



November 3, 2023

Mr. Gilbert F. Hougbo
Director-General
International Labour Organisation
Route des Morillons 4,
CH-1211 Genève 22
SWITZERLAND

Dear Mr. Hougbo

**Re: REQUEST OF THE WORKERS' GROUP TO URGENTLY REFER THE DISPUTE
ON THE INTERPRETATION OF THE FREEDOM OF ASSOCIATION AND
PROTECTION OF THE RIGHT TO STRIKE TO THE INTERNATIONAL COURT OF
JUSTICE**

Greetings from the Employers' Consultative Association of Trinidad and Tobago (ECA)!

Further to your letter of October 11, 2023, the ECA wishes to officially share its position on the above-captioned subject. Having reviewed all of the pertinent information, documentation and positions shared, it is our considered view that the proposal of the Employers' Group is not only logical and compelling, but also the most reasonable path forward. In this regard, we urge you and members of the Governing Body to carefully consider the gravity of what is now before us and ensure that we do not seek to undermine the structure, authority, and processes of the ILO.

From the onset, we must express our gratitude for the proactive and comprehensive manner in which you and your office have kept constituents informed about the developments on this very important issue and for the opportunity to contribute to this discourse and decision. We appreciate that this has now become a long-standing matter that must be resolved in the interest of all ILO member states and constituents as we continue to work together to rebuild and strengthen our respective societies, economies and the world of work for future generations.

Notwithstanding the diversity of Member States' administration of strike action, the current confusion surrounding interpretations and obligations arising out of ILO Conventions 87 and 98, by States which have ratified these Conventions or States which have not ratified but are obligated to respect and promote in good faith the fundamental principles embodied in these Standards, will not aid in attaining these objectives.

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In Trinidad and Tobago (T&T), the right to strike is legislated in our Industrial Relations Act, Chapter 88:01. However, **this right is not absolute** as parties must follow a process or meet certain conditions for a strike to be considered legitimate and lawful. Furthermore, our industrial relations system also allows for trade disputes to be heard and determined by the Industrial Court of Trinidad and Tobago, but often preceded by a long and extensive process of conciliation, mediation and bipartite dialogue which allows for parties to attempt to find common ground or arrive at a settlement on the extant matter **before** the adjudication by the Court, which is generally a last resort and the final arbitrator in most labour disputes.

Similarly, we hold the view that the decision to refer this issue of the right to strike to the International Court of Justice (ICJ), at this stage, without first exploring all available avenues for resolution within the ILO, including, and most importantly, discussion by tripartite members, is inconsistent with the very reason for the ILO's existence. In fact, one of the most unique attributes of the ILO is its tripartite decision-making structure, which primarily differentiates this organisation from all other United Nations organisations.

For this reason, we believe that standard-setting is the most appropriate and logical progression towards defining authoritative ILO rules on the right to strike, and more importantly, for resolving this long-standing and noxious dispute over interpretation. As we are already aware, standard-setting is part of the ILO's core mandate and demonstrates, in a meaningful way, the ILO's fundamental values of tripartism and social dialogue. This process will allow for all ILO constituents to actively engage in any solution achieved, based on majority consensus, and ensure that any outcome adopted is universally relevant and respected. We simply cannot ignore the very real possibility that an advisory opinion by the ICJ, without first subjecting this issue to the full constituency of the ILO, may not be considered authoritative and therefore, is likely to further entrench existing differences and opposing viewpoints.

Adoption of a legally binding instrument, such as a Protocol to Convention 87 on the right to strike or more broadly, on industrial action, would seek to determine the principles and parameters of the right to strike at the international level, as far as reasonably practicable, and fill the regulatory gap that currently exists in the ILO's body of Standards. Ultimately, members would determine what form this set of authoritative rules would take but objectively, this would seek to clarify the rules applicable to the right to strike, as agreed by ILO's constituents, as opposed to what obtains in Convention 87 or any other related instruments.



This is indeed a watershed moment for the ILO, which might very well test the mettle of the organisation's supervisory and decision-making system and processes, and ultimately, define the legitimacy, integrity and authority of an organisation that has served the international community for over a century. We must bequeath to posterity a legacy of cooperation, dialogue, and collaboration, recognising the diversity of cultures, history, and economies that will be impacted by any determination made by an arbitrator.

We humbly submit for your consideration.

Sincerely,
**EMPLOYERS' CONSULTATIVE ASSOCIATION
OF TRINIDAD AND TOBAGO**

A handwritten signature in blue ink, appearing to read 'Ronald Ramlogan', is written over a horizontal line.

Ronald Ramlogan
CHIEF EXECUTIVE OFFICER

CC. Mr. Keston Nancoo, Chairman