Informal tripartite consultations on the Working Methods of the Committee on the Application of Standards (17 March 2018)

**Brief report of the meeting**

1. Informal tripartite consultations on the Working Methods of the Conference Committee on the Application of Standards (CAS) were held on Saturday, 17 March 2018 from 2 p.m. to 5 p.m.

2. The meeting was chaired by Mr Sipho Ndebele (Government representative, South Africa). The Employer Vice-Chairperson of the CAS at the 107th Session (2017) of the International Labour Conference, Ms Sonia Regenbogen, and the Worker Vice-Chairperson of the CAS, Mr Marc Leemans, spoke on behalf of the Employers’ and Workers’ groups, respectively. The Government representatives were from the following nine countries: Algeria, Brazil, Canada, Egypt, Greece, Iraq, Lithuania, Poland and Thailand. The meeting was also attended by a number of observers.

3. The meeting had before it a background note prepared by the Office. The agenda of the meeting was presented by the Chairperson, who noted that, as the first two points from the 4 November 2017 agenda had been dealt with at that meeting, the focus of the March 2018 meeting would be on the remaining three points from that agenda. The discussion of the agenda was not finalized and it was agreed that discussions would continue in November 2018, with an extended sitting if necessary.

I. Preparation, adoption and follow-up of conclusions

4. **Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC), a Government representative of Brazil** raised a point in relation to point 6 of the background note of the 4 November 2017 meeting, with regard to the issue of when governments should take the floor during the adoption of the conclusions in the CAS. He recalled GRULAC’s proposal, with which the Africa group had agreed, that governments should be given the floor before the adoption of conclusions. A brief discussion ensued with regard to whether or not agreement had been reached on whether the governments should take the floor immediately after the adoption of the conclusions.

5. **Speaking on behalf of the Western European group, a Government representative of Greece** concurred with the proposal made by GRULAC, expressing support for the right of governments to speak before the conclusions are adopted. In addition, she recalled that the issue of government seating in the CAS had been a concern of the governments for the past years.

6. **The Employer spokesperson** considered that the discussion was well reflected in point 6 of the background note. Her group did not consider that the notes should be revised. Noting that this item was not on the agenda, she suggested that the meeting move on. The consensus reached in the November 2017 discussions and reflected in the background note is that the Chairperson of the CAS reads out the conclusions, providing the governments concerned with copies of the conclusions in writing as well as on the screen, and at that time the government may take the floor to comment on or otherwise react to the conclusions.

7. **The Worker spokesperson** concurred with the Employers’ group, noting that, with the exception of the June 2017 CAS, when several conclusions were read out before
governments were given the floor, the practice was for the conclusions to be read out and for the governments to be given the floor immediately thereafter.

8. The Government representative of Brazil indicated that there was agreement that the procedure followed during the June 2017 CAS, in which governments were allowed to take the floor only after all the conclusions were adopted, was inappropriate. His group disagreed with the procedure followed in the 2017 CAS, but not with the established practice of allowing the government concerned to take the floor immediately after the adoption of each conclusion. He requested that the different views expressed on this point be reflected by the Office in the background note.

II. Discussion of the General Survey

9. The Worker spokesperson recalled that the discussion of the General Survey was very important for the recurrent item discussion. As noted in paragraph 9 of the background note, it was true that insufficient time was often allocated to do full justice to the discussion of General Surveys during the CAS. He recalled that the ILC resolution called on the Office to make better use of article 19, paragraphs 5 and 6, and that it had been proposed to include a standing item on the discussion of the General Survey in the November Governing Body session. This would provide an option for follow-up and ensure greater policy coherence in relation to recurrent item discussions and other activities. His group therefore supported this proposal for a standing item. He further noted the proposal in paragraph 9 of the background note regarding the use of article 18 of the ILO Constitution to appoint experts on the topic being addressed. The Workers’ group asked the Office to provide more information as to when recourse would be made to experts and what their role might be.

10. The Employer spokesperson stated that her group agreed with the need to enhance General Survey discussions, and supported the proposal of reducing the time allocated to the discussion of opening items in order to allocate more time to allow for a more in-depth discussion of the General Survey. She also proposed that the meeting find a way to reduce the minimum reporting times, and to introduce a more user-friendly, standardized procedure, including by limiting the number of instruments covered, to enable delegates to make more focused statements. Her group had some concerns regarding the use of experts, considering that, since the necessary expertise rested with the Office, outside experts should be hired only in exceptional situations. Moreover, until the Governing Body took a decision on the issue of time allocation, it was not useful for the meeting to duplicate the discussion.

11. Speaking on behalf of the Western European group, the Government representative of Greece indicated that her group could accept the inclusion of a standing item on the General Survey for the November Governing Body to enhance follow-up, but suggested that, for the sake of time management, governments could be requested to submit information in writing in advance of the discussion. Her group agreed with the Workers’ group that it would like to have additional information concerning the hiring of outside experts, in light of the time constraints. In respect of paragraph 11 of the background note, she suggested strengthening the links between the Standards Review Mechanism (SRM) and the discussion on the General Survey, as this would enhance the functioning of both mechanisms.

12. Speaking on behalf of the Eastern European group, the Government representative of Poland supported the Office’s proposal to link the results of the General Survey to the SRM. This would bring added value, as General Surveys often provide information on the reasons why a government has not ratified an instrument or why an instrument might be considered outdated.

13. The Government representative of Canada indicated that her Government was open to the possibility of allocating more time to the General Survey discussion, but recalled IMEC’s position that this should not be done at the expense of the time allocated to individual cases. With regard to the proposal concerning the hiring of outside experts, she recalled IMEC’s
statement in the context of the discussion in relation to GB.332/INS/PV that caution should be taken in introducing additional elements or speakers, given the significant workload of the CAS. Her Government could support the proposal of including a standard item on the General Survey on the agenda of the November Governing Body, as this could enhance institutional coherence, by supporting the SRM and standard-setting processes. Nonetheless, she questioned the feasibility of adding additional elements to an already packed Governing Body agenda.

14. Speaking on behalf of GRULAC, a Government representative of Brazil concurred that the General Survey discussion was very important to the ILO normative system as a means of improving understanding of the realities of the world of work in relation to certain topics and instruments. His group agreed that there was little time for in-depth discussion, but considered that, as the CAS is a committee of the Conference, it was required to comply with the general rules of the Conference and its working methods. This meeting had only an advisory role, and could not determine how the CAS would proceed. His group also questioned whether outside experts would add value to the discussion of the General Survey, noting that the Office had the necessary expertise. In addition, as the discussion was an opportunity for governments to engage in a document prepared by the Committee of Experts and provide input, he suggested that governments should be encouraged to bring their best experts on the topic to contribute to the discussion. With regard to the proposal in relation to placing a standing item on the agenda of the Governing Body, he considered that this was for the Governing Body to decide, and was part of an ongoing discussion regarding GB.332/INS/5(Rev.). He suggested that the meeting discuss the proposals in an informal session, without adopting any decisions, in advance of the CAS, to enable groups to develop a clear understanding of other groups’ positions in preparation for the CAS discussions.

15. The Employer spokesperson recalled that the mandate of the meeting was not that of a technical committee. It was an informative mandate, to inform the CAS of challenges to ratification or implementation of the standards under consideration. The meeting was different from a technical committee and lacked authority to engage in advance discussions prior to the CAS. There had been a discussion in planning for the CAS about the possibility of a side event, but this was rejected, as governments considered that they did not have sufficient resources to take this on. Her group considered that governments in fact do have the opportunity to provide input into the issues being debated when they provide information to the Committee of Experts in preparation of the General Survey. She suggested that the Office could provide information to help the Committee have a clearer understanding of the mandate of the Committee of Experts in relation to the General Survey, to focus the discussions.

16. The Worker spokesperson considered that his group could align itself with the Employers’ proposal regarding a more user-friendly approach, on condition that this would not prejudice the quality of General Surveys. The Workers considered that there could be added value in including a standing item on the General Survey in the November Governing Body. While this was for the Governing Body to decide, the meeting could nevertheless express support for the proposal, as it would provide an opportunity for follow-up to the General Survey. He reiterated his group’s query regarding whether experts were not available within the Office and the manner in which outside experts might be utilized.

17. The Director of the International Labour Standards Department clarified that the proposal was intended to allow for the appointment of complementary experts only where useful due to the highly technical nature of certain instruments. Recognizing that the CAS already brings together many experts, she noted that the proposal was to have the possibility of bringing complementary expertise where needed. The Office was also fully mindful of the time constraints, and would therefore consider this option only if it would add value to the discussion. She further noted that the D.0 document circulated in the meeting already reflected the Office proposal to save time by reducing the time allocated to the general discussion of opening items. Responding to a query from the Worker spokesperson, she clarified that no decision had been taken on the Committee on Freedom of Association
reporting to the CAS, noting that if there were a decision taken to this effect, this would need to be reflected in the D.0 document.

18. A **Government representative of Canada** suggested that the usefulness of General Surveys could be enhanced by ensuring that the relevant questionnaire is streamlined, tightly focused and firmly grounded in the instruments intended to be addressed.

19. **Speaking on behalf of GRULAC, a Government representative of Brazil** concurred that the General Survey should be made more user-friendly, while maintaining the quality. His group was not in agreement with the proposal that the meeting make a recommendation to the Governing Body concerning including a discussion of the General Survey as a standing item on its agenda. His group still proposed having informal consultations, which would not have to be pre-CAS, and could simply be an informal discussion among the tripartite constituents to discuss issues of common concern. With regard to the time allocated to the General Survey discussion, he asked the Office to clarify whether the time foreseen for the discussion had actually been fully used by governments during the last meeting. Another issue related to the discussion, but that should be addressed separately, was the issue of the adoption of the outcome of the discussion of the General Survey by the CAS and the need to have the proposed outcome available as soon as possible. When would this be made available to the CAS according to the programme of work?

20. **The Director of the International Labour Standards Department** noted that in accordance with the practice in past years, there had been only one session foreseen for the discussion of the General Survey, on 29 May 2017. While more time had initially been foreseen, this was not needed, so this change reflected current practice. She noted that for two years she had also been presenting the General Survey, primarily for ILO staff, but the invitation could be extended for others to join. With regard to the issue of when the proposed outcome document would be distributed, the Office aimed to do this as far in advance as possible, but this was up to the vice-chairpersons, not the Office.

21. **The Chairperson** noted that there was an emerging consensus around the need to find additional time for discussion, and that the changes to the D.0 document appeared to be supported by the meeting. With regard to the issue of use of experts, this could be further examined at the next meeting. He noted that the Office would develop the ideas that had been brought forward, for further discussion at the next meeting. He also noted the different views expressed regarding the proposal concerning recommending inclusion of a standing item on the General Survey at the November Governing Body.

22. **Speaking on behalf of GRULAC, a Government representative of Brazil** suggested that there could be another round of discussions in November 2018 concerning the General Survey discussion as well as the issue of the adoption of the outcome of the General Survey discussion. His group considered that there should be a process for adopting such outcome in a tripartite manner. He questioned whether there was a role for the Chairperson in the drafting of the conclusions.

23. **Speaking on behalf of the Western European Group, the Government representative of Greece** indicated that since GRULAC’s proposal regarding the General Survey could have many implications, her group could not react immediately. She invited views from her group to see how to move forward, and requested that this point be returned to at the next meeting. She thanked the Office for the suggestion of inviting all delegates to the presentation of the General Survey.

24. **The Chairperson** noted that the groups had agreed to seek the views of their members on the proposals and that these would be addressed at the next meeting.

25. **The Employer spokesperson** noted that if the meeting wished to discuss this further, it would be necessary to have more information from the Office, since discussion of the conclusions of the General Survey was a relatively new procedure. This could also be controversial, as it was not clear how a Chairperson would be expected to take into account input from a government on the outcome of a General Survey.
26. The Workers’ group concurred with the Employers’ group, noting that the most important thing was for governments to make interventions that would enable the social partners to reach solid agreement on the proposed outcome.

III. Cases of serious failure by member States to respect their reporting obligations

27. The Worker spokesperson stated that his group was concerned at some governments’ continued failure to respect their reporting obligations, although slight improvements had been noted, as 71.1 per cent of requested reports had been received in 2017, marginally more than the 69.7 per cent received in 2016. He also noted that the provision of technical assistance in such cases had had positive results. He thanked the Office for its efforts and encouraged it to continue to follow up with governments closely, including through technical assistance. He highlighted the importance of the participation of the social partners in the preparation of reports, where tripartite mechanisms existed, in order to improve the quality of reporting. The current report reflected that 11 member States had made some improvements in meeting their obligations. The Workers’ group appreciated the effort that needed to be invested, and would support action to improve this difficult situation.

28. The Employer spokesperson noted that this was a very important issue and there was a need for coordinated sustained measures. The Employers’ group considered that technical assistance measures taken to help countries meet their reporting obligations should be extended where possible. Technical assistance measures should take a long-term view and focus on preparation of outstanding reports while building the reporting capacities of the countries concerns. The introduction of electronic reporting, longer reporting intervals and simplified report forms had been helpful, and it was expected that the work of the Standards Review Mechanism Tripartite Working Group (SRM TWG) would also help ease the reporting burden. She added that, in respect of the urgent appeals, greater visibility was key. She queried whether the Committee of Experts had a mandate to decide on an urgent appeal where a country has failed to report for more than two years to observations from the social partners. It was important to clarify to governments that they may be called before the CAS even if they have not submitted a report responding to observations.

29. Speaking on behalf of GRULAC, a Government representative of Brazil indicated that his group supported technical assistance measures to help countries meet their reporting obligations.

30. A Government representative of Canada considered that the urgent appeals procedure was a reasonable approach that complemented the existing practice of sending letters to countries.

31. Speaking on behalf of ASPAG, a Government representative of Japan asked the Office to address the issue of deferred files, noting that this could weaken the effectiveness of the urgent appeals procedure.

32. Speaking on behalf of the Africa group, a Government representative of Algeria recommended that targeted measures be taken to provide technical assistance, focusing on a certain number of countries.

33. Speaking on behalf of the Eastern European group, a Government representative of Poland noted that the reporting deadline was a critical issue, especially given the problem of translations for countries whose national language is not one of the official ILO languages. This impacts some countries’ ability to meet reporting deadlines.

34. The Director of the International Labour Standards Department responded to the query from the Employers’ group, noting that, in the absence of a reply from the government concerned, the Committee of Experts can nevertheless take into account the observations of the social partners in assessing compliance. This is in the Committee’s mandate, but it is in
the government’s interests to respond, since failure to reply affects the Committee’s ability to assess compliance. The Office had followed this practice for decades, and it was a challenge to put a sustainable system of reporting in place. High turnover in ministries affected governments’ ability to respond, and the Office was now looking at having more comprehensive regular discussions on standards, looking at ratifications, including follow-up on SRM decisions and reporting concerns.

35. **The Chairperson** noted that the meeting supported the Committee of Experts’ decision to institute a procedure for “urgent appeals” in certain cases. It was important to increase the visibility of this process and inform governments that the Committee of Experts may proceed to examine the substance of a matter even in the event of continued failure to report. The Office was encouraged to continue in its efforts to support governments, including through provision of technical assistance to the countries concerned. He also noted that tripartite discussion was critical, since consultation generally improved the quality of government reports. Efforts should be made to engage the social partners when finalizing reports.

### IV. Participation in the informal tripartite consultations

36. Speaking on behalf of GRULAC, a **Government representative of Brazil** expressed the view that the meeting could benefit from more government participation. He noted that governments did not have the same structure that characterized the social partners, who speak with one voice. Following discussions on GB.332/INS/5(Rev.) in the Governing Body, a number of proposals had been tabled inviting the meeting to make recommendations. He proposed that an ideal scenario would involve four Government representatives from each region, for a total of 16, with an additional eight for each of the social partners, which would make for better regional representation.

37. Speaking on behalf of the **Africa group**, a **Government representative of Algeria** supported the proposed increase in government participation.

38. **The Employer spokesperson** considered that the proposed composition of the meeting was not balanced, and her group could not support it, although this issue kept coming up at each meeting. She noted that there was nothing preventing Government members from broadly consulting in their regions or in any other appropriate forum.

39. **The Worker spokesperson** welcomed the notion that the social partners spoke with one voice, but noted that this was not correct. The meeting was an informal working group charged with giving input to the CAS. While he recognized that there were a limited number of governments, he noted that observers were also permitted to participate. Expanding the meeting would inhibit constructive debate, and his group was not in favour of the proposal.

40. Speaking on behalf of GRULAC, a **Government member of Brazil** suggested adding one Government representative from each region for a total of 12. Noting the lack of support for increased participation, he suggested an alternative solution, whereby observers could be allowed to take the floor and speak once.

41. Speaking on behalf of the **Western European group**, a **Government representative of Greece** noted that not all of the nine Government representatives had taken the floor, and supported the proposal that observers could be allowed to do so, as long as there was sufficient time.

42. **The Chairperson** suggested that, if there were nine Government representatives and typically only four took the floor, the governments could be asked to identify a group of speakers from each region to speak. Since the meeting had never utilized the full nine government speakers, it made no sense to add the observers before first going back to the governments and asking them to address the concern about regional representation.
43. The Employers’ and Workers’ groups concurred with the proposal made by the Chairperson.

44. The Chairperson requested the governments to consult with a view to ensuring that the nine representatives were fully utilized. If a challenge were to arise, the meeting could then see how best to address this.

V. Any other business

45. Speaking on behalf of GRULAC, a Government representative of Brazil raised the issue of insufficient seating at the CAS, noting that at the previous session, the country name indicators had been removed and it had become difficult to know where participants were sitting.

46. The Worker spokesperson noted that there was no fixed seating for anyone in the room, with the exception of the government under examination. He noted that there was an adjacent overflow room which could allow delegates to follow the discussion remotely.

47. The Chairperson suggested that consideration could be given to the possibility of limiting seating per delegation, with additional delegates being given the possibility of sitting in the adjacent room.

48. The Director of the International Labour Standards Department clarified that any seating limitation would not apply to countries being examined. She indicated that the Office would take the issue under advisement.

49. The Chairperson indicated that this matter would be included in the agenda of the next meeting.

50. Speaking on behalf of GRULAC, a Government representative of Brazil noted that the meeting’s mandate and parameters of its operations as well as the issue of the discussion on the General Survey, were all items to be placed on the next agenda.

51. The Employers’ group recalled GRULAC’s suggestion that meetings be held twice a year, whereas previously the meeting was once a year. Her group proposed that the meeting in November include the possibility of an extension rather than having two meetings, which would imply both a financial and human cost.

52. The Workers’ group recalled that the meeting should be cost-efficient. His group did not see the need for the informal consultations suggested by GRULAC, noting that there were no resources for an additional meeting on the General Survey.

53. Speaking on behalf of GRULAC, a Government member of Brazil considered that there should ideally be two meetings a year, but his group acknowledged the challenges. He asked the Office to plan for an additional one to two hours for interpretation, to enable the November meeting to be extended, as well as for the Office to provide the provisional working schedule in November. He queried whether the revised D.1 document would also be addressed.

54. The Director of the International Labour Standards Department noted that the next D.1 document would be adopted by the CAS and the revised document posted on the CAS web page by the end of May for the CAS to examine and adopt. In response to GRULAC’s query regarding discussion of the D.1 document, this would only be discussed in relation to certain points.

55. In concluding the meeting, it was agreed that the informal tripartite consultations on the working methods of the CAS should be held once a year, and that the next meeting would be held during the 334th Session of the Governing Body, in November 2018. It was also requested that provision be made for an extended meeting if necessary, but that this would not preclude a March sitting if there were an urgent need. The meeting was adjourned.