, 1973 |
| No. 139 | concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, 1974 |
| No. 142 | concerning Vocational Guidance and Vocational Training in the Development of Human Resources, 1975 |
| No. 182 | concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 |

### RECOMMENDATIONS

| | |
|---|---|
| No. 35 | concerning Indirect Compulsion to Labour, 1930 |
| No. 69 | concerning Medical Care, 1944 |
| No. 90 | concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 |
| No. 92 | concerning Voluntary Conciliation and Arbitration, 1951 |
| No. 94 | concerning Consultation and Co-operation between Employers and Workers at the Level of the Undertaking, 1952 |
| No. 110 | concerning Conditions of Employment of Plantation Workers, 1958 |
| No. 111 | concerning Discrimination in Respect of Employment and Occupation, 1958 |
| No. 114 | concerning the Protection of Workers against Ionising Radiations, 1960 |
| No. 115 | concerning Workers' Housing, 1961 |

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|---|---|
| No. 116 | concerning Reduction of Hours of Work, 1962 |
| No. 118 | concerning the Guarding of Machinery, 1963 |
| No. 119 | concerning Termination of Employment at the Initiative of the Employer, 1963 |
| No. 122 | concerning Employment Policy, 1964 |
| No. 129 | concerning Communications between Management and Workers within the Undertaking, 1967 |
| No 130 | concerning the Examination of Grievances within the Undertaking with a View to Their Settlement, 1967 |
| No. 134 | concerning Medical Care and Sickness Benefits, 1969 |
| No. 144 | concerning Protection against Hazards of Poisoning arising from Benzene, 1971 |
| No. 146 | concerning Minimum Age for Admission to Employment, 1973 |
| No. 147 | concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents, 1974 |
| No. 169 | concerning Employment Policy, 1984 |
| No. 189 | concerning General Conditions to stimulate Job Creation in Small and Medium-Sized Enterprises, 1998 |
| No. 190 | concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 |
| No. 194 | concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases, 2002 |
| No. 195 | concerning Human Resources Development: Education, Training and Lifelong Learning, 2004 |

ADDENDUM I

## List of international labour Conventions and Recommendations adopted since 1977 which contain provisions relevant to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy

(adopted by the Governing Body of the International Labour Office at its 238th Session (Geneva, November 1987), as amended at its 264th Session (Geneva, November 1995) and 279th Session (Geneva, November 2000) and 295th Session (Geneva, March 2006))

A number of international labour Conventions and Recommendations containing provisions relevant to the Declaration are referred to in footnotes in the Declaration as well as in an Annex. These footnotes do not affect the meaning of the provisions of the Declaration to which they refer. They should be considered as references to relevant instruments adopted by the International Labour Organization in the corresponding subject areas, which have helped shape the provisions of the Declaration.

Since the adoption of the Declaration by the Governing Body on 16 November 1977, new Conventions and Recommendations have been adopted by the International Labour Conference. The text below is a consolidation of the lists of Conventions and Recommendations adopted since 1977 (including those adopted in June 1977), containing provisions relevant to the Declaration. Like the footnotes included in the Declaration at the time of its adoption, the new references do not affect the meaning of the provisions of the Declaration.

In keeping with the voluntary nature of the Declaration, all of its provisions, whether derived from ILO Conventions and Recommendations or other sources, are recommendatory, except of course for provisions in Conventions which are binding on the member States which have ratified them.

List of Conventions and Recommendations adopted since 1977 (inclusive)
which contain provisions relevant to the Declaration

## CONVENTIONS

| | Number and title of Convention and Recommendation | Paragraphs of the declaration to which the instrument is relevant |
|---|---|---|
| No. 148 | concerning the Protection of Workers against Occupational Hazards in the Working Environment due to Air Pollution, Noise and Vibration, 1977 | 37 |
| No. 154 | concerning the Promotion of Collective Bargaining, 1981 | 9, 50 |
| No. 155 | concerning Occupational Safety and Health and the Working Environment, 1981 | 37 |
| No. 156 | concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, 1981 | 21 |
| No. 158 | concerning Termination of Employment at the Initiative of the Employer, 1982 | 9, 26, 27, 28 |
| No. 161 | concerning Occupational Health Services, 1985 | 37 |
| No. 162 | concerning Safety in the Use of Asbestos, 1986 | 37 |
| No. 167 | concerning Safety and Health in Construction, 1988 | 37 |
| No. 168 | concerning Employment Promotion and Protection against Unemployment, 1988 | 13 |
| No. 170 | concerning Safety in the Use of Chemicals at Work, 1990 | 37 |
| No. 173 | concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer, 1992 | 28 |
| No. 174 | concerning the Prevention of Major Industrial Accidents, 1993 | 37 |
| No. 176 | concerning Safety and Health in Mines, 1995 | 37 |
| No. 184 | concerning Safety and Health in Agriculture, 2001 | 37 |

## RECOMMENDATIONS

| | Number and title of Convention and Recommendation | Paragraphs of the declaration to which the instrument is relevant |
|---|---|---|
| No. 156 | concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, 1977 | 37 |
| No. 163 | concerning the Promotion of Collective Bargaining, 1981 | 52, 55, 56 |
| No. 164 | concerning Occupational Safety and Health and the Working Environment, 1981 | 37 |

| | | |
|---|---|---|
| No. 165 | concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, 1981 | 21 |
| No. 166 | concerning Termination of Employment at the Initiative of the Employer, 1982 | 9, 26, 27, 28 |
| No. 171 | concerning Occupational Health Services, 1985 | 37 |
| No. 172 | concerning Safety in the Use of Asbestos, 1986 | 37 |
| No. 175 | concerning Safety and Health in Construction, 1988 | 37 |
| No. 176 | concerning Employment Promotion and Protection against Unemployment, 1988 | 13 |
| No. 177 | concerning Safety in the Use of Chemicals at Work, 1990 | 37 |
| No. 180 | concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer, 1992 | 28 |
| No. 181 | concerning the Prevention of Major Industrial Accidents, 1993 | 37 |
| No. 183 | concerning Safety and Health in Mines, 1995 | 37 |
| No. 192 | concerning Safety and Health in Agriculture, 2001 | 37 |

## ADDENDUM II
(adopted by the Governing Body of the International Labour Office 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.

## PROCEDURE FOR THE EXAMINATION OF DISPUTES CONCERNING THE APPLICATION OF THE TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY BY MEANS OF INTERPRETATION OF ITS PROVISIONS

*(adopted by the Governing Body of the International Labour Office at its 232nd Session (Geneva, March 1986)[24])*

1. The purpose of the procedure is to interpret the provisions of the Declaration when needed to resolve a disagreement on their meaning, arising from an actual situation, between parties to whom the Declaration is commended.

2. The procedure should in no way duplicate or conflict with existing national or ILO procedures. Thus, it cannot be invoked:

(a) in respect of national law and practice;

(b) in respect of international labour Conventions and Recommendations;

(c) in respect of matters falling under the freedom of association procedure

The above means that questions regarding national law and practice should be considered through appropriate national machinery; that questions regarding international labour Conventions and Recommendations should be examined through the various procedures provided for in articles 19, 22, 24 and 26 of the Constitution of the ILO, or through government requests to the Office for informal interpretation; and that questions concerning freedom of association should be considered through the special ILO procedures applicable to that area.

3. When a request for interpretation of the Declaration is received by the International Labour Office, the Office shall acknowledge receipt and bring it before the Officers of the Committee on Multinational Enterprises. The Office will inform the government and the central organizations of employers and workers concerned of any request for interpretation received directly from an organization under paragraph 5(b) and (c).

4. The Officers of the Committee on Multinational Enterprises shall decide unanimously after consultations in the groups whether the request is receivable under the procedure. If they cannot reach agreement the request shall be referred to the full Committee for decision.

5. Requests for interpretation may be addressed to the Office:

(a) as a rule by the government of a member State acting either on its own initiative or at the request of a national organization of employers or workers;

(b) by a national organization of employers or workers, which is representative at the national and/or sectoral level, subject to the conditions set out in paragraph 6. Such requests should normally be channelled through the central organizations in the country concerned;

(c) by an international organization of employers or workers on behalf of a representative national affiliate.

6.In the case of 5(b) and (c), requests may be submitted if it can be demonstrated:

(a) that the government concerned has declined to submit the request to the Office; or

(b) that three months have elapsed since the organization addressed the government without a statement of the government's intention.

7. In the case of receivable requests the Office shall prepare a draft reply in consultation with the Officers of the Committee on Multinational Enterprises. All appropriate sources of information

24 *Official Bulletin* (Geneva, ILO), 1986, Vol. LXIX, Series A, No. 3, pp. 196-197 (to replace Part IV of the Procedures adopted by the Governing Body at its 214th Session (November 1980)). See *Official Bulletin,* 1981, Vol. LXIV, Series A, No. 1, pp. 89-90.

shall be used, including government, employers' and workers' sources in the country concerned. The Officers may ask the Office to indicate a period within which the information should be provided.

8. The draft reply to a receivable request shall be considered and approved by the Committee on Multinational Enterprises prior to submission to the Governing Body for approval.

9. The reply when approved by the Governing Body shall be forwarded to the parties concerned and published in the Official Bulletin of the International Labour Office.