Working Group on the Working Methods of the Conference Committee on the Application of Standards
(Tenth Meeting)

Informal Tripartite Consultations
Saturday, 12 March 2011 (2.30 to 5.30 p.m.)

Brief report

Proposed agenda

- Balance in the individual cases selected by the Conference Committee

- Automatic registration of cases: Modalities for selecting the starting letter for the registration of individual cases

- Interaction between the discussion on the General Survey on Social Security by the Committee on the Application of Standards and the discussion on the recurrent report on Social Security by the Committee for the Recurrent Discussion on Social Protection

- Possible implications of the Governing Body elections on time management

- Other questions

Opening of the meeting and adoption of the agenda

1. The Working Group had before it the following papers: a background document with three appendices (a brief report of the ninth meeting of the Working Group held on 13 November 2010 (Appendix 1), as well as two tables presenting the individual cases selected for discussion by the Conference Committee on the Application of Standards since 1999 based on the type of Convention (Appendix 2) and the geographical distribution (Appendix 3)); and a draft of document C.App./D.0, containing the provisional working schedule for the 2011 session of the Committee on the Application of Standards.

2. The Director of the International Labour Standards Department (NORMES), Ms. Doumbia-Henry, opened the meeting and presented the proposed agenda and the documents prepared by the Secretariat. She welcomed the presence of the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, Mr. Guy Ryder, as well as the presence of the Director of the Social Security Department (SECSOC), Mr. Michael Cichon, who was invited to participate in the discussion on the interaction between the Committee for the Recurrent Discussion on Social Protection and the Conference Committee in June. It was subsequently agreed to discuss this item as the second item on the agenda. She further informed the Working Group that, due to
budgetary constraints, the present meeting might be its last one.

3. The proposed agenda was adopted.

**Agenda item 1: Balance in the individual cases selected by the Conference Committee.**

4. **The Employers’ representative, Mr. Potter,** indicated that appendices 2 and 3 were very useful and that the table identifying the regional distribution confirmed that, in developing the list of cases, the Conference Committee had paid careful attention over the years to the distribution of cases between regions. With respect to the distribution of cases based on the type of Conventions, he observed that the pattern for most years had been the same and that there was a need for greater diversity, including among the different types of fundamental Conventions selected. The Conference Committee should place more emphasis on the technical Conventions, such as the occupational safety and health Conventions.

5. **The Workers’ representative, Mr. Cortebeeck,** considered that the balance of cases was satisfactory and recalled that the selection of cases depended largely on the criterion of the seriousness of cases. He noted that, as both the Workers’ and Employers’ groups operated on a democratic basis, achieving a balance was not easy and, at the end of the process, the proposed list contained a greater number of fundamental Conventions (including freedom of association and collective bargaining Conventions) because they were of fundamental significance to the ILO. The balance also depended on the reporting cycle and on the double footnote cases identified by the Committee of Experts. He therefore considered that it would be difficult to improve the balance of cases.

6. **The representative of the Government of Cuba, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC),** thanked the Office for the information provided. He indicated that he was not in agreement with the Workers’ representative views and emphasized the lack of balance between the types of Conventions, as the Conventions on freedom of association and collective bargaining represented most of the cases examined. There was a need to include more technical Conventions because of the importance of the issues that they addressed. In addition, more attention should be given to Convention No. 111. Efforts should also be made to achieve a better geographical balance. He asked the social partners, who were responsible for the elaboration of the final list of cases, to take into consideration the figures provided by the Office.

7. **The representative of the Government of Bangladesh** noted that the social partners had remained sensitive to striking a balance and considered that they should continue their efforts in this regard. Concerning the geographical distribution of cases, he considered that there was a clear imbalance, particularly when comparing the number of cases for the 44 countries in the Asian and Pacific and Arab Regions with other regions in which there were a similar number of countries. He reiterated the position already expressed by the Non-Aligned Movement (NAM) that the question of the level of development should also be given due consideration. Regarding the distribution between
the fundamental and technical Conventions, the historical perspective showed a
diminishing number of technical Conventions, which raised the question of whether the
selection of cases was allowing the Conference Committee to discharge its mandate in a
holistic manner. He expressed the need for transparent criteria in order to achieve
balance. Although the social partners had taken measures to explain the selection of
cases, their explanations did not alleviate all concerns. He recalled that Ministers in the
NAM continued to raise questions about the “double standards” applied in the selection
of cases. One way of addressing these concerns was to envisage benchmarks with regard
to the geographical distribution and the type of Conventions.

8. The representative of the Government of Canada noted that the charts provided in the
appendices were helpful and indicated that the regional balance of cases had been good,
particularly over the last few years. With respect to the distribution between the
fundamental and technical Conventions, she agreed that the seriousness of the cases was
an important factor, but noted that there were also serious cases relating to non-
fundamental Conventions, such as those on occupational safety and health. She invited
the social partners to consider the views expressed in this respect.

9. The representative of the Government of Austria agreed that cases were
geographically well distributed. With regard to the type of Conventions, she considered
that it was difficult to improve the balance. Efforts should nevertheless be made to
include at least a few more technical Conventions. Regarding the concerns relating to
transparency raised by the representative of the Government of Bangladesh, she believed
that the social partners had a very transparent list of criteria, which was available to
everyone. She was convinced that the Workers’ and Employers’ groups were doing their
best to maintain a good balance in the distribution of cases, and would continue to do so.

10. The Workers’ representative gave assurances that the Employers’ and Workers’ groups
did not apply double standards, and that they always applied the criteria contained in
document C.App./D.1 (Work of the Committee), which was published every year. However,
these criteria had to be applied according to the particularities of the cases
considered. Concerning the geographical distribution of cases, any unsatisfactory balance
was also due to the imbalance in ratifications between the regions. He noted, in response
to the comment made by the representative of GRULAC, that two or three cases relating
to Convention No. 111 were included in the list of individual cases every year.

11. The Employers’ representative agreed with the Workers’ representative, in particular
on the issue of strictly avoiding double standards. In the complex process of establishing
the preliminary list of 40-45 cases from over 900 observations each year, in addition to
applying the criteria contained in the document C.App/D.1, the geographical distribution
of cases was considered to the extent feasible.

12. The Director of NORMES recalled, in relation to the balance of the type of
Conventions, that the reporting cycle was shorter for the fundamental than for the
technical Conventions, and that the fundamental Conventions had received most
ratifications. As a result, the report of the Committee of Experts inevitably contained
more comments on the fundamental Conventions. In relation to the geographical
distribution of cases, when taking into consideration the different number of countries in the different regions, e.g. in the Arab States compared to other regions, the geographical distribution of cases was still rather balanced. However, she recalled that, even within the fundamental Conventions, there was a significant imbalance in ratification, and not all regions were as well represented. In conclusion, she noted that it was acknowledged that the Workers’ and Employers’ groups were sensitive to striking a balance in the individual cases, while it was difficult to achieve, and that they would continue to do their best to the extent feasible.

**Agenda item 2: Interaction between the discussion on the General Survey on Social Security by the Committee on the Application of Standards and the discussion on the recurrent report on Social Security by the Committee for the Recurrent Discussion on Social Protection**

13. **The Director of NORMES** recalled that, following the adoption of the ILO Declaration on the Social Justice for a Fair Globalization, there had been interaction between the two Committees for the first time in June 2010. She indicated that, like last year, the interaction in June 2011 would represent a challenge, because both Committees would begin their work at the same time and it would not be possible for either Committee to begin working earlier. She recalled that, last year, the Committee on the Application of Standards had agreed to change its programme of work and to begin the discussion of the General Survey as the first item on its agenda on Thursday morning, which had allowed the Committee to report to the Committee for the Recurrent Discussion on Employment by the second working day, i.e. Friday. This had been logistically challenging (both for the Secretariat, which had had to come up with a summary of the discussion on the General Survey and a set of possible conclusions overnight, and for the Committee itself). The Working Group should identify what possible enhancements could be made to the process so that the Committee on the Application of Standards could contribute more effectively to the work of the Committee for the Recurrent Discussion on Social Protection without impeding on its own work. She recalled in this regard that the procedure adopted by the Selection Committee, which had authorized in advance “the transmission to the Committee on the recurrent item, at the earliest possible moment, of any information from or outcome adopted by the Committee on the Applications of Standards upon its consideration of the General Survey”, was very flexible.

14. **The Workers’ representative** once again supported the proposal to introduce a one year interval between the discussion of the General Survey and the Recurrent Item discussion, so as to allow the Committee on the Application of Standards to formulate conclusions which could then be included in the report submitted to the Recurrent Item Committee the following year. He noted that the relevant decision had not yet been formally adopted and that, in the meantime, the modalities applied in 2010 were probably the best under the current circumstances.

15. **The Employers’ representative** expressed the view that the interaction between the discussion on the General Survey and the recurrent item discussion was challenging. He observed that the adjustment in the schedule of the discussions of the General Survey and
related recurrent item was two to three years away and it would therefore be necessary to contend with this scheduling problem until then. He recalled that in 2010 an oral presentation had been made by the Officers of the Committee on the Application of Standards to the Committee for the Recurrent Discussion on Employment but that there had been no genuine interaction between the two Committees. It would be preferable if a report containing full information were submitted to the latter Committee for review prior to the beginning of its discussions.

16. The representative of the Government of Austria expressed the view that last year’s oral presentation did not entail a discussion for two main reasons. First, it was the first time the new system had been implemented and the Committee for the Recurrent Discussion on Employment had a very heavy programme, leaving no time for debate. Second, this Committee had received the written information just before the Officers of the Committee on the Application of Standards made their presentation. More time was needed between the adoption of the conclusions and the presentation. While being aware of the tight timeframe, she noted that it would be possible to try to agree on conclusions on the next working day after the discussion of the General Survey on Thursday; the conclusions could therefore be adopted on Friday, and could then be presented on Saturday or Monday to the Committee for the Recurrent Discussion on Social Protection. It would be important for a written document, e.g. a summary of the discussions, to be sent to the latter Committee well in advance of the oral presentation, provided that the Secretariat considered it feasible to draft such a document in time.

17. The representative of the Government of Canada supported the comments made by the representative of the Government of Austria and agreed in particular that it would be helpful if there was more time between the discussion of the General Survey by the Committee on the Application of Standards and the related presentation to the Recurrent Item Committee. She also corroborated the view that, under the current circumstances, it was important for the Recurrent Item Committee to receive the written outcome of the discussion in the Committee on Application of Standards ahead of the oral report by the Officers, so as to allow for more interaction. She agreed that the ideal solution would be to realign the discussion of the General Survey by the Conference Committee and the recurrent item discussions.

18. The Director of NORMES confirmed that in 2010 the Office had, under difficult circumstances, overnight and after the Committee on the Application of Standards had ended a full day of discussions on the General Survey on Thursday, been able to make a summary of discussions to be reviewed by the Committee the following morning, together with a set of possible conclusions. Small adjustments had then been made and the document had been sent by e-mail to the Secretariat of the Committee for the Recurrent Discussion on Employment in the beginning of the afternoon, so that the Committee had received the document a couple of hours before the oral report made by the Officers of the Committee on the Application of Standards on Friday, that same afternoon. She emphasized that on Saturday the Committee on the Application of Standards would be examining the case of Myanmar, which could not be moved.
19. The Director of SECSOC, observed that there was not a lot of leeway but that a solution was needed. The Committee for the Recurrent Discussion on Social Protection would meet from Wednesday to Saturday on the first week and would then need Monday and Tuesday for the drafting of conclusions. A summary of the discussions of the Committee on the Application of Standards would have to be transmitted to the Recurrent Item Committee before it started the drafting process on Monday. He also stressed the fact that the proposals contained in the General Survey this year were very clear and that the views of the Committee on the Application of Standards in written form (such as an approved summary of the discussion or some sort of conclusions) were going to be much needed by the Drafting Committee.

20. The Director of NORMES stressed that it would also be difficult for an oral presentation to be made on Monday because of the beginning of discussions of the list of cases in the Committee on the Application of Standards and the holding of the Governing Body elections that afternoon.

21. The Employers' representative noted that, while there had not been many differences of view on the subject of the General Survey in 2010, some of the recommendations of the Committee of Experts in the General Survey this year were controversial. It would therefore probably be more challenging to reach conclusions this year. The only solution would be to have a summary document ready on Friday night and an interaction on Saturday after the Myanmar debate. He further noted that, in order to achieve real interaction, it would be advantageous to transmit a summary document to the Committee for the Recurrent Discussion on Social Protection some hours before the oral report.

22. The Workers' representative agreed that it would be more difficult this year to reach consensus on possible conclusions. However, if agreement on certain points would not be reached, this could be recorded and would also serve as a source of information for the Committee for the Recurrent Discussion on Social Protection.

23. The representative of the Government of Canada sought clarifications on the process. She recalled that governments should be included at every stage.

24. The Director of NORMES outlined the proposed process: the discussion of the General Survey would take place all of Thursday, 2 June; the Office, as in 2010, would try to come up with a summary of the discussions and possible elements for conclusions overnight. She noted that a possibility could be that, on Friday morning, a Working Group on the conclusions could be established, so that the conclusions would be ready by the end of the day on Friday. The proposed conclusions would then be discussed by the plenary of the Committee after the Myanmar sitting. The question remained as to when the interaction with the Committee for the Recurrent Discussion on Social Protection could then take place.

25. The representative of the Government of Bangladesh believed that the issue of when to take the conclusions to the Committee for the Recurrent Discussion on Social Protection raised difficulties, particularly in view of the indication by the Director of SECSOC that Monday would be difficult because the drafting process was scheduled to
start then. He suggested that the adoption by the Committee on the Application of Standards of the outcome of the General Survey, which currently on the agenda for Friday, could be taken up first on Saturday before the case of Myanmar. If the Officers had worked on the conclusions the previous two days, the Committee could come up with a document on Saturday morning. Following the Myanmar discussion, the Officers of the Committee on the Application of Standards could present an oral report to the Recurrent Item Committee, if the latter explored the possibility of extending its meeting until 13.30.

26. The representative of the Government of Austria indicated that the proposal to have more time between the transmission of the written outcome to the Committee for the Recurrent Discussion on Social Protection and the oral report was to allow for better interaction. She did not see how the proposals currently being discussed were helpful in this regard. She noted that the conclusions this year could theoretically be debated for days. She did not believe that consensus could realistically be reached in the time available and would therefore prefer a summary of the discussions which reflected any points of consensus which might have been reached. It would not be feasible to set up a Working Group to adopt conclusions on controversial items.

27. The Employers' representative agreed that it would not be feasible to go through an elaborate conclusions process. He recalled that, during last year’s Committee on the Application of Standards, it had been difficult to complete all aspects of the work of the Committee within the time allotted. The idea of adding an additional element through the delegation of complicated issues to a Working Group was not workable. The modalities of 2010 should be replicated.

28. The Director of SECSOC indicated that the Committee for the Recurrent Discussion on Social Protection needed to be informed of the views expressed in the Committee on the Application of Standards, for example through a summary of the discussions and an indication of the points of emerging consensus and differing views. He would prefer that the Officers of the Committee on the Application of Standards gave a presentation of the summary document and have time to answer questions on the nature of the debate, so that the members of the Recurrent Item Committee understood the discussion, rather than having a fully polished set of conclusions.

29. The Workers' representative suggested that on Saturday morning, after the discussion of the Myanmar case, the Committee on the Application of Standards could adopt the outcome of its discussion on the General Survey, and that the interaction with the Committee for the Recurrent Discussion on Social Protection could take place on Saturday afternoon.

30. The representative of the Government of Canada requested information on the type of document to be adopted and who would be responsible for its preparation. She recalled the time constraints, due among other reasons to the need for each group to be able to meet to discuss the diverging views before any tripartite decision could be taken.

31. The Director of NORMES recalled that in 2010, before the group meetings, a summary of the discussions was sent to all the members of the Committee, together with a set of
possible elements for conclusions. The Office would try to do the same this year, although it would be more difficult owing to the subject matter. She stressed that the document could simply indicate what had been discussed.

32. The representative of the Government of Austria insisted that all regional government groups should receive the draft document for discussion in their respective meetings.

33. The Director of NORMES suggested that the agenda on Friday could be inverted, i.e., the discussion of the cases of serious failure could be taken up first in the morning, and the adoption of the outcome of the discussion of the General Survey could be discussed in the afternoon. The oral report could then be given on Saturday afternoon following the discussion of the Myanmar case. However, it would then be necessary to consider when the conclusions on Myanmar could be drafted. She stressed the fact that the difficulty in identifying better modalities for interaction between the two Committees under the current arrangements clearly showed that there was an urgent need for the Governing Body to take the decision to realign the discussions.

34. The Employers' representative stated that, in order to create more space on Saturday, the reply of the Chairperson of the Committee of Experts, as well as the reply of the representative of the Secretary General, could be scheduled on Friday afternoon.

35. The Director of NORMES indicated that the reply of the representative of the Secretary General could also be in writing.

36. The Director of SECSOC indicated that the Committee for the Recurrent Discussion on Social Protection could schedule the interaction for Saturday afternoon from 14.00-16.00, which would allow time to respond to questions.

Agenda item 3: Automatic registration of cases: Modalities for selecting the starting letter of the alphabet for the registration of individual cases

37. The Director of NORMES recalled that there had been agreement at the last meeting of the Working Group that cases would continue to be automatically registered and scheduled according to the French alphabetical order, as had been done for the first time during the last session of the Conference. She indicated that the remaining question concerned the letter on which to start registration. The Office had made a concrete proposal to begin registration five letters further down the French alphabetical order than the letter from which registration had started the previous year. Accordingly, as the letter “A” had been used in 2010, registration should start with the letter “F” in 2011.

38. The Workers' representative and the Employers' representative agreed on this proposal.

39. The representative of the Government of Cuba, speaking on behalf of GRULAC, recalled the importance of predictability. Noting that predictability was assured by the early transmission of the provisional list of cases, GRULAC was in favour of a system in which the starting letter was determined by the drawing of lots, which it considered to be a fairer system. In response to concerns regarding the practical implications of his
suggestion and predictability, he proposed that the draw could be made in the presence of the secretariats of the Employers’ and Workers’ groups in Geneva before, instead of at the beginning of the Conference.

40. The representative of the Government of Canada indicated that she had no objection to a system of drawing lots, but that it was necessary to know the order in advance. She recalled, for example, that Canada had been on the provisional list last year and hence knew that there was a good possibility of being called before the Committee. Knowing that countries would be slotted starting from letter “A”, Canada had been able to prepare for a discussion of its case at the beginning of the week, and ensure that the necessary experts were available.

41. The representative of the Government of Austria agreed with the representative of the Government of Canada and added that the Office’s proposal was simpler.

42. The Employers’ representative indicated that he did not consider that a system based on drawing lots was fair, but indeed was rather arbitrary, as there was a chance that countries might have to appear first before the Conference Committee several years in succession. The Office’s proposal, on the other hand, provided for predictability, objectivity and transparency, which was what governments had consistently called for.

43. The Workers’ representative supported the view expressed by the Employers’ representative and pointed out that not only for governments, but for all those who had to prepare the cases, a rotating system based on the French alphabet would be the best solution.

44. The representative of the Government of Cuba, speaking on behalf of GRULAC, stressed that the opinion of a group of countries such as GRULAC (which represented 33 countries) could not be ignored and that, if necessary, negotiations could continue. He emphasized that he had no mandate to accept the Office’s proposal without further discussion in the GRULAC group.

45. The representative of the Government of Bangladesh agreed that it was most important to have predictability in the process and if a simpler process allowed for predictability, it should be supported. His Government remained flexible and would agree with a system of lots assuming that, if this were to be implemented, in order to be predictable, the lots would have to be drawn well ahead of the Conference. As a compromise, he wondered whether it would be acceptable for GRULAC to have the Office’s proposal implemented on an experimental basis this year (as a solution had to be found), on the understanding that it would be reviewed later if it was not satisfactory.

46. The representative of the Government of Cuba, speaking on behalf of GRULAC, agreed to accept the Office’s proposal on an experimental basis for the 2011 Conference, with the possibility of changing the system as of 2012 if GRULAC remained opposed to it.

47. The Director of NORMES concluded that, as with any other recommendation made by the Working Group, the proposal to implement the system suggested by the Office at the
Conference in 2011 on an experimental basis would be submitted to the Conference for decision.

Agenda item 4: Possible implications of the Governing Body elections for time management

48. The Director of NORMES recalled that the Governing Body elections would take place in the afternoon on Monday 6 June, which was the first day of the discussion of individual cases. This would have clear implications for time management for the Committee on the Application of Standards.

49. The Employers' representative indicated that 2008 was the first year in which the Committee could not meet during the Governing Body elections. He did not recall whether there had been any special circumstances in 2008, but it seemed as if, before 2008, the elections had always been held without interfering with the work of the Committee.

50. The Director of NORMES explained that this change was due to the introduction of the electronic voting system.

51. The representative of the Government of Bangladesh proposed to schedule an evening session on Monday, 6 June from 18.30-21.00.

52. The Director of NORMES noted no objection and indicated that the timetable would be modified accordingly.

Agenda item 5: Other questions

53. The Director of NORMES indicated that a limited number of seats would be reserved in the first rows of the Governing Body Room for the countries that had to present their cases.

Closure of the meeting

54. The Director of NORMES, noting that there were no other questions, indicated that she would discuss with the Executive Director whether meetings of the Working Group could continue in the current form, and information would be provided in this regard by June 2011.