Working Group on the Working Methods of the Conference Committee on the Application of Standards
(Third meeting)

Informal Tripartite Consultations

17 March 2007, 14:30 – 18:40

Agenda

1. Examination of a draft of documents C.App/D.0 (Provisional Working Schedule of the Commission for June 2007) and C.App/D.1 (Work of the Committee), as well as of draft guidelines on time management

2. Drafting and adoption of conclusions concerning the cases

3. Role of Governments in the Committee

4. Other questions

I. Agenda

After an exchange of views it was agreed to discuss the items on the agenda in the following order: 3, 2, and 1. No issues were raised for discussion under item 4.

II. Role of Governments in the Committee

The representative of the Government of Cuba wished to draw attention to the very important issue of transparency with a view to improving the credibility of the Committee. The issue was very closely related to that of the role of Governments and should not be underestimated. He proposed to introduce a new stage into the procedure followed in drawing up the list without interrupting the present process. This stage was intended as an occasion on which the spokespersons of the Workers’ and Employers’ Groups would explain to a small representation of Governments the reasons for which each country had been selected. It was not a question of challenging the criteria applied, but the manner in which they were applied. He indicated that he did not consider that the selection of cases was arbitrary and that he did not advocate the participation of Governments in this selection, which would not be ethical. He proposed that this representation of Governments, which could consist of two for each regional group, would not include the Governments called upon by the CEACR to provide full particulars to the Committee, nor those on the preliminary list and which might be selected. He
clarified that this proposal had been discussed with some Government representatives of the Latin American and Caribbean Group (GRULAC).

The representative of the Government of Egypt noted that the proposal made by the representative of the Government of Cuba was intended to improve transparency, which would help Governments to consider that the selection was made on an objective basis. She expressed the belief that there was an unfortunate tendency for the Committee to be politicized. In her view, the list of cases was too long and gave rise to a great deal of work. It would be very useful for the list to be published with a summary explaining the selection of the cases. In her opinion, it was more important to take into account the situation of each country when drawing up the list, with particular reference to the difficulties of developing countries in comparison with industrialized countries, rather than to seek a balanced geographical distribution.

The representative of the Government of the Islamic Republic of Iran noted that the proposal by the representative of the Government of Cuba would improve the transparency. He felt that there was a need for cogent arguments for the selection of cases. Such a process would help the Committee to eliminate the perception of political interference.

The representative of the Government of Nigeria had no problem with the proposal of the representative of Cuba. If the Governments concerned would know the reasons for their selection through a transparent process, greater impact could be achieved. She was not in favour of the exclusion from the working group of the Governments selected on the preliminary list. Actually they would ask for explanation.

The representative of the Government of South Africa expressed also his appreciation concerning the proposal. He felt that countries cited should have an explanation as to why they were cited and should thus be able to help others cited. There was a need for an open briefing session so that governments could understand. The “endgame” was transparency.

The representative of the Government of Australia insisted on the importance of transparency to enhance the credibility of the process. He was not sure that the information should only be given to a small group.

The representative of the Government of Canada noted the serious thought behind the proposal of the representative of the Government of Cuba. She was interested in hearing the social partners’ views.

The Workers’ group thanked the representative of the Government of Cuba for his proposal. They noted that last year an important progress was made regarding the selection of cases and the process for selecting cases was becoming more transparent. In this respect, the Chairperson and the Reporter had also an important role to play. An increased number of Governments contacted the Workers’ group after the list had been decided and the Workers’ group shared with them, on an informal basis, the reasons for the selection made. This practice could be continued on the condition that it would
remain informal and simply based on the provision of information. This procedure should not require the Workers’ group to defend decisions taken. As regards timing, last year five days were needed to get the complete final list. If things would go well this year, meetings would be held with the Employers’ group on the Wednesday evening with a view to presenting the final list on the Thursday. But if another meeting should be foreseen with the Governments, this might impede efficiency in the process of finalizing the list.

The Employers’ group appreciated the proposal from the representative of the Government of Cuba. They noted that it had to be further considered and discussed within their group and could not be applied this year. This was a challenge because of the tightness of the schedule. In any event the selection of cases could never become an exact science and a certain level of subjectivity was inevitable. The process was, however, entirely transparent in the sense that any case published in the CEACR report met the criteria for being chosen. They noted that geographical distribution had always been considered important by the Governments but today a Government considered that it was not the right way.

The representative of the Government of Egypt specified that she was only calling for explanations concerning the preliminary list and on the reasons why countries which had not been on the preliminary list were placed on the final list.

The Workers’ group noted that in June the list of cases they transmitted to the Employers’ group resulted from a discussion in the whole workers’ group of the Conference while in April they were of course not able to have such a full meeting. The group discussion during the Conference was based on recent developments and the added viewpoints from the members of their group that they were not able to benefit from when establishing the preliminary list. Cases could thus both be added and withdrawn from the list in relation to information shared during the discussion in the workers’ group.

The representative of the Government of Cuba indicated that he was aware that the Employers’ and Workers’ groups had to meet several times, as it was an interactive process. At the last session of the ILC in 2006, the meeting of the Groups had lasted five days. He understood and did not criticize the delay. He was also aware of the time limits. The shorter the list the better. The proposal to hold a meeting lasting a maximum of one hour to explain the reasons for selecting specific cases should not be abandoned. The meeting would be informative rather than interactive. No effort should be spared to give effect to this proposal at the next session of the ILC. The problem of transparency was crucial to improving the credibility of the ILC Committee on the Application of Standards.

The representative of the Government of Nigeria considered that there was a need for a briefing either formally or informally. She felt that if there were compelling reasons for adding or dropping countries from the list, this should be explained, and the proposal of the representative of the Government of Cuba deserved to be considered by the social
partners. If the Governments were briefed more, issues raised during the Committee could be avoided.

The Workers' group emphasized that they had noted the concerns of the Governments and had responded thereto by providing information in the informal procedure described. This informal process, which was part of an ongoing consultative process, clearly represented a development in the right direction. Two elements should be underlined: the process of selection was not challenged and there was an agreement that the Governments were no longer seeking to participate in this process. The session proposed could be a brief session, an information session not a discussion. It was important not to attempt setting up an additional body to handle these questions, but to respect the integrity of the process and to ensure that it remained a process for the provision of information.

The representative of the Government of South Africa stated that he would be ready to come to a special briefing at any time.

The representative of the Government of Cuba thanked the Workers' Group. He said that the members of the non-aligned countries greatly welcomed the constructive and positive spirit in which the meetings had been held.

The Director of NORMES summarized that there was agreement to continue to give thought to a non-interactive information session after the publication of the final list for the purpose of enhancing transparency.

The representative of the Government of Cuba hoped that the information session would be held before the list was published.

The representative of the Government of Canada felt that it may be difficult to take a decision before the coming Conference and that the informal arrangements could continue pending a final decision on the proposal.

III. Drafting and adoption of conclusions concerning the cases

The representative of the Government of Nigeria expressed the concern of the African group that the conclusions presented to the Committee following cases seemed to be “pre-prepared”. Sufficient time was needed to reflect the discussions.

The Director of NORMES indicated that these concerns were taken on board last year and that the conclusions reflected the discussions taking account of what the Government had said. Today, the conclusions were no longer systematically presented at the conclusion of the case. Replies in writing were useful to ensure that they were well taken into account.
The Employers' group noted that in practice, the manner in which this was handled depended also a lot on the quality of the Chairperson and his/her experience. As for the recent experience with the new approach, the results were positive.

The Workers' group underscored that the time required for the drawing up of conclusions required a careful balancing between the need to ensure that the discussions held were properly reflected and the keeping of a timelink between the discussion and making public the outcome. Providing conclusions the next day was to be avoided. As to their content, it should be concise, not unduly reproduce the comments of the CEACR, focus on the outcome of the Conference Committee's discussion and the suggested course of action.

The Director of NORMES stated that there would be a problem to have the conclusions for the last case of the day on the same day.

The representative of the Government of Cuba said that not much time should elapse between the discussion and the drafting of the conclusions. Otherwise, there would be a risk that the conclusions would lose their association with their context. He added that he was concerned that the conclusions still did not reflect what had been said during the debate. The outcome of the conclusions constituted feedback for the CEACR, which he considered very important.

The representative of the Government of Egypt agreed that the conclusions should not come much later than the end of the discussion of the case but should also reflect the discussion.

The Director of NORMES noted that time was needed to have conclusions that accurately reflect the substance of the discussions. Sometimes there were three languages involved in the preparation of these conclusions. The objective was to get them as quickly as possible, but there were constraints.

The representative of the Government of Canada felt that the issue of timing could be considered when slotting cases. Time management would help.

The representative of the Government of the Islamic Republic of Iran referred to the need for conclusions which were well substantiated.

The Workers' group considered that the conclusions should mainly be conclusions of the discussion in the Conference Committee, not a summary of the debates, and concentrate on recommendations made. The sometimes heard criticism that the conclusions did not appropriately reflect the views expressed by the Governments was not justified as, in some cases, the Conference Committee did not share the views of the Government and, in any event, the record of proceedings fully set out each intervention. They regretted that the report of the CEACR simply takes note of the report of the Conference Committee.
The Employers’ group expressed their agreement that the timing of the rendering of the conclusions depended on a balancing of the need to provide them “not much later than the end of the session when the discussion took place” and the need to have sufficient time to discuss the wording of these conclusions. They also agreed that conclusions should be concise and be reproduced in the CEACR’s report, as appropriate.

The Director of NORMES observed that drafting succinct conclusions takes more time. Conclusions had to be put in the context. This was important, for example, for the follow-up, including through technical assistance. Logistical arrangements would be put in place at the next session to improve the effectiveness of the process. She summarized the consensus in the working group as: (i) conclusions should be adopted in a reasonable time-frame, (ii) conclusions should be as short as possible.

IV. Examination of draft guidelines on time management, and a draft of documents C.App/D.0 - Provisional Working Schedule of the Commission for June 2007 and C.App/D.1 - Work of the Committee.

1. Draft guidelines on time management and Work of the Committee

The Workers’ group agreed that the new guidelines concerning time management should be incorporated in D1. Concerning speaking time limits, it was important that the Chair clarified them from the beginning. They noted that the 3rd indent “Time management” should be slightly modified to take into account the fact that the response of the Government should not be too short and that written responses were, in any event, always very helpful.

The Employers’ group suggested that, in the same indent, the word “short” be replaced with “concise” and that generally, the rules on time management were guidance rules. Exceptions could always be called for. They asked if the list would be closed prior to the discussion.

The Workers’ group remarked that within their group (as well as in the Employers’ group), considerable efforts were made to discuss cases in a disciplined manner and to limit the number of speakers by nominating one or two speakers on each case. In spite of all efforts to manage time, in several cases Governments did not sign up in time, which resulted in prolonged sittings at the end of the Committee’s work. A request was expressed to encourage Governments to register as soon as possible.

The representative of the Government of Egypt indicated that, for interventions on national policy, speaking time should be limited to five minutes and a written text should be provided. With regard to the presentation of cases, more time was necessary. It was important for Governments and the other members of the Committee to hear explanations on the case that was being presented.
The representative of the Government of Nigeria had no problems with guidelines, which should be finalized and distributed as soon as possible. She felt that countries should have as much time as feasible to defend themselves, while other countries speaking should have time limits.

The representative of the Government of Cuba agreed with the representative of the Government of Nigeria. He said that it would not be possible to close the list before the beginning of the discussion.

The representative of the Government of Canada agreed with the representatives of Cuba on the need for an interactive discussion. Time limits should be established for the interventions. The Office should be more pro-active in helping countries to present their cases.

The Employers’ group noted that in many cases Governments only took the floor in order to agree with a previous speaker. It would be useful and effective if Governments could make group statements and if all used common sense and sought to encourage any good practice in this respect.

The Workers’ group noted that efforts had been made last year to avoid repetitive statements. The 3rd indent under “Time management” should be redrafted to encourage an “adequate” and “concise” statement.

The Director of NORMES summarized that:
- there was a need to clarify speaking time limits to be set at the start by the Chairperson;
- a list of speakers helps with time management but this list would only be indicative and would not be closed at the beginning of the discussion;
- Governments should be encouraged to provide enough information and a concise statement;
- when sending the preliminary list, these guidelines could be included in terms of suggestions.

The representative of the Government of Cuba raised the question of whether Governments would be in a position to register on Friday if the list was adopted on Thursday, particularly if there was a delay.

The Director of NORMES proposed that the time limit for the registration of Governments should be set at 6.00 p.m. on Friday. The only problem might be registration for Monday.

The representative of the Government of Canada wanted to know what would happen if Governments do not sign up or fail to appear.

The Employers’ group indicated that the list could be published in the Daily Bulletin. If a Government did not register, or if a Government did register but did not appear in the Committee, a general statement could be made but the case could not be treated. In any event the Secretariat should be proactive and creative in this respect.
The representative of the Government of Nigeria stated that African governments took the work of the Committee very seriously and hoped governments would volunteer. She believed most would sign up, and that the working group should be flexible and open-minded.

The Director of NORMES suggested that the regional coordinators be involved.

The representative of the Government of Egypt wanted clarification about scheduling, since normally Governments will want the later dates.

The Workers' group agreed that in certain cases alternative scenarios should be considered. However, cases where Governments did not sign up and did not appear represented a serious obstruction and warranted a special mention in the report. Consideration should also be given to what could be done to ensure that sufficient time be made available for discussion of the General Surveys.

The Director of NORMES recalled that some of the purposes of time management were to avoid night and Saturday afternoon sittings. The best-case scenario according to the current working arrangement would be to present the list of cases Thursday morning, with a deadline of Friday 6 p.m. for Governments to sign up for their appearance before the Committee. Regarding time management for the General Survey, she confirmed that guidance would be incorporated in the Document D.1.

With regard to document D.1, in accordance with a suggestion made by the Employers' Group, it was agreed to tone down, in the section on Individual cases, the expression “Moreover, it is expected that one case of progress will be examined ...”. It could, for example, be expressed in the following terms: “It could be possible to examine one case of progress ...”.

2. Provisional working schedule

The Director of NORMES recalled that Document D.0 was normally an internal document and asked the members of the Working Group whether they wished it to be published at the next session of the Conference Committee.

The Employers' group agreed that it would be useful to publish this provisional working schedule, but suggested that the published text would not provide for a full day session on the Saturday, as this risked to create a need for having such a session.

The representative of the Government of Canada stated that there was one unanimous message from governments: no evening sessions. On the first day, the schedule should be moved up.

After an exchange of views, taking account of the fact that the Employer's and Worker's groups needed sufficient time to agree on the list of cases, the working group agreed that
the following elements should be included in the program: Wednesday 30 May: 11h-13h – meeting of the Committee, including if possible the statements of the representative of the Secretary-General and of the Chairperson of the CEACR and the information meeting; afternoon - group meetings. A possibility of sitting on the first Saturday afternoon should be reserved. The examination of the individual cases should start at 10 a.m. on Monday 4 June. An extended sitting for the General Survey should be kept in reserve.