



International Organisation of Employers
Organisation Internationale des Employeurs
Organización Internacional de Empleadores

**IOE REPORT OF THE 322ND SESSION OF THE ILO GOVERNING BODY
30 OCTOBER - 13 NOVEMBER 2014**

NOVEMBER 2014

INTRODUCTION

The 322nd session of the ILO Governing Body (GB) was intense, with the extensive discussion on the standards initiative being particularly taxing and raising sensitivities. However, it resulted in the GB decision **not** to submit the controversial question of the right to strike and Convention 87 to the International Court of Justice in November. This is a satisfactory outcome for the Employers' Group. In addition, the acceptance by the GB of a "package deal" is a positive step, which demonstrates the importance and value of continuing to lobby Governments to convince them of our approach. However, sustained effort from the Employers will continue to be necessary to ensure the best possible outcome in March.

This was not the only relevant discussion at this GB. As explained below, the debate on the "strategic policy framework" (SPF) is also noteworthy, as it will influence the allocation of resources and the policy orientation of the ILO in the coming years. The Employers' Group had to be highly vocal in this debate in response to the way in which the ILO Office dealt with policy concepts, such as "unacceptable forms of work", supply chains etc., which have not yet been properly discussed among the three constituents.

In another important point of concern, the Employers firmly criticised the lack of reference to enterprises or to the sustainable enterprises approach in the discussion of the first "area of critical importance" (ACI) on employment ("more and better work for inclusive growth"), and questioned the "added value" of these "ACI" discussions.

Without being exhaustive, these and other relevant points are set out below.

THE STANDARDS INITIATIVE (INS 5)

The discussions over three days on the question of interpretation of ILO Conventions and outstanding issues with respect to standards policy and the supervisory system (known as the Standards Initiative - INS 5) were among the most important at this GB. Opinions were divided from the beginning on the need to go immediately to the International Court of Justice (ICJ) to resolve the dispute around Convention 87 and the right to strike. While the EU, GRULAC and the Workers' Group were in favour of immediate recourse to the ICJ; the USA, Canada, African and Asia Pacific Governments, and the Employers' Group were not, and highlighted the need to give social dialogue a chance before resorting to the ICJ only in the last instance. However, there **was** consensus among most GB members, except in the Workers' Group, on the need to make progress on a broader reform package to deal with outstanding issues in the ILO supervisory system, including: the operationalisation of the Standards Review Mechanism (SRM); the need to deal in an objective manner with the creation of the ILC Committee on the Application of Standards' list of cases; the need to re-focus the mandate of all the different supervisory organs (Art 24, 26 etc.), including, among others, the CFA.

The Employers' Group was engaged and proactive throughout and presented two different proposals as a way forward. After discussing three consecutive proposals made by the ILO Director-General for a decision point, the Governing Body approved the decision reproduced in full below.

“1. Further to the wide-ranging discussion held under the fifth item on the agenda of the Institutional Section, the Governing Body decides to:

(1) convene a three-day tripartite meeting in February 2015, open to observers with speaking rights through their group, to be chaired by the Chairperson of the Governing Body and composed of 32 Governments, 16 Employers and 16 Workers with a view to reporting to the 323rd Session (March 2015) of the Governing Body regarding:

(1) - the question of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in relation to the right to strike, and
- the modalities and practices of strike action at national level;

(2) place on the agenda of its 323rd Session, the outcome and report from this meeting on the basis of which the Governing Body will take a decision on the necessity or not for a request to the International Court of Justice to render an urgent advisory opinion concerning the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in relation to the right to strike;

(3) take the necessary steps to ensure the effective functioning of the Committee on the Application of Standards at the 104th Session of the International Labour Conference, and to this end reconvene the Working Group on the Working Methods of the Conference Committee on the Application of Standards to prepare recommendations to the 323rd Session of the Governing Body in March 2015, in particular with regard to the establishment of the list of cases and the adoption of conclusions;

(4) defer at this stage further consideration of the possible establishment of a tribunal in accordance with article 37 (2) of the Constitution.

(5) As part of this package, refer to the 323rd Session of the Governing Body the following:

(a) the launch of the Standards Review Mechanism (SRM), and to this effect establish a tripartite working party composed of 16 Governments, eight Employers and eight Workers to make proposals to the 323rd Session of the Governing Body in March 2015 on the modalities, scope and timetable of the implementation of the SRM;

(b) a request to the Chairperson of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), Judge Abdul Koroma (Sierra Leone), and the Chairperson of the Committee on Freedom of Association (CFA), Professor Paul van der Heijden (Netherlands), to jointly prepare a report on the interrelationship, functioning and possible improvement of the various supervisory procedures related to articles 22, 23, 24 and 26 of the ILO Constitution and the complaints mechanism on freedom of association.”

PFA 1: DRAFT TRANSITIONAL STRATEGIC PLAN 2016-2017 & PREVIEW OF THE P&B PROPOSAL FOR 2016 - 2017

The main issue in the Programme, Finance & Administrative Segment (PFA) was the discussion of a new interim Strategic Policy Framework (SPF) for the period 2016-2017. The SPF is a results-oriented framework which, basically, determines the ILO's policy approaches for the respective period.

The Office had proposed building the new SPF around the eight Areas of Critical Importance (ACIs) identified for 2014–15. The draft framework proposed by the Office included ten outcomes, five cross-cutting issues and three advocacy, governance and support outcomes.

While the Employers acknowledged and appreciated that “promoting sustainable enterprises” has now become an outcome in its own right, they underlined that there is still substantial overlap between outcomes. Moreover, the Group considered that the issue of decent work in the rural economy (outcome 5) is more an issue for the sectoral activities programme, rather than a stand-alone outcome and requested the removal of this outcome. The Group also repeated its criticism of outcome 8 “unacceptable forms of work”, as the term “unacceptable forms of work” lacks agreed definition. Furthermore, the Employers noted that in many of the outcomes, special emphasis was placed on work in supply chains. While Employers acknowledged the Office's programmes related to supply chains, they stressed that the main focus should and must continue to be on effecting change and improving the situation at national and local level more generally, i.e. for workers and companies in supply chains, as well as for the vast majority which are not in global supply chains.

The Employers' Group called again for a fundamental review of and change to the way in which the Organization measures its activities and impact, and demanded the use of external advice on this. It was disappointing that the draft SPF did not contain any information on the measurement system.

Based on the comments, the Office will revise the SPF and propose a final SPF for adoption at the March 2015 GB. Since the other Groups largely supported the proposed draft SPF in the GB discussions, few changes to the outcomes can be expected.

COMMITTEE ON FREEDOM OF ASSOCIATION (CFA)

The Committee on Freedom of Association (CFA) met in October in its new composition and discussed about 23 cases, 18 of which from Latin America.

Two serious and urgent cases were examined, those of Guatemala and Swaziland. The case of Swaziland in particular is of direct concern as it refers to a very difficult situation whereby workers' and employers' organisations are effectively deregistered while an amendment to the Industrial Relations Act (2000) affecting their operations remains under discussion in

parliament. The Government recently branded the representative employers' and workers' organisations "non-existent".

On the recommendation of the CFA, the GB stated its expectation that the Government of Swaziland adopt the amendments to the Industrial Relations Act under amendment in a manner that will ensure fully the freedom of association rights of the workers' and employers' organisations that have historically represented their members' interests in the country. The request was also made to the Government to allow the said organisations to operate while awaiting the realization of the law's amendment and keep the ILO informed of progress, while fully assuring freedom of association rights until such time as the representative organisations may register under the amended law.

As an interesting outcome of this session, the CFA agreed to consider its working methods in March 2015.

GUATEMALA AND FIJI

The session took note of the report of the Mission to Guatemala in September 2014, the Report of the Representative of the DG in Guatemala and the additional information presented by the Minister during the plenary discussion. Recognising the political will of the Government to make further progress, the Employers supported the postponement of a decision on this issue until March 2015.

As for the complaint against Fiji, the GB took note of the direct contacts mission to Fiji that took place in October 2014, the democratic general elections of September 2014 and the commitment by the Government to undertake a substantial programme of reform and decided to defer until March 2015 the decision to appoint a Commission of Inquiry.

ESP SEGMENT (POL/1): ACI 1 - MORE AND BETTER JOBS FOR INCLUSIVE GROWTH

The Employment and Social Protection segment concerning ACI 1: Creating more and better jobs for inclusive growth, was an important issue for both the Employers' and the Workers' Groups. Unfortunately, the draft paper did not reflect the importance of enterprises in creating more and better jobs. While both the Employers' and the Workers' Groups were in agreement regarding the overarching role of this ACI, the Workers thought that the paper was very much in line with the Resolution of the recurrent discussion on Employment, whereas the Employers' Group noted that insufficient mention of enterprises or entrepreneurship in the paper. Due to this lack of acknowledgement of the importance of enterprises, the Employers' Group requested an amendment to the draft conclusions to take into account the guidance in the 2014 ILC conclusions on the recurrent discussion on employment, as well as the integrated approach outlined therein. This was also endorsed by the Governments.

REPORT OF THE TECHNICAL COOPERATION SEGMENT

The Office presented four main points of its Technical Cooperation Strategy for the period 2015-2017 for endorsement by the GB. The Employers' Group expressed its disappointment that the ILO was not able to present a long-term coherent vision and strategy on technical cooperation and resorted rather to either mini strategies or transitional strategies such as the one presented to the Committee. The Group expressed regret that since the last Conference discussion on the role of the ILO in Technical Cooperation in 2007, the item had not been put on the ILC agenda to enable constituents to have a political debate on issues that had an impact on development cooperation and how the ILO should respond. The Group highlighted issues such as global development effectiveness, efforts to enhance UN system-wide coherence, the post-2015 development agenda and, above all, how the ILO's Decent Work agenda embraces development cooperation as this had a major impact on resource mobilisation.

The Group reiterated that technical cooperation is one of the most important tools of action by the ILO and hoped that that it would be included on the agenda of the ILC.

With regard to the strategy, the Employers reiterated that the ILO's approach should be based on the needs of its constituents. Attention should be on supporting capacity development so that constituents can respond to the priority needs of their members. The role of the Turin Centre would be critical in helping the ILO build the capacity of constituents through training, benchmarking, and project cycle management and governance.

The Group also called on the ILO to make sure that ILO priority areas, such as social dialogue, ACTEMP and ACTRAV, which were not receiving adequate funding from donors were accorded special attention in the strategy. Moreover, the capacity of ILO field offices should be strengthened so that they could also contribute to resource mobilisation in the field as the majority of donors had decentralised their resource allocations. The Group regretted that the strategy presented did not refer to the role of public private partnerships in technical cooperation as previously discussed and adopted by the Governing Body.

With regard to the point for decision, the Group endorsed in general the strategy presented while calling on the ILO to take into account the views expressed.

POST-2015 SUSTAINABLE DEVELOPMENT AGENDA

The debate concerned ILO outcomes to date and engagement ahead in the post-2015 Sustainable Development Agenda. As the process is entering its final phase, the Office sees it mainly as an opportunity to broadly promote "decent work for all" as a priority (Goal 8: *"Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all"*) and will seek to embed it as a core influencing factor in the final negotiations.

The GB endorsed the Office's suggestions to strengthen ILO work in this area (under the six-point strategy agreed at the 319th session of the GB) and to review progress regularly. Accordingly, this item will be on the March 2015 GB agenda.

Recognising that the document was a good basis for discussion on a long and complex process, the Employers' Group lent its support to the ILO's continued work on SDG development, but insisted on its developing further engagement with the voice of the whole organization. The IOE will remain vigilant and maintain its influence in the debates, mainly through the Global Business Alliance (GBA)¹.

POL/SD – SECTORAL AND TECHNICAL MEETINGS 2013 – 14 AND SECTORAL ACTIVITIES PROGRAMME FOR 2014 – 2015 GB.322/POL/4

The agenda for this session of the POL/SD (Sectoral Activities) focused exclusively on the adoption of the conclusions of meetings that took place between November 2013 and May 2014² and the sectoral meetings programme for the period September - December 2015.

As the conclusions of the meetings were arrived at by tripartite consensus at the time of the meetings' taking place, the reports and conclusions were adopted by the Governing Body without discussion.

The programme of meetings for the remainder of the 2014 – 2015 biennium was also approved and may be consulted in the annex of the document GB.322/POL/4.

It is worth noting that the discussion on reform of sectoral activities will begin at the March 2015 session of the Governing Body on the basis of informal consultations to take place between times involving the three Groups and the Director-General.

With this discussion in mind, Peter Woolford once again insisted on the special status of these activities, which are, and should remain, guided by the wishes and expectations of the sectoral constituents and not by Programme & Budget indicators, whatever these may be. A re-examination of sectoral activities, and in particular the meetings, their functioning,

¹ Global Business Alliance for the Post-2015 Development Goals is coordinated by ICC and includes IOE ; Business Action for Africa, BIAC, Business Fights Poverty, Center for International Private Enterprise, UN Global Compact, World Business Council for Sustainable Development, American Sustainable Business Council, Aquafed, Croplife, International Council of Chemical Associations, International Council on Mining and Metals, International Fertilizer Industry Association, International Petroleum Industry Environmental Conservation Association, and International Road Transport Union.

² These meetings are:

- Group of Experts for the revision of the IMO/ILO/UNECE Guidelines for Packing of Cargo Transport Units (4-6 November 2013);
- Global Dialogue Forum on Initiatives to Promote Decent and Productive Work in the Chemical Industry (26-28 November 2013);
- Global Dialogue Forum on Challenges to Collective Bargaining in the Public Service (2-3 April 2014);
- Global Dialogue Forum on Employment Relationships in the Media and Culture Sector (14-15 May 2014)



procedures and goals are certainly necessary, but it must take this imperative into account, which both assures their relevance and therefore their longevity.

NOTE ON THE ILO RESEARCH CENTRE

Although regrettably not formally on the agenda of this session of the Governing Body, the Employers reiterated their concerns over lack of clarity on the governance of the ILO Research Department and requested that a discussion take place at the March 2015 session.

Annex:
Pending CFA cases