



FOR DECISION

SECOND ITEM ON THE AGENDA

Date, place and agenda of the International Labour Conference

The agenda of the 99th Session (2010) of the Conference

Introduction

1. At its 301st Session (March 2008) and 303rd Session (November 2008), the Governing Body selected the following technical items for discussion at the 99th Session of the International Labour Conference to be held in 2010:
 - Decent work for domestic workers (standard setting – first discussion).
 - Strengthening national responses to HIV/AIDS in the world of work (second discussion – with a view to the adoption of an autonomous Recommendation).
 - A recurrent discussion on the strategic objective of employment.
2. Following tripartite consultations in February 2009, an additional item is now proposed to enable the Conference to review the operation of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

Background

3. The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (the 1998 Declaration) was adopted by the 86th Session of the Conference in June 1998. Its annex, entitled follow-up to the Declaration, outlined two reporting procedures. These aimed at encouraging the efforts made by the member States to promote the fundamental principles and rights at work. Recognizing the innovative and experimental nature of the reporting procedures, the annex foresaw that “(t)he Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I (of the annex).”
4. In June 2008, the 97th Session of the Conference adopted the ILO Declaration on Social Justice for a Fair Globalization (the Social Justice Declaration). Fundamental principles and rights at work are specified in the Social Justice Declaration as one of the four

strategic objectives of the ILO. Therefore, they are also covered by the method of implementation of the Social Justice Declaration and its follow-up provisions.

Need to ensure consistency and efficiency

5. The follow-up to the Social Justice Declaration, in Section II, B of its annex, provides that the Organization will introduce a scheme of recurrent discussions by the Conference, based on modalities agreed by the Governing Body, without duplicating the ILO's supervisory mechanisms, so as to, inter alia, understand better the diverse realities and needs of the Members with respect to each of the strategic objectives.
6. Pursuant to a decision by the Governing Body in November 2008, tripartite consultations were held on the follow-up to the Social Justice Declaration from 2 to 4 February 2009. A paper submitted for consultations, reproduced as an appendix to this document, outlined a number of possible modifications to the follow-up procedures of the 1998 Declaration. Various speakers expressed their views on the subject.
7. In the light of the above, it is proposed to include an additional item on the agenda of the 99th Session of the Conference (2010) to address the review of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.
8. ***The Governing Body may wish to include on the agenda of the 99th Session (2010) of the International Labour Conference the following item: Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work.***

Geneva, 26 February 2009.

Point for decision: Paragraph 8.

Appendix

Tripartite consultations

(2–4 February 2009)

Follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work

1. The ILO Declaration on Social Justice for a Fair Globalization (the Social Justice Declaration), adopted in June 2008, while “drawing on and reaffirming the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (the 1998 Declaration)”, included the respect, promotion and realization of the fundamental principles and rights at work as one of the four equally important strategic objectives of the ILO. In view of the methods of implementation and follow-up provisions contained in the Social Justice Declaration,¹ a review of the follow-up under the 1998 Declaration is appropriate. The preliminary implementation plan presented to the Steering Group in November 2008, proposed that the Office examine this topic and prepare a paper for consideration by the Steering Group at its March 2009 meeting.
2. The 1998 Declaration itself had foreseen a review of its follow-up procedures in due time. Such a review should not affect the text of the 1998 Declaration, but rather the follow-up which was set out in the annex and was designed to be of an experimental nature and explicitly subject to a review by the International Labour Conference (ILC) in the light of the experience gained.
3. The 1998 Declaration follow-up consists of two reporting procedures: annual reviews which concern challenges and progress made towards the respect, promotion and realization of the core rights in States which have not yet ratified the Conventions in question and Global Reports, which provide a dynamic global picture for all countries.

Annual reviews

4. The modalities of the annual reviews were originally foreseen to be as follows: (i) questionnaires were sent to member States not having ratified one or more of the fundamental Conventions; (ii) replies were compiled by the Office for the attention of the Governing Body; (iii) the Office could resort to a group of experts (Expert-Advisers) to present an introduction to this compilation; (iv) a tripartite discussion on the situation pertaining to all four categories of principles and rights each year in the March session of the Governing Body; and (v) the Governing Body could establish a “committee of the whole” if necessary to allow the participation of Governments that were not members of the Governing Body.
5. In practice, there has been no need to resort to a discussion by the Governing Body in the “committee of the whole” format. Introductions prepared by the Expert-Advisers have highlighted specific issues in a number of countries. As there has been a substantial increase in the ratifications to the fundamental Conventions, the scope of the review has progressively diminished. Currently, there is a nearly 90 per cent ratification rate in aggregate for the eight fundamental Conventions. The Expert-Advisers held their last meeting in January 2008 and their mandate has not been renewed.

¹ Paragraph II(A)(i) of the ILO Declaration on Social Justice for a Fair Globalization and paragraph II(B) of its annex.

6. As proposed by the Expert-Advisers and reported to the Governing Body, an information system has been developed that has become a knowledge tool, known as the “baselines”. In tabular form, these are based on government reports and observations by employers’ and workers’ organizations. The overall result is that, when combined with the information available through the supervisory system on ratified Conventions, there is now information available on the current state of application of all core labour standards in all ILO member States.
7. The basic question is now how to report on the situation in those member States that have yet to ratify all eight fundamental Conventions, and how the information resulting from this exercise may be reviewed by the Governing Body on an annual basis. The questionnaires under the annual review procedures and the parallel questionnaires sent to the same member States on the same Conventions under the campaign which was originally launched in 1995 for the ratification of the fundamental Conventions actually duplicate each other. The annual reviews and the data generated by the ratification campaign of the fundamental Conventions could be combined by: (i) maintaining annual reporting on situations in non-ratifying member States; (ii) updating the “baseline information”; and (iii) an annual review of this information by the Governing Body through a discussion in the LILS Committee.
8. This would entail sending one single letter to the governments of the non-ratifying member States (instead of the current two communications), drawing their attention to the baseline information they have sent earlier and requesting them to update that information, while, at the same time, naturally encouraging ratification. This would be in line with the provisions of paragraph B of the annex to the Social Justice Declaration which require that there be no increase in the reporting obligations of member States. As noted above, the proposed arrangement would actually eliminate some overlap in the current reporting requirements.
9. Information reported would include what is now covered by the data on the ratification campaign and other information available to NORMES as well as the two elements under the current annual review procedures, namely: new developments reported by the member States to better respect and implement the fundamental principles and rights; and the technical cooperation needs identified by the constituents.

Global Reports

10. Report VI submitted to the 97th Session of the ILO in June 2008 recalled that:

The Global Reports are cyclical in that they cover each of the categories of fundamental principles and rights at work in turn. They are recognized as a key tool for knowing and following developments relating to the fundamental rights. But it must be recognized at the same time that their discussion has not had the expected impact as regards the mobilization of technical cooperation resources to meet identified priority needs among Members. Neither has there been full satisfaction on the debates at the Conference on these Global Reports, as a discussion in the plenary can rarely be made interactive in practice.

11. Introduction of the concept of recurrent reports under the Social Justice Declaration has a direct major implication for the Global Reports. The Global Reports are intended to provide a dynamic global picture as regards the rights and principles concerned and facilitate a discussion on what the ILO does or should do in that area. The concept and purposes of the recurrent reports therefore coincide with those of the Global Reports. However, they are broader as, under the recurrent items, a major emphasis is laid on how the ILO can assist the efforts of its Members in promoting those rights and principles. Whatever order or sequence is ultimately decided for the recurrent items, it seems reasonable to expect that recurrent items will replace the Global Reports on the subject of fundamental principles and rights at work. It would then be for the Conference to

determine how the plans of action which currently are adopted by the Governing Body TC Committee will continue to be developed and adopted.

12. At present each of the four categories of the fundamental principles and rights at work is dealt with separately in a Global Report once every four years. Under the Social Justice Declaration, the cycles being considered at present are of a duration of six or seven years. This would make it possible for the fundamental principles and rights to be subject of a recurrent report twice in the cycle, either for all the four categories of principles and rights, or separately for different sets of those principles and rights.
13. Global Reports are presently discussed in a special sitting of the plenary of the Conference, which covers two sessions in one day. The recurrent reports are intended to be discussed by a Conference Committee set up for that item. The discussions will then be much more extensive and interactive and are expected to lead to draft conclusions for adoption by the plenary of the Conference.
14. A decision will be needed on whether the four categories should be dealt with in one single year or should be divided, in one way or another, over two years within a given cycle. The first recurrent item on fundamental principles and rights at work could be at the 2012 ILC (after employment in 2010 and social security in 2011). Currently, a Global Report on forced labour is foreseen for the 2009 Conference. If there is a Global Report on child labour in 2010, its discussion would take place in parallel with the first recurrent item. If the fundamental principles and rights at work will be the subject of recurrent review in 2012, preparations have to begin in 2010 at the latest.
15. Proposals for the review of the 1998 Declaration follow-up procedures could be submitted to the Conference in 2010, to be discussed in a suitable manner, possibly by the Selection Committee or in another committee appointed to consider the matter.

ILO assistance and technical cooperation

16. The 1998 Declaration is a promotional instrument relying on the commitment of the member States to respect, promote and implement fundamental principles and rights at work. It has created a responsibility for the Organization to assist its member States in their efforts in this regard. Consequently, since 1998, the Office has developed and implemented numerous technical assistance activities and technical cooperation projects. Its capacity to provide such assistance needs to be maintained and strengthened, especially in view of the reinforcement of ILO capacity called for in the Social Justice Declaration and its conception of an integrated ILO where all strategic objectives are pursued in an integrated manner and reinforce each other. The adoption of the plans of action on each category of the fundamental principles and rights at work at the ILC and a comprehensive report of the Office activities and their impact, which will be part of the recurrent reports, are expected to boost activities in the area of fundamental principles and rights at work.
17. In light of the discussions on the above issues, the Office will align its internal structures and seek to streamline its technical assistance functions by a better synergy of the technical capacities currently spread among various departments. Plans of action for all four categories of fundamental principles and rights at work already exist and the Office has been regularly reporting on their implementation to the ILC and the Governing Body. For two of the categories (child labour and forced labour) there are specific programmes with their own identity and dedicated resources. In light of the Social Justice Declaration, work is being carried out to develop more cohesive assistance and technical cooperation action on freedom of association and collective bargaining, with greater collaboration between the Standards and Fundamental Principles and Rights at Work and Social Dialogue Sectors (including the Bureaux for Employers' and Workers' Activities) and the Multinational Enterprises Programme. The discussion of the recurrent items needs to address gender and non-discrimination, identified as cross-cutting issues in the Social Justice Declaration, which will be pursued in a more dedicated, coherent manner by the units concerned.

18. Subject to the guidance provided during the informal consultations, the Office could prepare a paper for the Governing Body in March 2009, outlining a proposal to put an item on the agenda of the 99th Session of the ILC to review the follow-up procedures of the 1998 Declaration.