

## INAUGURAL ADDRESS

THE HONOURABLE TONIO BORG

Minister for Home Affairs and the Environment, Malta

**M**r Chairman, Ladies and Gentlemen, may I extend a warm welcome to all participants at this Conference, particularly the foreign delegates. I hope that your short stay in Malta will enable you to get acquainted with the rich culture of these islands and the warm hospitality of its inhabitants.

The subject chosen for this Conference reflects the new trends in globalisation which have also reached our shores. While globalisation has created unprecedented wealth and resources, this has been associated with unacceptable levels of absolute poverty. One shudders when one considers that the ratio of average income in the world's 20 richest countries to those of the world's poorest has risen from a ratio of twenty to one in 1960 to about forty to one today; and some 66 countries are poorer now than a decade ago.

Rather than trade providing increased resources for improving living and working conditions, it has all too often resulted in government actually reducing workers' rights in order to minimize labour costs. All the standards included in the ILO Declaration on Fundamental Principles and Rights at Work have been under attack in consequence. Some goods are being manufactured in the supply chain under conditions of serious exploitation involving violations of fundamental labour standards and of simple standards of decency with the principal victims being women workers.

At the World Economic Forum at Davos in January 1999, the UN Secretary General Kofi Annan challenged world business leaders to 'embrace and enact the Global Compact both in their individual corporate practices and by supporting appropriate public policies. Mr Annan asked world business to support and respect the protection of international human rights within their sphere of influence and to make sure that corporations are not accomplices in human rights violations. He appealed to world business to uphold freedom of association and the effective recognition of the right to collective

bargaining, the elimination of all forms of forced and compulsory labour and the effective abolition of child labour and discrimination in respect of employment and occupation.

Revelations of exploitation have produced a response from some companies in the form of corporate social responsibility (CSR). Although some negative aspects and dangers exist, such as using such CSR as a form of public relations exercise and nothing else, there are also positive aspects. For instance, in the year 2000 a new sensitivity to the need to improve corporate behaviour led to the revision of the OECD Guidelines for Multinational Enterprises and, more importantly, to the strengthening of the procedures for their implementation by National Contact Points maintained by OECD and other adhering governments.

In Malta new enactments have introduced new trends in corporate criminal responsibility. For decades our criminal laws were based on the criminal responsibility of physical not legal persons. With recent amendments to the Criminal Code and the Prevention of Money Laundering Act, this trend had changed. The new Criminal Code amendments include corporate responsibility of a criminal kind in matters relating to trafficking of persons for illicit purposes (art 248E), money laundering, the crime of corruption (art 121D) and other serious crimes such as, belonging to an organized crime group (art 83A), in line with the Palermo Convention against Transnational Organised Crime and its Protocols, the consequence being that legal persons along with natural ones are liable to criminal fines.

Besides, in virtue of our alignment of domestic legislation with the Convention, the crime of trafficking and smuggling in human beings has been introduced as a specific offence, particularly the exploitation of women and children for specific illicit purposes such as exploitation, prostitution, and the transplant of human organs. Exploitation is described as requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries, health and safety. Besides, Maltese courts have extra-territorial jurisdiction over any crime of this kind committed abroad if a Maltese national or permanent resident is involved or if only part of the action giving execution to the offence took place in Malta.

Naturally, legislation alone will not solve all matters. The multinational enterprise does not need to wait for States to impose

these principles through legislation since it is strong enough to implement these principles on a voluntary basis. In point of fact, it is through a merging of the regulatory and voluntary systems that human rights may become an integral part of corporate strategies. Regulation will enforce compliance with minimum norms whereas voluntary systems are necessary for the provision of incentives which instill the mentality that 'doing the right thing' is also good business sense. The development and adoption of policies which ensure compliance with and respect for human rights will enhance the protection of brand image, avoid trade sanctions, increase worker productivity and appease consumer concerns.

The practice has emerged for companies to draft codes of conduct. These codes of conduct are certainly morally binding; however for such codes to be something more than a public relations exercise, the need is felt for the setting up of independent monitoring mechanisms; the idea behind independent monitoring is that a code will be credible if compliance were monitored by persons or organisations independent of the company that has adopted the codes. The ILO, based as it is on the tripartite structure and being a repository of expertise in all matters of labour practices including labour inspection, is probably the most appropriate organization to establish benchmarks for the training of monitors, for standards of verification and for the development of social auditing.

Malta's experience in this field is limited; indeed the developments in this field of human rights around the globe should sharpen our consciousness in these matters helping us to avoid a narrow and insular approach to human rights. Globalisation will not spare Malta; and our preparedness in this area of human rights should serve us now and in the near future when our expected membership of the European Union will expose us to more global influences but also to greater co-operation, alignment and harmonisation in this field of law and policy.