

## CONCLUSIONS

### ACTRAV SYMPOSIUM –

**Celebration of the 60th Anniversary of Convention No. 98: The right to organize and collective bargaining in the 21<sup>st</sup> century” – Geneva, 12-15 October 2009**

### Background

The **ILO Constitution** states that one of the solemn obligations of the International Labour Organization is “to further among the nations of the world programmes which will achieve ...the effective recognition of the right of collective bargaining”.

The **Declaration on Social Justice for a Fair Globalization** states that: “respecting, promoting and realizing the fundamental principles and rights at work, which are of particular significance, as both rights and enabling conditions that are necessary for the full realization of all of the strategic objectives, noting:

- that freedom of association and the effective recognition of the right to collective bargaining are particularly important to enable the attainment of the four strategic objectives; and
- that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.”

The **Declaration on Fundamental Principles and Rights at Work** states that: “all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining;”

**The Tripartite Declaration on Principles Concerning Multinational Enterprises and Social Policy (MNEs Declaration)** states that: “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. (...) 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.”

The **Global Jobs Pact** affirms that “Respect for fundamental principles and rights at work is critical for human dignity. It is also critical for recovery and development. Consequently it is necessary to increase: (...) respect for freedom of association, the right to organize and the effective recognition of the right to collective bargaining as enabling mechanisms to productive social dialogue in times of increased social tension, in both the formal and informal economies”.

Recalling the duty of the ILO to advocate and promote collective bargaining, the Symposium focused its discussion on how to improve the capacity of the ILO to fulfil its constitutional mandate and the role trade unions can play to defend, strengthen and extend this important right for working people.

All constituents, in deciding to be members of the ILO, have pledged to the consensus that in order to seek good economic and social outcomes, industrial relations should be based on trust and mutual respect for which collective bargaining is key. Industrial relations are complex, as they are based at the same time on common interests and conflicts; hence they are not only about economic issues such as efficiency and

distribution, but also about power, dignity and respect. That makes these relations complicated and an area of constant debate and change: indeed managing change is surely one of the great strength of collective bargaining.

Collective bargaining helps to develop fair rules of the game instead of playing in a game without rules. It protects workers from abuse of economic power. Promoting collective bargaining it is not a mere question of awareness-raising, but a question of effective rules and institutions: governments therefore also have a key role to play in creating an enabling environment for the social partners to bargain collectively.

This is why the participants in the ACTRAV Symposium resolved to work, through their respective organizations, their joint international actions, and through ACTRAV and the ILO as a whole, on strengthening the following areas of work and action:

### **1. Collective bargaining rights**

- a. The full respect of the right to organize and collective bargaining, including the right to strike and protection against anti-union discrimination, is the pre-condition for the realization of democracy at the work place and in society;
- b. Freedom of association and collective bargaining have been recognized as enabling rights by the ILO's Declaration on Social Justice for a Fair Globalization (2008), and as a pre-condition to achieve the four strategic objectives of the Decent Work Agenda;
- c. The ability of trade unions to bargain collectively is a central tool to improve working conditions and solve labour disputes as well as to achieve social justice, decent work, economic development and stability in societies;
- d. This requires ratification and implementation of the relevant ILO Conventions (Nos. 87, 98, 94, 144, 135, 151 154, 158) and the promotion of the accompanying Recommendations that strengthen workers' representation and collective bargaining;

- e. The full respect and implementation of workers' rights require effective labour inspections, labour courts and labour administration;
- f. Strong, representative, independent and democratic trade unions as well as representative employers' organizations committed to collective bargaining foster effective systems of industrial relations and enable effective tripartite structures and policies;
- g. Trade unions' access to economic and financial information is a key element of good faith collective bargaining;
- h. Equal rights and non-discrimination (Convention Nos. 100, 111, 97, 143) are important elements to achieve and uphold fair labour conditions for all and prevent the erosion of collective bargaining.

## **2. Economic arguments for collective bargaining**

- a. Collective bargaining, especially at national, sectoral and inter-professional levels, is the key element of an overall strategy to reduce inequalities, raise the wage share in societies and improve working and living conditions;
- b. As highlighted in the Global Jobs Pact, collective bargaining is essential for an effective and fair response to the current crisis;
- c. Promotion of the extension of collective bargaining coverage is an essential tool to achieve wage-led recovery out of the crisis. Statutory or negotiated minimum wages are important elements of this strategy;
- d. Quality public services and comprehensive social security - including a basic social protection floor - are complementary to collective bargaining and best achieved where trade unions are strong;
- e. Public procurement should be used as a tool to promote decent work, respect for fundamental human rights at work, international labour standards and strengthen collective bargaining by upholding, as a minimum, prevailing wages and working conditions;
- f. The financial system has to serve workers and the real economy. Financial institutions, particularly multilateral and international ones, should be

encouraged to include reference to ILO standards in their lending practices.

### **3. Precarious work and informal economy**

- a. While more countries formally guarantee core labour rights, less workers can exercise these rights due to the rise of both precarious work and informal employment;
- b. The erosion of the employment relationship is fundamentally denying workers the possibility to exercise their rights and constitutes a key reason for the difficulties to extend collective bargaining coverage. Recommendation No. 198 (Employment Relationship, 2006) provides policy guidance to ensure that no worker is deprived from his or her labour rights;
- c. Precarious employment is not an economic necessity, but a strategy to deprive workers of their labour rights, erode collective bargaining and weaken trade unions;
- d. Extension of collective agreements to precarious forms of work is essential to improve working conditions and build a stronger and more inclusive trade union movement;
- e. Trade unions also need to promote policies and actions to remove juridical difficulties and practical obstacles that limit and often exclude the possibility of workers in the informal economy resorting to freedom of association and collective bargaining.

### **4. International Industrial Relations**

- a. Globalization requires the internationalization of collective bargaining and industrial relations. International Framework Agreements and Global Framework Agreements are key tools to develop global industrial relations and also constitute part of a strategy to widen the space for organizing and bargaining collectively at national level;
- b. In order to achieve this trade unions need to strengthen international solidarity including international industrial sympathy action;

- c. Codes of conduct have failed to promote freedom of association and collective bargaining;
- d. Models of international collective bargaining can only be effective if an interaction is established between negotiation at global level and national/sectoral negotiation.

#### **5. Trade Unions' action**

- a. Addressing these policy challenges depends on the mobilizing and organizing force of trade unions;
- b. The ratification of Conventions crucially depends on the lobbying by trade unions at the national levels, coordinated with international action;
- c. Full use of Conventions and Recommendations should be made by unions in order to resolve issues at national level, including a better follow-up to the work of the ILO supervisory mechanisms;
- d. Innovative and inclusive organizing and collective bargaining approaches have to be developed both to reach out and cover workers in precarious work as well as those in the informal economy;
- e. In order to increase the coverage and impact of collective bargaining that leads towards fairer distribution of income and wealth, sectoral and centralized collective bargaining should be strengthened;
- f. Multinational companies leading global supply chains need to be engaged nationally and internationally by trade unions, in close cooperation with national and sectoral structures. They should use tools such as global framework agreements, targeted programmes and international solidarity actions;
- g. To address the challenge of globalization and to promote freedom of association and collective bargaining, actions should be extended to areas such as trade, international investment and international procurement;
- h. Freedom of association and collective bargaining should be used as tools to promote equal rights and non-discrimination.

## 6. ILO action

In order to promote collective bargaining, the ILO needs to become a centre of excellence on this topic and assist constituents in addressing the policy challenges stated above. In particular, Office-wide efforts should be undertaken in order to implement the following actions:

- Actively promote the ratification and implementation of the relevant ILO Conventions (Nos. 87, 98, 94, 135, 144, 151,154, 158) and Recommendations (Nos. 143, 159, 163, 193, 198), taking into account the comments of the ILO's supervisory bodies;
- Promote forms of collective bargaining that raise the wage share in GDP and reduce wage inequality;
- Provide comprehensive data on wage trends, trade union density, and collective bargaining coverage (both at national and sectoral level), and including processes, institutions and outcomes;
- Produce a regular flagship publication on major collective bargaining trends and topics such as: collective bargaining and dynamic economic efficiency, fair income distribution, equality, non-discrimination, skills development, health and safety, employment relationship and financial analysis of companies;
- Provide technical assistance and know-how on comprehensive policies to establish a conducive environment to increase coverage, and enlarge the content of, collective bargaining;
- Further increase efforts towards engaging with multinational companies, in order to fully respect labour rights and collective bargaining throughout global supply chains. The ILO's MNEs Declaration provides relevant guidance in this regard. Synergies could be created with OECD Guidelines and national contact points. Consideration should be given to a new follow-up mechanism for the ILO MNEs Declaration;
- Provide guidance on the design and level of fair wage and working conditions' policies;

- Consider the need for new international standards which address issues such as legal protection and extension of collective bargaining coverage, including wages, for workers in precarious situations and atypical forms of work;
- Prioritize ILO technical cooperation and training programmes in order to strengthen the capacity of trade unions to bargain collectively and to promote the ratification and implementation of international labour standards;
- Foster collaboration between ACTRAV HQ and ACTRAV Turin in order to translate the important contribution of this meeting into standards' activities which should be replicated in the regions, and various tools in order to implement this global strategy with due regard to specific needs of the labour movement.

Geneva, 15 October 2009