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

Informal Tripartite Consultations
Saturday, 12 November 2011

Brief report

Proposed agenda

1. The proposed agenda contained the following items:

   (i) Adoption of the list of individual cases

   (ii) Balance in the types of Conventions among the individual cases selected by the Conference Committee

   (iii) Possibility for the Conference Committee to discuss cases of progress

   (iv) Possible improvements in the interaction between the discussion on the General Survey by the Committee on the Application of Standards and the discussion on the recurrent report by the Committee for the Recurrent Discussion

   (v) Automatic registration of individual cases: modalities for selecting the starting letter for the registration of cases

   (vi) Other questions

Opening of the meeting and adoption of the agenda

2. The Working Group had before it a background paper which outlined the constituents’ views on the relevant issues, as expressed at the 100th session of the International Labour Conference (June 2011) and previous meetings of the Working Group.

3. The Director of the International Labour Standards Department (NORMES), Ms Doumbia-Henry, chaired the meeting. She presented the proposed agenda and the background paper prepared by the Secretariat. She noted that at the last meeting of the Working Party on the Functioning of the Governing Body and the International Labour Conference (the Working Party of the Governing Body), the opinion had been expressed that there may not be a need for future meetings of this informal tripartite Working Group.

4. The Government representative of Canada suggested an additional item on the provisional working schedule for the Conference Committee. She noted that nothing had been conclusively decided, but that if the Governing Body were to meet at the
beginning of the International Labour Conference, it would reduce the time the Committee had for its discussions.

5. The proposed agenda was adopted as amended.

**Agenda item (i): Adoption of the list of individual cases**

6. **The Employer spokesperson, Mr. Potter,** began by stating he was finishing his tenure as the Employer Vice-Chairperson of the Conference Committee on the Application of Standards, and that this would be his last meeting. He introduced the Employer representative that would replace him, Mr. Chris Syder. He noted that the adoption of the list of cases was influenced by several complex factors, and suggested that it might be sensible to discuss Agenda items (i), (ii) and (iii) concurrently, as they were interrelated. The adoption of the list was a complicated matter. The list represented only three percent of the observations of the Committee of Experts. Each case had the particular emphasis that each group wanted to place on it. He reiterated the Employers’ group view that the preliminary list should be limited to 40 cases or less, and stated that the inclination of both the Employers and Workers to discuss certain cases year after year was counterproductive. He furthermore noted that approximately half the cases on the list concerned freedom of association. While recognizing the importance of the topic, the Employers felt that such an emphasis on one subject meant inherent difficulty in including technical Conventions that were important to the protection of individual rights, such as wages, occupational safety and health, working hours and others.

7. **The Worker spokesperson, Mr. Cortebeeck,** began by noting that he would also be ending his tenure as the Worker Vice-Chairperson of the Conference Committee and introduced the Worker representative that would replace him, Mr. Marc Leemans. He agreed that agenda items (i), (ii) and (iii) were linked. He acknowledged there had been problems with the adoption of the list of individual cases. Criteria were very important, but it was not possible to say there should be a certain number of cases, categorized by criteria. While the Workers’ group understood the wish to focus on technical Conventions in addition to the fundamental Conventions, the priority of most worker organizations was freedom of association and collective bargaining as an enabling right. He explained that if such cases were repeated year after year, it was because the problems were persistent. The speaker also noted that the Workers’ group was committed to finding a solution to ensure that the list of cases was adopted by the Friday of the first week. Nevertheless, he expressed doubts about the possible methodologies to make this a reality. Regarding cases of progress, the Workers’ group was open to discussing a case of progress, but it would have to be in addition to the list of 25 cases, not lieu of one of the cases.

8. **The Government representative of Cuba, speaking on behalf of the group of Latin American and Caribbean Countries (GRULAC)** noted that the work of the informal tripartite Working Group had resulted in some positive steps for the Committee on the Application of Standards, including time management. However, GRULAC felt there were some substantive problems that had not yet been addressed, including the political nature of the list of cases considered, regional imbalance, an imbalance in the types of Conventions considered, and transparency. While
recognizing that the determination of the list of individual cases was the prerogative of the social partners, the speaker suggested that some regional coordinators or governments should be able to express themselves before its adoption.

9. The Government representative of the Islamic Republic of Iran noted that he did not have a unanimous statement on behalf of the Asia-Pacific Group (ASPAG). However, he stated that many government members of ASPAG were calling for greater government participation in the process of selecting cases. He reiterated the concerns that the selection criteria were not solid and replicable, did not take into account proper geographical distribution, and lacked proportional weight for technical and fundamental Conventions. He considered that due to the existence of the Working Party of the Governing Body, this Working Group could have less “raison d’être.” He also expressed support for the Employers’ statement that repeated consideration of the same cases each year was unproductive.

10. The Government representative of Canada acknowledged the improvements made in the working methods of the Conference Committee. The major remaining issue was the adoption of the list. She considered that it was for the social partners to resolve their differences independently, taking into account governments’ expressed views regarding types of Conventions and regional balance. She suggested some practical measures to resolve the impasse, such as each group being able to select one case which would not be subject to veto by the other. Her government was also in favour of having a case of progress on the list. Regarding the Working Party of the Governing Body, she noted that while it might be the appropriate venue to discuss larger issues such as the recurrent discussion, it may not provide an opportunity to discuss specific technical details of the Conference Committee’s work. Thus, she suggested that no final decision be made as to whether this Working Group needed to meet in the future.

11. The Government representative of Sudan stressed the need to enhance technical support and capacity-building in developing countries.

12. The Government representative of Austria, speaking on behalf of the Western European countries, considered that governments should not interfere in the determination of the list. Employers and Workers should collaborate on finding a process that would enable effective negotiations.

13. The Government representative of Cuba suggested that there be a goal to have the list published on the second day of the Conference. She clarified that the intention of the governments was not to interfere in the work of the social partners, but to improve governments’ participation in the process.

14. The Director of NORMES clarified that the methodology for adoption of the list was not under discussion, as consensus on this methodology had been previously reached after discussions at earlier meetings. The issue was not a question of government involvement in selection of cases, but rather setting a deadline for the adoption of the list of cases.

15. The Government representative of China proposed that in order to make adoption of the list more straightforward, it could be agreed that, for example, the Employers group would select 12 cases and the Workers group would select 13 cases.
16. The Employer spokesperson recalled that there was consensus that the list had to be established by the Workers and the Employers. He explained that it would be difficult to publish the list before the Friday of the first week, because the differing priorities of the national workers’ and employers’ organizations needed to be considered. As previously proposed, the only way to advance its adoption would be a meeting of the Committee (at least the Employers’ and Workers’ groups) prior to the Conference. He acknowledged the positive aspect of the preliminary list. All governments were given adequate notice and they had to come to the Conference prepared. Regarding interaction with governments, he noted that there was an elected Chairperson of the Committee who served as the governments’ representative, and also referred to the social partners’ practice of having a briefing session for all governments immediately after the list was adopted. He noted that this session did not always enjoy high attendance. He reiterated previously expressed views that the general discussion and the discussion on the General Survey were two impediments to timely adoption of the list of cases, and wondered if the General Survey could be discussed in a sub-committee. If this was the case, perhaps double-footnoted cases could be discussed earlier. The adoption of the list was not meant to be a question that divided the list between the Employers and the Workers, but to ensure that the list included at least some cases in which the Employers were interested.

17. The Worker spokesperson stated that regional distribution in the 2011 list had been quite balanced. Regarding GRULAC’s desire for earlier notification, there was a provisional list drawn up each year, and only in one case there had been a case on the final list that was not on the provisional list. Thus, the provisional list should serve as some kind of advance notification to governments. He agreed that it would be difficult to finalize adoption of the list before Friday.

18. The Government representative of Cuba emphasized her view that as governments were the parties most affected by the list, they really should participate in its adoption, and that there needed to be increased transparency in this process. She also suggested that if the list were not agreed on by Friday of the first week, then there should be no list that year. This would help all parties respect deadlines.

19. The Government representative of Austria stated that she believed the General Survey to be very important, and that discussing it in a parallel sub-committee meeting would cost the Office additional money for which there may be no budget. She also expressed frustration that the Employers’ and Workers’ groups had not offered any concrete solutions as to how to break the impasse regarding the adoption of the list.

20. The Director of NORMES noted that the practice of drawing up a preliminary list was very advantageous and had a beneficial impact on the work of the Committee of Experts, since it resulted in the submission of significantly more reports.

21. It was agreed that the Employers and Workers spokespersons would meet informally to elaborate a process to improve the adoption of the list. They were asked to report on the outcome of their consultations in March.

Agenda item (ii): Balance in the types of Conventions among the individual cases selected
22. The Employer spokesperson acknowledged that the balance in the types of Conventions among the individual cases selected was complex, in part because of the reporting cycle and because the social partners were limited to the comments included in the Committee of Experts' report. If no observation was included in the report, it could not be included on this list. He stated that he understood the Workers' prioritization of freedom of association, but insisting upon so many freedom of association cases limited the topics that could be discussed. He suggested that the only way to ensure diversity might be a quota system which mandated that there must be a certain number of cases from each category. However, he acknowledged the limits of this suggestion, as the selection of cases was a political process and group decision-making would always be difficult.

23. The Worker spokesperson stated that the Workers' group was aware of the perceived imbalance in the types of Conventions, and agreed that diversity was important. He noted that the Workers' group tried to emphasize to its members that there were several technical Conventions that were also worth reviewing. However, workers' organizations naturally prioritized freedom of association, and he did not foresee that changing in the future. He acknowledged, however, that the Workers' group was open to discussing the quota option, although it did not mean that adoption of such a system was inevitable.

24. The Director of NORMES reminded participants that the Experts comments in their annual report were influenced by the reporting schedule (from 2012, every three years for fundamental Conventions, and every five years for technical Conventions). Additionally, article 22 reports on the technical Conventions were not always submitted regularly or in a timely manner. Approximately 30% of the requested reports were submitted by the deadline, which impacted the Committee's observations.
Agenda item (iii): Discussion of cases of progress

25. The Employer spokesperson stated that the Employers’ group was in favour of including a case of progress, as it would allow for public and transparent discussion of what had been achieved, but would also provide a constructive environment for discussing the difficulties in full implementation of standards. Taking into account the Workers’ preference not to reduce list of 25 cases to accommodate a case of progress, the Employers would consider a formulation of 25+1, or perhaps even 25+2, but noted this would add at least an additional 90 minutes to the Committee’s work. The agenda would need to accommodate this additional time. He suggested that the Conference Committee should establish a predictable practice for selecting the case of progress each year.

26. The Worker spokesperson agreed that including a case of progress could be instructive for other countries. It should be in addition to the original 25 cases, and not take up too much time.

27. The Government representative of Cuba noted the practice of including a case of progress had been ended in 2008. A case of progress indicated that a country had improved in certain areas; but it could still be open to criticism in other areas, which might lead to politicization or imbalance. So the decision to reinstate the process needed to be carefully considered.

28. The Government representative of the Islamic Republic of Iran, speaking on behalf of ASPAG, was in favour of including a case of progress, but questions remained regarding the selection criteria. He suggested an alternative to a formal discussion of a case of progress would just be a brief acknowledgement during the session.

29. The Government representative of Canada expressed support for including either one or two cases of progress, but acknowledged that time management was an ongoing concern.

30. The Government representative of Cuba (speaking in her national capacity) stated that the request to consider a case of progress had only been made by some governments, and did not represent the wishes of all governments. It would require additional effort on behalf of the social partners, and would just duplicate the work of the Committee of Experts. Governments should continue to be consulted on this matter, as there was no consensus.

31. The Director of NORMES recalled that there had been long-standing consensus on the inclusion of a case of progress in the Conference Committee’s report, but that the practice had been temporarily suspended in 2008 due to concerns about time management. Moreover, the criteria for what constituted a case of progress was also not subject to debate, as the Committee of Experts already had criteria for selecting cases of progress. It was just a matter of the Conference Committee deciding on the modalities for discussing such a case.
Agenda item (iv): Possible improvements in the interaction between the discussion on the General Survey by the Committee on the Application of Standards and the discussion on the recurrent report by the Committee for the Recurrent Discussion

32. The Employer spokesperson stated that until the new discussion modalities that had been agreed upon took effect in 2014, the Employers could accept the status quo. He also reiterated the Employers’ group expectation that this year’s discussion on the General Survey would be less policy-oriented.

33. The Worker spokesperson expressed satisfaction with the process and the outcome of the 2011 discussion. He agreed that the current system should be maintained until the new discussion procedures came into being in 2014.

34. The Government representative of Austria agreed with the Employers and Workers. She stated that the process worked much better this year. She also raised the issue of time management, given the significant interest that the General Survey may attract in 2012 as it dealt with the fundamental Conventions.

35. The Government representative of Canada stated that she was in agreement with the Employers, the Workers and the Government of Austria on this issue. She echoed the previously expressed concerns about time management and a preference for a General Survey which was more traditional and not policy-related.

Agenda item (v): Automatic registration of individual cases: modalities for selecting the starting letter for the registration of cases

36. The Director of NORMES recalled that during its June 2011 session, the Committee had employed the automatic registration of individual cases based on a rotating alphabetical system. This had been done on an experimental basis. The system seemed to have worked well, and the Director of NORMES inquired as to whether it should continue, or if another method, such as the drawing of lots – as previously suggested by GRULAC – should be used instead.

37. The Worker and Employer spokespersons expressed support for continued use of the same automatic registration system. They considered that this system was fair and more predictable than the drawing of lots.

38. The Government representative of Cuba maintained that there was no consensus on this question and that GRULAC continued to favour the drawing of lots, as the most important factor was predictability. She also questioned how the automatic registration modalities had been designed, and asked for an explanation of the “A+5” model. However, she agreed it could be continued on a provisional basis.

39. The Director of NORMES recalled that as the Committee discussed 25 cases, and there were 26 letters in the alphabet, the A+5 model had been decided upon to ensure a genuine rotation of countries on the list, so that the Committee did not always discuss the same countries at the beginning and the end of the week. This system also had the advantage of predictability, which was important especially when ministers
came to speak to the Committee. She concluded that there was a consensus that the experiment would continue.

Agenda item (vi): Other issues

40. In reply to the question raised by the Government representative of Canada about the June 2012 Governing Body, the Director of NORMES noted that there was some uncertainty regarding its schedule, and suggested it would be most useful to wait until there were concrete details before making any decisions. Nevertheless, the question remained as to whether this Working Group should meet in March 2012, in particular in light of the ongoing work of the Working Party of the Governing Body. Given the specific technical knowledge of this Working Group, she suggested that it would be helpful to retain the option to meet in the future, but perhaps it was not necessary to take a decision at this time concerning the Working Group’s next meeting.

41. The Government representative of Austria suggested that unless it was necessitated by actions taken in the Working Party of the Governing Body, this Working Group should not meet in March.

42. The Employer and Worker spokespersons agreed.


44. The Government representative of the Islamic Republic of Iran stated that this Working Group should continue to meet as regularly as possible and considered that there were pending issues to discuss in March.

45. The Government representative of Canada noted that the Working Party of the Governing Body had the latitude to discuss a wide range of issues.

46. The Worker spokesperson noted that there did not seem to be a need to meet in March, but suggested keeping the option to meet available, as preparation for the Conference Committee may be difficult to discuss in the Working Party of the Governing Body.

47. The Director of NORMES recalled that this Working Group reported to the Conference Committee on the Application of Standards. Nevertheless, discussions in the Working Party of the Governing Body could affect the Conference Committee, and this Working Group might find it useful to retain the option to meet in the future, including to follow-up on questions raised by the Working Party of the Governing Body.

Closure of the meeting

48. The Director of NORMES noted that the Working Group would not meet in March 2012.