

INTERNATIONAL LABOUR ORGANIZATION
Sectoral Activities Programme

**Global Dialogue Forum on Decent Work
in Local Government Procurement for
Infrastructure Provision**

Report

Geneva, 17–18 February 2009



INTERNATIONAL LABOUR OFFICE GENEVA

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Introduction

In November 2007, at its 300th Session, the ILO Governing Body had agreed to the proposal to hold a global dialogue forum on decent work in local government procurement for infrastructure provision.¹ Taking into account informal consultations held in early 2008, the Governing Body proposed that, after consultation with their respective groups, six Employer and six Worker participants be invited to attend the Forum. Other interested Employer and Worker participants could also attend at no cost to the Office. The Governments of all member States would be invited to nominate participants to attend the Forum.

During a meeting of the Construction Advisory Body for the Sectoral Activities Branch held in May 2008 as well as subsequent consultations with constituents, it was agreed that the Global Dialogue Forum should consist of a series of round tables, consisting of presentations followed by discussion. Presenters would be chosen according to their knowledge of the themes. The Global Dialogue Forum aimed to provide knowledge about different aspects of procurement in construction through the series of presentations and discussions and to explore through the discussions the feasibility of using contractual provisions to ensure compliance, with a view to obtaining recommendations for practice.

The Forum was opened by Mr George Dragnich, Executive Director, Social Dialogue Sector, ILO. Mr Dragnich thanked participants for making their time and experience available. He explained the background to the Forum, its objectives and the importance of the theme. The Forum was particularly relevant in the context of the current financial crisis.

The consequences for both workers and enterprises in the construction industry were significant. Procurement would play a major role in government responses to the crisis. Stimulus packages to kickstart the economy often focused on infrastructure provision and would result in a large number of contracts with the private sector. Social dialogue was important in this context.

Mr Dragnich explained that the global dialogue forums constituted a new type of meeting for the ILO, and that the present one was particularly innovative. The arrangement chosen for the Forum consisted of a series of presentations in round tables, followed by discussions. A report about the Forum would be produced afterwards and circulated to the participants by e-mail. As this was a very short meeting, the time for presentations and discussions was maximized. No written summary would be circulated before the end of the Forum. This was part of the proposal of experimenting with new formats.

Mr Dragnich gave some examples of ILO's action related to procurement in construction, noting that the Forum would provide an opportunity to discuss what the ILO might do in the future.

The Chairperson of the Global Dialogue Forum was Mr Amir Hossein Shahmir, from the Permanent Mission of the Islamic Republic of Iran, and Representative of the Ministry of Labour and Social Affairs at ILO, Geneva. Mr Shahmir presented an overview of the programme and procedures of the Forum, and underlined its innovative character.

¹ GB.300/STM/1, paras 21–22.

Ms Anita Normark, General Secretary of the Building and Wood Workers' International, and Mr Octavio Carvajal Bustamante, President of the Labour and Social Protection Commission of the Confederation of Industrial Councils of Mexico, made introductory remarks on behalf of the Workers and Employers respectively.

Round table I: ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94), and the Decent Work Agenda

Mr Georges Politakis, Coordinator, International Labour Standards Department of the ILO, introduced Convention No. 94, which he considered to be an instrument for good governance and socially responsible public procurement. The Convention sought to avoid downward pressure on wages and working conditions as a result of public tendering. Contracting public institutions were required to inform bidders in advance by means of standard labour clauses inserted in the tender documents that, if selected, they would have to observe in the performance of the contract wages, as a minimum, certain locally established standards. In fact, wages, working time and other labour conditions should not be less favourable than the highest minimum standards established locally by law, arbitration or collective bargaining. This created a level playing field for all economic actors and promoted fair competition. Convention No. 94 covered all public contracts awarded by central authorities, and provided for enforcement measures that went beyond those normally encountered in Labour Codes, such as the withholding of contracts.

There were, however, limitations to Convention No. 94: it did not cover contracts awarded by local authorities unless the ratifying countries decided to extend its application to local government authorities; it did not cover cross-border procurement where work was executed outside the contracting State; and it did not cover new forms of public procurement such as public-private partnerships, which presented complex financial and legal issues.

Concerning the on-going debate as to the present-day relevance of the Convention, Mr Politakis noted that the Office had carried out a general survey on Convention No. 94 that had been discussed at the International Labour Conference in 2008.² There Employers had argued that the instrument was outdated and had opposed the suggestion to promote or revise the Convention, stating that wage competition did not necessarily entail social or wage dumping. Workers had argued that the use of labour clauses in public contracts should be broadened and strengthened. Mr Politakis informed that a General Survey carried out by the ILO Committee of Experts in 2008 concluded that the Convention was an underused and perhaps even more relevant than in the past. The general survey also stated that the purpose and objectives of Convention No. 94 might need to be revisited to better reflect modern procurement patterns. The Office had concluded that the issue required further study and analysis, and that there was broad support for convening a tripartite meeting of experts to examine the issue of how to integrate social clauses into public procurement contracts. In September 2008, the Office had also prepared a practical

² Report III(1B): *General Survey concerning the Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No. 84)* – http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_091400.pdf.

guide on Convention No. 94 to help constituents better understand the requirements of the Convention.³

Ms Fiona Murie, Occupational Safety and Health Director, Building and Wood Workers' International (BWI), said Convention No. 94 was an important instrument for the construction industry, which represented 3.5 trillion dollars and 50 per cent of capital investment. Ninety per cent of construction enterprises were small-scale and the informal economy was growing. The downward pressure exerted on wages and the attempt to reduce labour costs meant that workers were exposed to higher risks at work. It was important to ensure a level playing field in terms of compliance and implementation of labour standards. Convention No. 94 provided for decent work conditions. Construction benefited society. It was necessary to improve the quality of labour practices and labour legislation and for these to be reflected in construction contracts. In 2005, the International Finance Corporation (IFC) inserted labour clauses in their bidding documents. The World Bank followed and had also taken innovative steps concerning diligence, complaints procedures and guidance.

Ms Murie noted that Convention No. 94 could be used at a national and local level to tackle issues such as equal opportunities and youth training. Convention No. 94 was of utmost importance to ensure minimum standards and thus encouraged responsible behaviour. Although widely ratified, Convention No. 94 was not sufficiently applied. Convention No. 94 was an important vehicle for decent work and further ratification should be promoted. The inclusion of labour clauses in public contracts would enhance decent work conditions, and allow countries to move forward.

Mr Paul Noll, Adviser, Confederation of German Employers Associations, said that public procurement represented a sizeable part of the economy. Public investment through public procurement contracts continued to represent a high proportion of formal economy activity. Convention No. 94 and Recommendation No. 84 were the main ILO instruments related to procurement. Although the Convention had been ratified by 60 States, few of them fully applied it. The purpose of the Convention was to ensure that workers enjoyed wages and work conditions which were at least as satisfactory as wages and work conditions normally established for the type of work done in the region. Public authorities should seek to ensure the observance of socially acceptable standards in work performed. Conformity with national law would be sufficient. Labour clauses did not need to be incorporated into public contracts.

In 2007 and 2008 the European Court of Justice and the European Community had delivered judgements on the relationship between social rights and fundamental principles of the market. The Rüffert case was one example. In this case a dispute had arisen concerning a contract for structural work in Lower Saxony, Germany. A law, specific to Lower Saxony, stated that public works contracts may be subcontracted as long as the workers were paid the wage set out in the collective agreement. A German contractor had subcontracted a Polish firm. However, the Polish workers were paid a wage which was below the stipulated wage. A German court asked the European Court of Justice whether the national legislation was a restriction on the freedom to provide services under Article 49 of the European Community Treaty. The Advocate General did not see an infringement of European Union law. The European Court of Justice had stated that a local collective agreement could not be used as a national standard for public procurement.

³ *Labour Clauses (Public Contracts) Convention, 1949 (No. 94) and Recommendation (No. 84). A practical guide* (Geneva, September 2008) – http://www.ilo.org/global/What_we_do/International_LabourStandards/InformationResources/Publications/lang--en/docName--WCMS_099699/index.htm.

Mr Noll recalled the Employers' view that Convention No. 94 had a low ratification rate and was poorly applied. It was not widely held that labour clauses should be included in public contracts, as this would increase bureaucracy. There was also the possibility of Convention No. 94 interfering with sound public procurement policies as well as potentially conflicting with EU law.

In the ensuing discussion, a representative of the Government of Algeria said that it was necessary to achieve decent work conditions. In his country, provisions similar to those of Convention No. 94 had been integrated into national legislation and covered all sectors and types of contract, thus ensuring respect for international labour standards and principles. A regulation had been recently adopted by the Government on construction contracts.

A representative of the Government of South Africa said that policies were applied only at a central level. The Government guarded against any deviation from the law. The law, however, also presented limitations. There was a need to remain aware of external factors and make amendments if required. He also noted a particular area of concern in South Africa, which regard the situation of unskilled workers. The Government had set up a special scheme to train these workers.

A representative of the Government of Venezuela said that although his country had not ratified Convention No. 94, similar provisions were included in national legislation, and in some aspects were broader in scope than the Convention. The law on public procurement regulated state activity and was applied at the national, state, municipal and local council levels where public funds, including a combination of public and private capital, were used. Under this law, contractors had social responsibilities, such as the creation of new permanent jobs. Once a contract had been awarded, inspections were carried out to ensure proper compliance.

A representative of the Government of Egypt said Convention No. 94 and the fundamental principles on decent work contained therein were adopted. A special programme was set up in order to deal with issues such as social security, gender equality and incentives for small and medium-sized enterprises. A fund was set up to create a friendly investment climate. The Government was endeavouring to tackle issues related to the informal sector, and improve health and safety at work. A special fund for training had been set up. New labour legislation, which had come into force in 2003, was fully aligned with Convention No. 94. Workers in the private sector, however, still received higher wages than public sector workers. The Ministry of Manpower and Migration had published an edict which stipulated minimum conditions for all contract workers.

A representative of the Government of the United Kingdom said labour laws in his country were enshrined in national legislation and were aimed at protecting workers. The laws in force already contained working standards and it was therefore unnecessary to repeat these in contracts. Furthermore it was possible that this would conflict with European procurement laws. "Value for money" was not considered contradictory to decent labour conditions. Regarding cross-border procurement, which was encouraged in the European Union, the United Kingdom bolstered European Union directives.

A Workers' representative from Germany said he disagreed with the concept of "value for money" because labour standards were reduced as a result. This was ultimately harmful to society. In Germany, there were considerable problems because public contract workers were often paid a fraction of the local collective agreement wages and thus companies respecting sectoral collective agreement wages lost the competition for public works contracts to companies which only paid the minimum wage or less. In reaction to this, several federal states had made laws to create a level playing field in a manner similar to that foreseen in Convention No. 94. All companies that carried out public works

contracts had to pay wages no lower than those defined in collective agreements. That was the background to the Rüffert case. The European Court of Justice (ECJ) had been able to ignore Convention No. 94 in this case only because Germany had never ratified it. But the general findings of the ECJ went against the model of Convention No. 94 as such. So ILO had to work with the EU to solve this institutional conflict. Convention No. 94 should not be abolished, but could be modernized if needed. One way could be to find special solutions for different types of public works contracts.

A Workers' representative from the United Kingdom said that since changes in trade union laws in 1982, workers had been hard hit. The United Kingdom was still experiencing problems. Blue-collar workers who had been classified as self-employed were denied their rights to sick pay, pension schemes, or access to industrial tribunals. It was crucial to restore the rights of the workers and create better work conditions. The average age of craftsmen was 56 years and available apprenticeships were significantly below demand. The whole industry should be reviewed in order to attract young workers and benefit the community. Society as a whole suffered from "the lowest common denominator" approach.

A representative of the Organization for African Trade Union Unity (OATUU) urged countries that had not ratified Convention No. 94 to do so. Given the current financial crisis, States were called on to create jobs. Legal provisions would have to evolve in order to effectively deal with the current context. Convention No. 94 in a positive light. He called on employers to actively participate in this process.

A representative of BWI stated that Convention No. 94 was not obsolete, nor had it reached its objective. It was still relevant. With regard to "value for money", this was a simplified argument that did not take into account the "added value" that was generated by Convention No. 94. There was no conflict between the Rüffert case and Convention No. 94. The European Commission had stated that Convention No. 94 did not conflict with European Union directives. The speaker questioned Mr Noll's assertion that labour clauses in procurement made the process too bureaucratic. The construction industry was capable of dealing with highly complex technical issues in procurement contracts. Labour clauses were comparatively simple.

A Workers' representative from Uganda said Convention No. 94 was a tool for good governance. Social justice and economic empowerment were prerequisites for development. Workers were a soft target for exploitation and it was therefore very important to implement Convention No. 94. He urged States that had not yet done so to ratify Convention No. 94, and appealed to Employers to support this because decent working conditions were directly related to productivity. It was therefore important to work together and reach a consensus.

The adviser to the International Organisation of Employers (IOE) agreed with some of the concerns expressed regarding, for example, fragmentation in the sector (large number of small and medium enterprises), and the pressure for contracts. However, it was important not to mix labour policies with public procurement. Self-employment was not a problem in itself. The question should be approached bearing in mind fiscal and taxation legislation. Both health and safety and training were important issues and needed to be dealt with using appropriate instruments. All legislation needed to be respected and enforced. It was, however, unnecessary to duplicate national legislation in public contracts.

The Employers' representative from Mexico stated that there was a problem with the interpretation of Convention No. 94. Generally binding legal provisions should be included. He also noted that there was no contradiction between social justice and economic liberalization.

A representative of BWI said that public money should be spent in a manner that respected decent work conditions. Labour legislation was a practical tool for public procurement. All multilateral development banks had recognized the need for appropriate legislation and its implementation. This would lead to high quality construction. Unfortunately in practice regulations were not respected mainly due to lack of inspection. Companies and employers had complained that the rules were not the same for everyone and put some of them at a disadvantage. It was crucial to create a level playing field and for all rules to apply to all companies and employers. She also highlighted the issue of corruption.

Round table II: International Finance Corporation performance standards

Ms Motoko Aizawa, Adviser, Corporate Standards, International Finance Corporation (IFC), speaking via video conference, set out the IFC's mission of fostering sustainable economic growth in developing countries by supporting private sector development, mobilizing private capital and providing advisory and risk mitigation services to businesses and governments.

Clients of the IFC were expected to adhere to a set of eight Performance Standards, the second of which (PS2) concerned labour and working conditions. The IFC ensured that the project to be funded could be expected to meet these standards. Commitments made by the client were subsequently reflected in the loan contract. A management system had been put in place to track compliance and performance.

The IFC Performance Standards were widely recognized and were used by development banks as a point of reference.

The objectives of PS2 have been established in line with ILO Conventions and the principle of decent work. The requirements of PS2 must be applied both to workers employed directly and to subcontracted workers. Ms Aizawa suggested that labour protection clauses were more relevant than ever in a period of economic downturn, owing to the increased risk to vulnerable workers.

Mr Mesilamu Oloka, General Secretary, Uganda Building, Construction, Civil Engineering, Cement & Allied Workers' Union (UBCCECAWU), began his presentation by giving an overview of the prevailing situation in the Ugandan construction sector. He highlighted the existing problems in the sector, such as the poor quality of materials, an insufficient number of labour inspectors, inadequate provisions for safety and health, poor working conditions and job insecurity coupled with low wages. Uganda had ratified many ILO Conventions. Although appropriate labour legislation existed, it was not properly enforced.

Collaboration with the IFC on the Bujagali Hydropower project had proved that it was possible to translate the provisions of PS2 into practice in his country. Compliance with PS2 by the construction company had been very important, creating opportunities for trade union recognition and collective bargaining. Through compliance with labour laws, workers had been sensitized to safety and health in the workplace, benefited from procedures for grievance handling, and received better wages. IFC Performance Standard requirements had proven their worth. A partnership between the IFC, ILO and the Building and Wood Workers' International would be most welcome. Mr Oloka concluded by voicing his support for full implementation of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

The adviser to the IOE stressed that labour legislation should be in place and respected. Attention should be paid to the enforcement of laws.

A representative of BWI congratulated the IFC on their efforts to implement standards and to monitor their observance on site. The construction contract was a mechanism by which labour standards could be implemented by means of labour clauses. She agreed that existing labour laws should be complied with, but often this was not the case. The construction sector employed many informal workers in a highly competitive industry.

The Workers' representative from Germany requested details of the IFC monitoring system for ensuring that the requirements stipulated in contract were implemented on site. Ms Aizawa explained that the contracted enterprise reported back to the IFC, usually annually but sometimes as frequently as quarterly. The IFC could send specialists to monitor the situation on site or set up an independent evaluation using a third party. The information received in this way was stored in a database and evaluated. If the IFC became aware of any non-compliance issues, it would try to bring the contracted enterprise back into compliance.

The Workers' representative from India asked what disciplinary measures could be used if the requirements of PS2 were not observed. Ms Aizawa replied that the IFC preferred to avoid disciplinary measures by negotiating compliance and reaching a consensus on a corrective action plan. However, as a last resort, the IFC could ask for the outstanding amount of the loan to be immediately repaid. In a large scale project, the World Bank could provide leverage as well, but this was rare.

A representative of BWI asked how the contracted companies responded to the monitoring system. Ms Aizawa stressed that there were different levels of compliance with PS2 within the industry. Some were best practice companies, but others were struggling. The IFC's experience was that dialogue with contractors, unions and other interested parties had helped them gain insights into problems on the ground.

The representative of the Government of the Netherlands asked about the IFC's collaboration with local labour inspectors. Ms Aizawa explained that this was done on a project-by-project basis. She mentioned a training programme to build capacity among private sector consultants for inspection, and noted that this could be enhanced by involving the ILO and trade unions.

The representative of the Government of South Africa questioned why Convention No. 94 had not been massively ratified. He wondered if this was because national laws had overtaken the Convention. Considering the present financial crisis, Convention No. 94 might be an appropriate tool to use in conjunction with the stimulus packages.

The Employers' representative from the Islamic Republic of Iran questioned why workers employed under public contracts should be offered higher protection than that afforded to other workers, especially when taking into account that core labour standards must always be observed.

Wrap-up discussion of the day

Mr Politakis explained that the rationale behind Convention No. 94 was that the government should act as a model employer when entering into public procurement contracts. Convention No. 94 was not only an approach to provide "value for money" but also to encourage public authorities to "raise the bar" and set the example. Workers should thus benefit from higher standards if these existed. Labour codes often lay down minimum

labour standards, which are subsequently improved upon through collective bargaining. He welcomed the statements made by the government delegates of Algeria and Egypt that national legislation was amended and now provided for the insertion of labour clauses similar to those required by Convention No. 94.

Referring to the first found table discussion on Convention No. 94, the speaker noted that Court of Justice of the European Communities (ECJ) had never maintained that Convention No. 94 was incompatible with European law. The Rüffert case was EU specific. It did not touch on Convention No. 94 or on public procurement, but rather was related to the Posting of Workers Directive (1996) and its relationship with Article 49 of the EU Treaty on freedom to provide services. The ECJ had not referred to Convention No. 94. Another approach was possible as explained in the opinion of the Advocate General. This was an ongoing debate. The European Commission had called as recently as July 2008 EU Member States to ratify all up to date ILO Conventions, including Convention No. 94. In October 2008, the European Parliament had adopted a resolution calling on the Commission to clarify the relationship between economic freedoms and social clauses as a matter of urgency and to continue to promote the ratification of Convention No. 94. There were 10 EU Member States that had ratified Convention No. 94 and none had so far announced its intention to denounce it.

A Workers' representative from Germany said collective agreements were being damaged and ratifying States' credibility was at stake if a level playing field was not created. On the question raised by the South African representative as to why some States were reluctant to ratify the Convention, he said that it was because political actors took a neo-liberal approach. Similar arguments were also used in Germany. However this approach suggested States were acting as though they were businesses and ignoring their other obligations. Convention No. 94 seemed to be a forgotten convention and it was important to promote it actively.

A representative of BWI said there had been some misunderstanding on the question regarding minimum and maximum standards. Convention No. 94 stated that the wage should be adjusted according to prevailing wages. It did not state that governments should pay higher wages, but that they should not pay less than the prevailing wage. She upheld that it was a well-ratified Convention. She urged the ILO to promote the Convention through capacity building and training.

A Workers' representative from the United Kingdom said the Convention was still relevant. A level playing field should be created in order to avoid the race to the "lowest common denominator" as this often involved workers losing their rights. He noted that it was possible for construction projects, such as Terminal 5 at Heathrow airport, to be completed in a timely fashion and within the budget. Including labour clauses in public contracts was advantageous to business. In order for society to move forward, workers' rights had to be respected. Convention No. 94 should be promoted and implemented. It was important for employers and trade unions to apply the same standards across the board.

A representative of the Government of Tunisia said economic and social dimensions were not mutually exclusive. Salaries were revised every three years in Tunisia and legislation was in compliance with Convention No. 94. The Tunisian Government had implemented the Convention as well as using collective agreements. Contracts were subject to labour inspection. It was emphasized that those who did not comply with minimum wage standards would have their contracts cancelled. Contracts with workers and employers were verified before payments were made.

A representative of the Government of Netherlands questioned whether Convention No. 94 was necessary. The Netherlands had ratified Convention No. 94 although its

implementation could still be improved. Two legal provisions had been added to national legislation which provided that the Government could extend the coverage of collective agreements to other actors in the sector. Employers who did not belong to the employers' association were also bound by the provisions. With regard to cross-border procurement, migrant workers were paid the same as other workers in the country under the terms of the collective agreement. Public contracts, however, did not include labour clauses.

A representative of the Government of South Africa suggested that the Convention should be revised since it did not cover local authorities, certain types of cross-border procurement and modern procurement processes. The ILO's involvement in addressing the financial crisis was also necessary. If the government was going to spend public money then this money must help citizens.

A representative of BWI agreed, urging that public money should be spent on decent work conditions. Procurement guidelines were in place and should therefore be respected. The IFC and the World Bank had followed recent trends and the Convention must be brought in line with the IFC and World Bank's commitments. She proposed creating a Protocol to the Convention.

Mr Politakis said that Paragraph 103 of the 2008 General Survey on Convention No. 94 and question 12 in the Practical Guidelines offered more information on how the level of wages and other working conditions were to be determined in practice. He said that the terms "conditions not less favourable" than the three alternatives offered by the Convention should be taken to mean the best conditions of the three.

The Chairperson made an oral summary of the first two round tables.

A representative of the Government of the Netherlands asked for clarification on the highest standards. There were different collective agreements in Netherlands for different levels, did this mean that the government had to opt for the most expensive?

Mr Politakis responded that the applicable collective agreement or agreements were those covering work that was of the same nature and carried out in the same area; therefore, applicable standards should be determined with reference to best local practices.

The representative of the IOE said there were clashing views on the implementation of Convention No. 94.

A representative of BWI noted that they were happy to work with the IFC and the World Bank on standards, training, research and how to use the ILO as a platform.

Round table III: The role of local authorities

Mr Emmanuel Rubayiza, Senior Engineer in Investment and Employment Policies, Employment Intensive Investment Branch, ILO, said the role of local authorities was important in public procurement. Programmes that were implemented at a local level created jobs and helped reduce poverty. Decentralized investments and contract procedures at a local level had increased considerably. The main constraints were the lack of technical and financial resources available locally, the absence or lack of application of laws and regulations, difficulties in adapting to the different procurement procedures applied by various development partners and insufficient transfer of power. The main goal would be to favour decision-making at a local level through the transfer of authority and resources. Procedures, such as standardized contract documents, and partnerships between various actors would be key elements in this process.

In order to combine employment creation with labour standards, training in both the public and private sectors was needed. Training on codes of practice was particularly important for effective public-private partnerships. Relevant labour standards in construction contracts were necessary to improve working conditions, especially for day-workers. Dialogue and cooperation between central and local authorities in the preparation and implementation of contracts was essential, as was promoting dialogue between governments and social partners in order to establish a broad consensus on policies and approaches. Communities must be involved in the planning, construction and maintenance processes of infrastructure projects. Partnerships should be based on contractual agreements, which defined the rights and obligations of the parties. Decentralization was a lengthy process, but it was crucial to local development.

A second presentation was given by Mr Erastus Negonga, Permanent Secretary, Ministry of Regional, Local Government and Housing, Namibia. In Namibia, provisions similar to those of ILO Convention No. 94 were enshrined in the national Constitution. Provisions on decent work took into account the decentralization process and applied to local government procurement. Decentralization in Namibia entailed the transfer of decision-making power from the central government to grass-roots organizations. Namibia had a three-tier government: central, regional and local. There were 13 Regional Councils, which were responsible for the planning and development of regions. Therefore it was necessary for Regional Councils and local authorities to work together. Tender Board regulations guided the procurement process both at the local and regional levels. The bidding process remained competitive, but the cheapest tender was not automatically awarded the contract because a price preference system was used. Thus companies implementing affirmative action policies were given preference. Examples of preference criteria were the employment of women, disabled persons and local workers. To be eligible for a contract, the necessary documents, such as trade licences, must be certified by the accreditation body and submitted together with the price preference form. The preference standards ensured fundamental rights and protection. Thus child labour, forced labour, discrimination and sexual harassment at work were all prohibited by law. National law provided for freedom of association and the right to collective bargaining. All contractors and sub-contractors had to complete a disclosure form. If certain criteria, such as ensuring a safe work environment, were not met, the contractor or sub-contractor would not be awarded the contract. Some of the challenges they faced included political interference and the lack of human and financial resources. Empowerment of disadvantaged groups, more resources and capacity building were essential for successful public procurement.

A representative of BWI said local governments and municipalities were often big clients. Therefore there was a rationale for applying ILO conventions at the municipal level. Local governments and municipalities were interested in having a positive social impact and wanted to create “added value” services and goods. The driving force for change would have to be the clients, whether public or private. He noted the example of the Eurocities network, which addressed the issue of procurement, and urged workers and employers to work together.

A representative of BWI said political interference in public projects presented a particular challenge. In general, in Africa, Chinese companies did not have the required documentation. She asked whether this was also the case in Namibia. In the current financial climate large sums of money were being spent on infrastructure. This would mean local governments would have a more important role to play. All stakeholders should be part of the training process and she asked how this could happen in the most efficient way. Focus must be on the practical aspects given that decentralization had an ever more important role to play and the number of projects was increasing. She asked for clarification from Mr Negonga on how the government had done this in Namibia.

Mr Rubayiza took the opportunity to contribute to the discussion, saying that there were still many obstacles that needed to be overcome with regard to training stakeholders. The quality of construction work was an important consideration with respect to the decentralization process. There had been a number of initiatives such as a programme of capacity building for workers, entrepreneurs and public officials through the development of training centres such as in Anstirabe, Madagascar that aimed at installing a cadre of professional partners at the national level. Such centres also provided support to local enterprises in technical and managerial aspects, in improving productivity and labour standards, and to local authorities in the preparation and management of contracts.

In response to a representative of BWI, Mr Negonga said that political interference was a major challenge that needed to be addressed. Politicians tended to focus their concern on their own constituencies and were willing to compromise on standards to keep jobs in the region. However, this often led to poor quality construction. The question of foreign companies in Africa was also true for Namibia. Foreign companies tended to deliver better quality, or “added value” construction services. Thus the Tender Board preferred to contract foreign companies whereas local governments chose to use local companies. This was why Convention No. 94 should also be applied to local authorities to ensure decent work conditions and quality construction. A joint effort should be made to build capacity at the local level, as this was crucial in combating poverty and creating wealth.

A Workers’ representative from Spain said it was important to not miss the opportunity to put forward proposals and recommendations and develop consensus. The role of local authorities was of paramount importance. The Spanish Government had responded to the global financial crisis by investing 8 billion Euros to improve infrastructure at the municipal level. In 2006, a law had been passed in Spain, which stated that contracts were to be awarded only to accredited companies that were under strict obligation to execute contracts under the terms laid out therein. The ILO should undertake the initiative to work with municipalities and regions, with regard to Convention No. 94.

A number of questions arose concerning the price preference system, the criteria used and the composition of the Tender Board.

Mr Negonga replied that every tender was evaluated according to the Price Preference Table. Criteria were weighted. It was, for example, possible for a company that employed fewer workers to win the contract if they had employed women, which would subsequently be weighted in their favour. Price preference criteria were considered together with other criteria. Members of the Tender Board were appointed by the Councils. The Board was chaired by the Chief Executive Officer. One third of the Board came from the municipalities, one third were public managers and one third were members of the public. State-owned enterprises were not subject to national Tender Board regulations. There was a special procurement process for them. However, this process was similar in many ways to national Tender Board regulations. Capacity building was a prerequisite in the decentralization process. He urged continued support from the employers, workers and governments.

Round table IV: The role of other actors

Ms Maria Angeles Asenjo, Director, International Department, National Confederation for Construction, Spain, began her presentation by reminding participants that Convention No. 94 was drawn up decades ago when the social and labour context was very different. Both the working environment and social dialogue had evolved since then. In her view, it was important to distinguish between the role of labour legislation and the role of public procurement. She stressed that employers’ organizations fully supported

compliance with labour laws. However, governments also had a role to play and public authorities must not evade their responsibility to promote observance of labour laws. The procurement contract was not the tool to address this issue. Furthermore, labour legislation covered both the public and the private sector and, therefore, there was no need for special clauses in public procurement contracts. The focus should be on observance and the effectiveness of existing standards. Ms Asenjo concluded by stressing the importance of evaluating bids not only on cost, but also by taking into account other factors, such as quality, technical standards and environmental impact. In her view there was no need to promote Convention No. 94.

The second presentation was given by Mr Enrico Vink, Managing Director, International Federation of Consulting Engineers (FIDIC). He explained that FIDIC was the voice of the consulting engineering industry, representing around 45,000 firms and more than 1.5 million professionals worldwide. FIDIC offered advice on best business practice and, through documents, guides and training programmes, promoted quality, integrity and sustainability in the construction industry. FIDIC published internationally recognized forms of contracts for infrastructure works, which had become popular in the industry owing to their coherence, fairness and adaptability. These sample contracts had been prepared by industry experts, including not just engineers, but also economists and financial advisers, and in consultation with international organizations, contractors and multilateral development banks (MDBs). FIDIC's consultants advised the client on selecting appropriate terms and conditions in the contract. Mr Vink recognized the many challenges affecting procurement, notably price, political and economic factors, sustainability and the negative impact of corruption. In conclusion, he noted that FIDIC promoted quality procurement by improving the terms and conditions of construction projects and selecting enterprises with a proven track record on labour relationships, environmental concerns and integrity issues.

A representative of BWI asserted that compliance with national legislation must be the highest priority. Rather than keeping employment law and procurement law separate, however, she felt it was important to explore linkages. Different parts of the procurement document achieved different objectives. Governments should concern themselves with how work would be carried out and working conditions. It was important to maximize the opportunities related to procurement to address the current crisis, for example by aiming for targeted procurement and thereby creating opportunities for vulnerable groups such as the youth, women, etc. It is essential to work at national level to increase capacity building amongst all interested parties. There was strong agreement within the industry on what needed to be done. She stressed the importance of generating positive examples of good practice and encouraged participants to read the Conclusions of the Tripartite Meeting on the Construction Industry in the Twenty-first Century (2001), which were still relevant.

A Workers' representative from Germany noted that it was necessary to have transparency in the procurement process. Enterprises could be screened before the bidding process began. Governments had to ensure that national laws and regulations were respected when spending taxpayers' money.

The adviser to the IOE considered it imperative to provide for good governance and transparency, but was not sure that this could be achieved by putting these elements into the award criteria.

A representative of the Organization of African Trade Union Unity stated that his region needed assistance to meet training needs and overcome corruption and asked about the work of FIDIC in Africa.

The representative of the Government of South Africa noted that SADC countries subscribed to FIDIC's forms of contract. He agreed that labour legislation and procurement

could be kept separate in the private sector. However, when public funding was being used, there must be less freedom for the contracted enterprise. South Africa did not separate labour and procurement laws, but was flexible when appropriate, for example the soccer World Cup projects, where deadlines had to be observed.

The representative of the Government of Nigeria agreed that governments must take responsibility to enforce legislation. Public procurement must fulfil the obligations of decent work. He congratulated FIDIC on its work but considered that if contracts were more specific, it would assist labour inspectors with enforcement. He asked if there were sanctions for non-compliance with procurement contracts.

The representative of the Government of Kenya suggested that creating employment and sustainable enterprises were the main challenge to be faced. He noted the importance of labour-intensive work with international labour standards, sound industrial relations, working conditions and safety and health. He asked about the relationship among FIDIC's experts, governments, workers' organizations and the ILO. He supported the collection of best practices.

The representative of the Government of Switzerland noted that his country was reviewing its procurement system. He requested more information on sustainability.

The representative of the Government of Cameroon wondered whether FIDIC employed an expert in human rights issues as indigenous rights to land could be an important issue during construction projects.

A representative BWI insisted that the contract should specify that labour laws be complied with on site. This was imperative because otherwise, workers' lives were endangered. To create a level playing field in procurement, labour costs should not enter into the bidding process. Contractors could undercut their competitors by ignoring social and labour considerations. As an example, she noted that African companies did not bid when Chinese companies entered the competition. Working conditions should be included in the bill of quantities in procurement. More work needed to be done on capacity building in pricing and bidding.

In reply to questions from the participants, Mr Vink explained that project sustainability management (PSM) had developed a set of indicators to determine priorities by country, region and project level to eliminate risk. These priorities were then specified in the contract. FIDIC oversaw many activities in Africa, through their group of African members. The forthcoming regional conference would address the question "How can construction projects and engineers affect the millennium development goals?" FIDIC worked locally with the African Development Bank and the World Bank. FIDIC documents were being revised and he invited the ILO to comment on relevant parts.

FIDIC promoted quality-based selection of contractors. In his opinion, the Chinese practice of cost-cutting needed to be addressed at the international level. Regarding sanctions, national associations could bar contractors who did not comply with the rules. Contractors needed to survive, and the question was, how could firms that demonstrated good practice be rewarded? He noted the importance of quality-based selection. All participants appeared to share the view that labour legislation needed to be respected and complied with. He questioned the use of the concept of sustainability.

In her response to questions, Ms Asenjo agreed that all participants seemed to share the view that labour legislation needed to be respected and complied with. The various elements of the contracting process should be considered differently. As an example, she noted that the European Union had a process to evaluate enterprises for public contracts. If an enterprise did not go through the process, it could not get the contract. It was not

necessary to duplicate labour clauses by inserting them into contracts. It was important to have comprehensive and clear public legislation for contractors. Many important issues existed, but there were other policies to achieve them. It was important to separate issues regarding public contracts from other issues and policies.

The adviser to the IOE considered that labour costs must be viewed as part of the competitive process because construction was labour intensive. Evaluation of costs must take place in the framework of fair competition and in a transparent manner. There had to be fair competition, and the same rules should apply to all contractors.

Round table V: World Bank procurement of work and the role of other multilateral development banks

Mr Peter Harrold, Director of Services Operations, World Bank, and Mr Bernard Becq, Chief of Procurement, World Bank made a joint presentation by video-conference. The World Bank accepted the core labour standards and was committed to the global respect of these. The World Bank addressed the question of core labour standards in stages and favoured a practical approach. New initiatives should be undertaken together with other Multilateral Development Banks (MDBs). In 2005, the World Bank agreed to incorporate two core labour standards – the prohibition of child labour and the prohibition of forced and compulsory labour – into World Bank Standard Bidding Documents. The World Bank had reached an agreement with other MDBs and FIDIC for these clauses to be included in the General Conditions of Contract of the harmonized Master Procurement Documents (MPDs). The World Bank had made further progress and included a clause entitled “Workers’ Organizations” to reflect the labour standard related to “Freedom of Association and the Right to Collective Bargaining” in the particular conditions of contract. In December 2006, the World Bank agreed to harmonize the wording of the International Bank for Reconstruction and Development and the International Finance Corporation core labour texts on the prohibition of forced or compulsory labour and the prohibition of harmful child labour. The World Bank decided it would integrate the core labour standard on non-discrimination and equal opportunities in the Particular Conditions of Contract of its Standard Bidding Documents. Harmonization and modification of the current text would be finalized during the next update of the General Conditions of Contract. A meeting would also be held in March 2009 to review the inclusion of core labour standards in the MPDs for Small Works. All countries had agreed to include the wording in works contracts. The focus for future discussion would be on the best way of supporting compliant countries. The Bujagali project was an example of various partners working together successfully. To conclude, suggestions on the best way to move forward were welcomed.

Mr Charles Kenny, Senior Economist, Sustainable Development Department, World Bank said in his presentation that the language in contracts had to be translated into outcomes in terms of quality and cost. The gap between signing a contract and carrying out the contract needed to be bridged. The quality of construction outcomes sometimes fell short of what was expected. One way of ensuring quality construction was through project management. Another solution was to call on an expert third party to oversee the construction. Finally, it was possible to debar companies, however, this was a lengthy and expensive process and was best avoided. Other approaches included allowing civil society to access information. This had been successfully done in India through the Freedom of Information Act. Road Watch in the Philippines had monitored World Bank projects in that country. Road Watch drew on the skills and expertise of local retired engineers who were willing to participate in monitoring. It was also possible to involve the general public in construction projects, although they did not make final decisions. Following an earthquake, a project in India had been successfully carried out with non-experts identifying whether construction standards had been met during the construction process.

The Construction Sector Transparency Initiative, CoST, was a pilot project to increase transparency and ensure “value for money”. This was achieved through information release, assurance of information and management, and oversight by the government, the private sector and civil society. Pilot countries were Ethiopia, Malawi, the Philippines, Tanzania, the United Kingdom, Vietnam and Zambia.

A representative of BWI said it was important that social partners and global contractors had been consulted. BWI was willing to work together with the World Bank. It was important to discuss not only labour standards but also the quality of construction work. The Bujagali project had demonstrated that although capacity building took time, successful talks had been held with governments. It was important to move forward and the ILO could play a key role in bringing together different partners. She asked how they could work together on capacity building.

The workers’ representative from Germany said it was important to involve actors of civil society to help raise awareness on World Bank projects, thus leading to more oversight of which standards must be applied. Although child labour had been a contentious issue, it remained crucial to define it by including a minimum age.

A representative of BWI said the new concept of “lean construction” had been borrowed from industry. This meant that people on site decided whether the quality of a building was adequate. Once substandard construction had been identified, construction did not continue. If this approach was adopted many other issues would be resolved as a result. Building sites that already used this approach had outstanding health and safety records and quality construction.

A workers’ representative from Germany asked what mechanisms were in place to ensure policies were implemented at the regional and local level.

A workers’ representative from India said a World Bank report had shown that India faced serious problems concerning poverty and work conditions. The National Rural Employment Guarantee Act provided a legal guarantee for rural and unskilled workers in India. This Act did not comply with Convention No. 94 but he asked whether India would be eligible for a loan, and if so would India have to comply with core labour standards. Financial stimulus was particularly important to help the plight of the poor. He called for fair globalization through special financial packages to promote construction and to stimulate the Indian economy.

A representative of the Government of Nigeria said the monitoring processes and the inclusion of core labour standards in contracts was a positive step forward. The World Bank’s incremental approach was welcomed. He asked whether there were any additional tools for the audit of construction work to ensure transparency and compliance. In Nigeria, inspectors visited sites to monitor and enforce compliance with standards. It was necessary for harmonization to occur at different levels of government, as there were many different groups, i.e. environmental groups, employer groups, with different interests. Nigeria was in the process of changing its Inspectorate to a Commission in order to include various groups and bring to bear the ILO Convention.

Mr Becq responded that the World Bank had focused mainly on ensuring that all MPDs were accepted. It was necessary to have a legal framework in place before proceeding to the enforcement of standards. With regard to overseeing the implementation of new standards identifying local partners and raising awareness at a local level, it was important to work together. He agreed that it was necessary to set a minimum age to define child labour. The World Bank would accept the minimum age decided by its sister institution, the ILO. Contracts with MDBs would contain these clauses and this was where the ILO’s contribution would be particularly valuable. A partnership between the ILO and

the World Bank would be fruitful, as they would be able to pool financial resources and expertise. In response to the question on India's approach, he said this type of scheme was a socially desirable way to move forward and presented some interesting ideas. The World Bank's main concern was where the resources were going. The Bank's aim was to provide financial support, a social safety net and protection of the income of the poorest. In order to receive this kind of support, it was necessary to establish whether a state was functioning and whether core labour standards were being respected.

Mr Harrold added that capacity building took time and was best done at country level. Capacity building required dialogue between partners. The World Bank could not impose regulations on a country, nor could it force it to adopt core labour standards. A possible solution to this would be to discuss the procurement process in more detail and to better monitor contract work. Another key aspect was the labour inspectorates, which were central to quality control. Bids were based on technical and financial capacities. Including new criteria in bids was a thorny issue as many board members believed these could be easily manipulated. The lowest bidder, however, was still obliged to meet the minimum requirements in order to be awarded the contract.

In conclusion, Mr Kenny observed that the first line of defence was a strong and functional labour inspectorate which could be bolstered by the involvement of civil society.

Wrap-up discussion of the Forum

The Chairperson presented his summary report. He noted that when the Governing Body decided to convene this Global Dialogue Forum, they were keenly aware that ensuring compliance with social requirements through public procurement procedures would be a long and incremental process. Progress would be made through practical steps adapted to the social and economic conditions of each country in which they were made. Emphasis was to be put on the feasibility and practicality of approach, but the aim was to achieve progress.

At the last major sectoral meeting for the construction sector (held in 2001), it was agreed that "governments and international financing agencies should encourage socially responsible business practices that promote and protect workers' rights in accordance with the ILO Declaration on Fundamental Principles and Rights at Work, and that the ILO could "help to bring this about by providing a platform for social dialogue and for discussions with financial institutions such as the World Bank". This Global Dialogue Forum had provided a platform for social dialogue, but also the opportunity to review the progress achieved since the 2001 meeting, particularly as to the outcomes achieved so far with regard to the institutional acceptance of respect for core labour standards by the IFC and the World Bank.

Discussions had begun with consideration of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94). Opinions continued to differ with regard to that Convention and it was not the purpose of the Forum to resolve them. Workers strongly advocated promoting Convention No. 94 and indeed foresaw the utility of developing a Protocol that would broaden its coverage to other essential issues. Employers did not. For them, the Convention was obsolete and might contravene EU legislation. Workers believed that the integration of labour clauses in procurement contracts strengthened compliance and was therefore extremely useful in a sector where competitive bidding processes could drive down prices at the expense of respect for basic standards. Employers were strong advocates of effective and realistic national legislation that applied to all workers, whether engaged on public or private infrastructure projects. Labour inspection must play an important role in ensuring compliance and this was a government responsibility.

A number of Governments found Convention No. 94 to be a useful tool to achieve good governance in the procurement process. Indeed, some had taken the initiative to extend its principles to levels beyond the central authorities. In this era of increasing decentralization, the important impact that this could have was recognized.

The common concern expressed by all speakers appeared to be the recognition of the need to ensure decent work in the construction sector by ensuring respect for fundamental principles and rights at work. All concurred that national laws and regulations were essential to ensuring decent work. Public authorities must ensure compliance with the law. And yet it was also noted that in a number of countries, even the basic requirements of national labour law were not sufficiently known and were poorly complied with, and the fundamental principles and rights at work were not fully respected.

Governments were called upon to implement sound public procurement policies, including effective enforcement of labour law and fundamental principles and rights at work by contractors. The ILO could offer its technical assistance in this regard, and in particular, to step up its support for the promotion of effective labour inspection systems. Collaboration with the World Bank should be explored in these areas.

Attention had also been given to the need to strengthen the capacity of the various actors involved in the procurement process, particularly to those at local level, where current constraints in terms of human resources, skills, and professionalism remained a challenge. This had become particularly relevant at a time of decentralization of procurement procedures. There had been a suggestion that such capacity building activities should be carried out at the national level, and once again, the World Bank and the ILO might wish to collaborate in providing such training and capacity-building opportunities.

A number of other suggestions were put forward by participants, notably, that the ILO could:

- conduct research on the economic and social effects of cross-border public procurement;
- collect and analyse existing labour clauses in public procurement contracts and their application;
- organize a meeting of experts with a view to preparing a guidance document on labour clauses in public procurement; and
- identify and collect examples of good practices in public procurement and disseminate these to a wide audience.

Finally, the ILO was invited to continue to develop opportunities for social dialogue at the global, national, regional and local levels, to work together to ensure decent work in construction.

* * *

A representative of BWI recalled the last sectoral meeting for the construction sector held in 2001.⁴ The conclusions adopted on that occasion contained two paragraphs on procurement.⁵ Worker delegates believed that there was nothing to indicate that the European Commission saw any contradiction between existing legislation and Convention No. 94, and that the ILO Committee of Experts on the Application of Standards supported that view.

The Workers very much supported references to labour inspection, considering labour inspectors friends and allies on whom they depended. Collective bargaining and social dialogue were also important. Governments, employers and workers had a common interest in engaging in social dialogue; governments should ensure that employers and workers were free to exercise their rights to organize and to bargain collectively as was agreed in 2001. Paragraph 6 of the Conclusions addressed issues of change of subcontractors and equivalent protection for casual and temporary workers to that given to permanent workers.

Everyone recognized the need to ensure decent work and the need to respect fundamental principles and rights at work. Unfortunately, however, recognition of the employment relationship was not respected. Informal work and bogus self-employment remained a major problem in many countries, both developing countries and industrialized countries. The speaker referred to paragraph 4 of the Conclusions of the 2001 meeting.⁶ Legal subcontracting was helpful and necessary, but illegal chains and informal employment and bogus self-employment led to tax and social security evasion. The Workers felt that was agreed by all parties.

The Workers agreed that governments were called upon to implement sound public procurement policies, including effective enforcement of labour law and respect for the ILO fundamental principles and rights and collective agreements.

⁴ Tripartite Meeting on the Construction Industry in the Twenty-first Century: Its Image, Employment Prospects and Skill Requirements, Geneva, 10–14 December 2001.

⁵ 17. Governments should use their public procurement procedures to ensure that contractors and subcontractors comply with national legislation, including health and safety legislation. Greater transparency is needed in the award of public sector contracts to ensure that only legitimate and qualified contractors and subcontractors are engaged. Governments should continuously evaluate the performance of contractors and subcontractors and exclude those who infringe regulations from tender lists.

18. Governments and international financing agencies should encourage socially responsible business practices that promote and protect workers' rights in accordance with the ILO Declaration on Fundamental Principles and Rights at Work. The ILO can help to bring this about by providing a platform for social dialogue and for discussions with financial institutions such as the World Bank. In this connection, consideration should be given to the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

Note on the proceedings. Tripartite Meeting on the Construction Industry in the Twenty-first Century: Its Image, Employment Prospects and Skill Requirements, Geneva, 10–14 December 2001 (TMCIT/2001/12).

⁶ 4. Forms of employment which do not respect fundamental ILO principles and rights at work, national legislation or applicable collective agreements create unfair competition with those in the industry who abide by the law. Governments, employers and workers have common interests in countering illegal activities, and trying to eliminate factors leading to a negative image of the industry.

Collaboration with the World Bank was a very important area for future work. Collaboration with the World Bank on implementation of labour standards in procurement should be strengthened, in particular in cooperation with governments and social partners, at national and local level. Work needed to be done with local authorities, national authorities, trade unions and contractors' associations on the ground in countries where they have World Bank-funded projects, or indeed projects funded by any of the multilateral development banks.

With regard to capacity building of the various actors involved in the procurement process, lack of expertise on safety and health was an important constraint along with human resources, skills and professionalism. The ILO should work together with the governments and the banks in building capacity in these areas.

With regard to the suggested areas of future action, proposals should be feasible, targeted and achievable. The resources of the ILO should be employed in the field, at the national level. Capacity building at the national level should be the priority.

The representative of the IOE referred to paragraphs 17 and 18 of the 2001 Conclusions, and noted that the in-depth discussion by the Committee of Experts had made clear that the world had changed, and the position of the Employers had changed as well. Employers did not support the promotion of Convention No. 94.

He also noted that, the second amendment was proposed by the Employers. It is much lighter than the Workers' proposal, on the second line where it says "Employers do not". The Employers would like the text to say "for them among others", because these were not the Employers' reservations on Convention No. 94.

Employers agreed that labour inspection had a crucial role to play in ensuring compliance, but did not believe that the rights of casual and temporary workers all along the employment chain had been the subject of debate.

While it was true that a number of Governments found Convention No. 94 to be a useful tool, other governments had expressed a different view.

Employers shared the Workers' concerns with regard to illegal chains and those that do not respect the rules of the game. They also fully supported the ILO Declaration on Fundamental Principles and Rights at Work. Some Employers, however, had a problem with collective agreements in the context of public procurement. This should not be construed to imply that employers were against collective bargaining, or the fundamental principles relating to that right.

Employers did not see any problem with collaboration with the World Bank or the inclusion of health and safety within capacity-building activities.

A representative of BWI observed that the meeting had come at a very timely moment. The financial crisis had led many governments to develop stimulus packages emphasizing infrastructure. Local governments would have to carry out this work and joint dialogue was needed on how to do this. Global standards had to be implemented at national level, in the context of the financial crisis, where the emphasis was on creating employment. She urged the Governing Body to understand that the construction sector had been among those hardest hit by the crisis, particularly with regard to unemployment. The ILO, together with the social partners, should strive to ensure that whatever action was taken at the national and local levels not only gave value for money, but also created employment.

The Chairperson thanked the speakers and noted the areas of agreement and the prevailing spirit of social dialogue. He urged the Government representatives to give their views. Discussion then turned to the format and outcome of the Global Dialogue Forum.

The representative of the Government of Namibia had expected that the Global Dialogue Forum would be more focused on local government procurement for infrastructure provision, and would result in a product stipulating what decent work in local government procurement meant. The diversity of the discussions may have diverted attention away from the main agenda item: Decent Work in Local Government Procurement.

The representative of the Government of Venezuela recalled that when this meeting began, participants were told that the form was new and that at the end there would be no negotiated text but rather a summary of the discussion. In the absence of a written text, it was difficult for Governments to provide comments. He suggested that the Office should remain consistent and simply provide a summary of the discussions that took place.

The Secretary-General replied that the outcome of the Forum was to be a general summary of the discussion, not an adopted text. The draft report containing the Chairperson's statement would be distributed electronically to participants so that the views of the Governments that had not had a chance to give their input could be incorporated and any corrections be made.

The Chairperson observed that from the very beginning it was clear that different and divergent views would be expressed. There were also many subjects where the Governments and the social partners were in agreement, for example, on labour inspection, capacity building, so there was also common ground. The Office would prepare a report based on the comments made by the Workers, the Employers and the Governments and would invite observations in order to prepare a report for the Governing Body.

The representative of the IOE pointed out that the format of the Global Dialogue Forum was part of an experiment to find a better way to have dialogue. The purpose was to innovate and make improvements for the next time.

A representative of BWI stressed the urgency of providing the Governing Body with proposals for action coming out of this meeting. Proposals for action should focus on improving the process of procurement at the national level.

The representative of the Government of Bangladesh agreed with the Employers' view that further measures could be taken to improve the format which had been an experiment. He also agreed with the Workers that it was very important to have some specific proposals for action to present to the Governing Body. His head of delegation to the Governing Body would look for the actions or recommendations emanating from this Forum.

The representative of the Government of South Africa suggested that a document should be submitted to the Governing Body for information. What happened thereafter would be determined by proposals from the Office and the Governing Body. The report should clearly reflect the sentiments expressed in the Forum, including the agreement or opposition to certain positions expressed by the Workers and by the Employers. When public money was spent, government had a responsibility to make sure that there were safety nets for decent work. Any proposals would be debated in the Governing Body on how to take the process forward.

The Secretary-General noted that he would be making an oral report, not a written report, to the Governing Body and that the report would take into account the comments and sentiments expressed regarding local procurement taken from a national perspective.

Adopted.

An Employer representative from Mexico stated that agreeing to disagree was fundamental in this new format. This work and its consequences would almost certainly be seen in the near future. In the current economic crisis new jobs had to be created and innovation was crucial to the creation of jobs. The ILO, the Governments and the social partners should orient their work in that direction.

A representative of BWI added that those working in construction wanted practical results. She hoped there would be more construction employers present at the next discussion, because that was important for social dialogue and the end result. She appreciated the presence of many government and local government representatives.

The representative of the Government of Nigeria thanked the Chairperson and the Office and said that the format of the meeting had posed no problem to him.

Evaluation questionnaire

A questionnaire seeking participants' opinions on various aspects of the Meeting was distributed before the end of the Meeting.

1. How do you rate the forum as regards the following? (tick one box in each case)

	Excellent	Good	Satisfactory	Poor	Unsatisfactory
The subject under discussion	(7)	(12)	(–)	(1)	(–)
The quality of the discussion	(5)	(12)	(3)	(–)	(–)
The meeting's benefits to the sector	(5)	(11)	(3)	(–)	(1)
Opportunity for networking	(2)	(8)	(10)	(–)	(–)

Specific remarks:

“It was an excellent idea to bring the ILO, Governments, Employers and Workers Unions together to talk about decent work in procurement.”

“This is good to learn from each others' examples from other countries.”

“Nécessité d'impliquer d'avantage ACTRAV et ACT/EMP et si nécessaire le Centre de Turin de l'OIT.”

2. How do you consider the time allotted for discussion? (tick one box in each case)

	Too much	Enough	Too little
Round table I	(1)	(18)	(1)
Round table II	(1)	(19)	(–)
Round table III	(1)	(19)	(–)
Round table IV	(1)	(17)	(1)
Round table V	(2)	(14)	(1)
Group meeting	(2)	(8)	(2)

3. How do you rate the practical and administrative arrangements (secretariat, document services, translation, interpretation)? (tick one box)

Excellent (8) Good (6) Satisfactory (3) Poor (2) Unsatisfactory ()

Specific remarks:

“The material should be copied earlier before the round table session.”

“Administrative arrangements were made known prior to the Conference”

“There is still room to improve.”

“Certaines présentations de la T.IV n'étaient pas disponibles.”

“No convite deixou-se entender que devia haver tradução em todas as linguas (português não).”

4. In what capacity did you attend the meeting?

Government:	Delegate (12)	Adviser (6)	Observer ()
Employer:	Delegate (1)	Adviser ()	Observer ()
Worker:	Delegate (1)	Adviser ()	Observer ()
IGO:	Observer ()		
NGO:	Observer ()		

5. Other observations

“La présidence du Forum maîtrise son sujet; très bonne gestion des discussions, du temps, avec tact et courtoisie. Félicitations.”

“The allocation of the time is not well divided among the presenters and the audience!”

“Convention No. 94 is only for private workers and does not include all public and private. Sometimes we forget those in governments as well taken care of but is not the case. You heard that public workers are less paid than private talking the same job categories.”

“Sujet à poursuivre pour parvenir à une solution de consensus!”

“Je remercie le BIT pour cette belle initiative et souhaite qu’elle s’étende sur d’autres secteurs d’activités.”

“A l’avenir, prendre des dispositions pour une distribution plus équitable des délégués travailleurs et employeurs en tenant compte de la dimension régionale et de la nature de la réunion. Félicitations pour les initiatives novatrices du secteur que j’encourage.”

“The objective of such formats should be made clear in future meetings of this nature.”

“Will allow necessary adjustment with applicable legislation.”

Website of the Sectoral Activities Branch (www.ilo.org/sector)

6. Are you aware that the Sectoral Activities Branch has a website that provides information on its meetings and activities?

(7) yes

(11) no

7. If yes, please indicate how you would rate the design and content of the website?

Excellent ()

Very good (4)

Good (2)

Needs improvement ()

Unsatisfactory ()

8. If unsatisfactory or needs improvement, how would you suggest that the design and content of the site be improved?

9. If you consulted the website, did you download any of the documents available from it?

(3) yes

(4) no

(2) viewed but did not download

10. Would you choose to register and obtain information about a meeting via an electronic registration form on the website?

(16) yes

() no

Remark:

“Thanks for asking for our views.”

List of participants
Liste des participants
Lista de participantes

Chairperson

Président

Presidente

Mr Amir Hossein Shahmir, Permanent Mission of the Islamic Republic of Iran in Geneva

Members representing governments

Membres représentant les gouvernements

Miembros representantes de los gobiernos

ALGERIA ALGÉRIE ARGELIA

S.E.M. Idriss Jazaïry, Ambassadeur, Représentant permanent, Mission permanente d'Algérie à Genève

Advisers/Conseillers techniques/Consejeros técnicos

M. Ahmed Bourbia, Directeur des relations du travail, Ministère du Travail, de l'Emploi et de la Sécurité sociale, Alger

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M. El-Hacène El Bey, Conseiller diplomatique, Mission permanente d'Algérie à Genève

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Mr Sonisa Eat, Third Secretary, Permanent Mission of Bangladesh in Geneva

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Mr Mesilamu Oloka, General Secretary, Uganda Building Construction, Civil Engineering, Cement & Allied Workers' Union, Kampala, Uganda

Mr Alan Ritchie, Union of Construction, Allied Trades and Technicians (UCATT), London, United Kingdom

Mr Frank Schmidt-Hullmann, International Secretary, Industriegewerkschaft Bauen-Agrar-Umwelt (IGBAU), Frankfurt Am Main, Germany

Mr Pravin Wagh, President, Maharashtra Construction and Wood Workers Union (MBLKS) Avrangabad, India

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Représentants d'organisations internationales non gouvernementales
Representantes de organizaciones internacionales no gubernamentales

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Internationale des travailleurs du bâtiment et du bois
Internacional de Trabajadores de la Construcción y la Madera

Ms Fiona Murie, Construction Coordinator, Carouge/Geneva

International Organization of Employers (IOE)
Organisation internationale des employeurs
Organización Internacional de Empleadores

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M^{me} Kahina Arrad, Juriste, Alger, Algérie

International Trade Union Confederation (ITUC)
CONFÉDÉRATION SYNDICALE INTERNATIONALE

Confederación Sindical Internacional

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Ms Esther Busser, Assistant Director, Geneva Office

Organization of African Trade Union Unity (OATUU)
Organisation de l'unité syndicale africaine
Organización de la Unidad Sindical Africana

Mr Abdoulaye Lelouma Diallo, Permanent Representative, Ferney-Voltaire, France

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Mr Peter Harrold (video conference)
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