



Governing Body

316th Session, Geneva, 1–16 November 2012

GB.316/LILS/PV/Draft

Legal Issues and International Labour Standards Section

LILS

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

DRAFT MINUTES

Legal Issues and International Labour Standards Section

Contents

	<i>Page</i>
Legal Issues Segment	1
First item on the agenda Composition of the International Labour Conference: Proportion of women and men on delegations (GB.316/LILS/1)	1
International Labour Standards and Human Rights Segment	5
Third item on the agenda Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART): Report on allegations submitted by teachers' organizations (GB.316/LILS/3)	5

1. The Legal Issues and International Labour Standards Section was held on Friday, 9 November 2012. It was chaired by Mr Corres (Government, Argentina), as assigned by the Chairperson of the Governing Body. Ms Horvatic and Mr Cortebeek, were the Employer and Worker spokespersons.

Legal Issues Segment

First item on the agenda

Composition of the International Labour Conference: Proportion of women and men on delegations (GB.316/LILS/1)

2. *A representative of the Director-General* (the Deputy Legal Adviser) introduced the document, stressing that the promotion of equality between women and men was one of the fundamental principles and core values of the ILO. The specific issue before the Governing Body was how the ILO and its Members could work together to promote gender parity at ILO meetings, particularly in delegations to the International Labour Conference (ILC).
3. *The Employer spokesperson* appreciated the statistics provided by the Bureau for Gender Equality (GENDER), but noted that they did not permit an assessment of the long-term trends which would demonstrate an increase in the proportion of women in ILC delegations over time and permit other conclusions to be drawn, such as the impact of the economic crisis on the issue. The responsibility for attaining gender balance in delegations fell to governments and social partners in selecting delegates from among the competent, qualified and experienced persons available. Where women were lacking in governments or in employers' and workers' organizations, the broader issue of gender imbalance in the member State also had to be addressed. Regarding the proposals in the document, the Employers fully supported the proposal in paragraph 13(c), which was the most important. They also supported paragraph 13(a) of the decision point in relation to information specifying the number of women and men among substitute delegates by regional grouping, but considered that individual member States should not be identified; she thus proposed wording for the end of paragraph 13(a) to take into account the views expressed in the discussion. However, her group had serious reservations regarding paragraph 13(b) due to the additional work that it implied for the Office and governments. Consequently, she proposed that paragraph 13(b) of the document be amended to read as follows: "request the Director-General to collect relevant information with the aim to better understand the issue and what the Office could do in order to help improve the representation of women in International Labour Conference delegations, and to report on this regularly to the Governing Body".
4. *The Worker Vice-Chairperson* regretted that the proportion of women on Conference delegations had worsened recently, citing figures and noting that the ILO was still very far from the United Nations (UN) target mentioned in the document. Recognizing that his group had the worst record, he called for strong measures for change within the trade union movement. Put in a broader context, the issue related to Article 21 of the Universal Declaration of Human Rights, which recognized the right of every person to take part in the government of his or her country. Equal participation of men and women in political

affairs made governments more representative, accountable and transparent and ensured that the interests of women were taken into account in policy-making. That also applied to workers' and employers' organizations. Urgent measures needed to be taken to ensure gender balance in Conference delegations, which would require a real and renewed tripartite commitment at country level. As to the specific proposals in the document, he suggested that the Director-General could initially send letters to Members that had not reached a 30 per cent level of female participation in their Conference delegations. Office measures should include associating workers' and employers' organizations in any relevant activity carried out by the Office, and the Office should develop specific proposals on childcare arrangements during the ILC, especially for women with very young children. The Workers supported the draft decision with a change to paragraph 13(b) to request the Director-General to "send letters after every Conference to Members that have not reached the 30 per cent level of participation of women in ILC delegations ..." and also wished to add a new paragraph to address Regional Meetings and other ILO tripartite meetings in the same way.

5. *Speaking on behalf of the Africa group*, a Government representative of Angola referred to article 3, paragraph 2, of the ILO Constitution and to the relevant resolutions of the Conference and regretted that the UN target of at least 30 per cent of women in delegations had never been met. His group endorsed action by the Credentials Committee of the Conference, by the Governing Body on the basis of inquiries carried out by the Director-General and by the Office, as proposed in the draft decision.
6. *Speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC)*, the Government representative of Colombia recalled the importance of the subject in question, including the need to maintain gender parity in tripartite delegations to ILO meetings. Noting the "deep concern" expressed by the Credentials Committee at the 2012 ILC, she highlighted that the responsibility for attaining gender balance in delegations rested with both the governments and the social partners and that GRULAC governments were committed to achieving that goal in a tripartite manner. In relation to paragraph 12, she suggested that any information pamphlets be principally distributed to constituents that still needed to make efforts. Her group supported the draft decision in paragraph 13. Regarding paragraph 13(b), she proposed that any questionnaires be sent solely to those constituents that still needed to make particular efforts.
7. *Speaking on behalf of the group of industrialized market economy countries (IMEC)*, the Government representative of Canada regretted that the ILO was not managing to meet the UN target and welcomed initiatives to improve participation of women at the ILC. Referring to the statistics, it appeared that governments on their own sometimes achieved the UN target, but that employers' and workers' organizations were not in the same position. Therefore, any concrete measures suggested should address the three groups equally. While she supported action by the Credentials Committee and the Office, real improvements could only be achieved if countries pursued a meaningful gender equality policy at the national level. The long duration of the ILC required a national climate that was conducive to female participation and that ensured reconciliation of work and family responsibilities. IMEC did not support the high-level colloquia proposed in the document, which could result in costly exercises with low attendance. In addition, while measures at the national level would not be helpful in relation to tripartite technical meetings, the Office could encourage female participation in its invitations to such meetings. The group did not support any new reporting as proposed in paragraph 10; rather, resources should be directly allocated to assist Members with no or low female participation. The point for decision was supported, subject to amendments to paragraph 13(b), as follows: "further invite the Credentials Committee to consider direct contacts with ILC delegations with consistently low female participation in order to consider the reasons and include the results in its report, with a view to improving the situation".

8. *Speaking on behalf of the Asia and Pacific group (ASPAG)*, a Government representative of the Islamic Republic of Iran stated that gender equality was not only about economic empowerment, but was a moral imperative. Gender equality, which included many political, social and cultural dimensions, was essential for protecting universal human rights and fundamental freedoms and should be mainstreamed at all policy levels. Despite a general reduction, gender differentials persisted in the majority of ILO member States. ASPAG was concerned that, despite numerous UN and ILO instruments, the problem of low female representation was still present in ILO meetings and in almost all UN meetings. The responsibility for attaining gender balance in delegations rested with both the governments and the social partners, since article 3, paragraph 5, of the Constitution established that governments should accept the most representative organizations' choice regarding the persons to be nominated as the Employers' and Workers' delegates. ASPAG supported the proposals in the document, but cautioned that the proposed regular mechanism for data collection should not overburden governments. As reflected in the GENDER 2012 statistics publication, there were multiple causes for the low participation of women in ILO events and future Office papers should target specific problems.
9. *A Government representative of El Salvador*, endorsing the statements made on behalf of the members of GRULAC, considered that the agenda item highlighted the chasm between women's rights at national and international levels and the actual situation of existing disparities between men and women in the world of work, and in particular the additional responsibilities borne by women with respect to their family obligations. The current situation should signal to the ILO the need to adopt measures that would foster shared responsibilities and permit the reconciliation of work and family. The ILO should support such sharing of responsibilities, for example by requiring that more gender-balanced delegations attend relevant meetings. Her Government had not only been obedient but radical and sent an exclusively female delegation. She supported the draft decision.
10. *The Employer spokesperson* stated that her group could not support the amendment put forward by IMEC in so far as it invited the Credentials Committee to consider direct contacts with ILC delegations with consistently low female participation. Based on her experience, the Credentials Committee would not have sufficient time and resources to take on additional direct contacts with governments due to its already heavy workload in relation to objections to credentials and complaints. Besides, certain governments would not reply to the communications of the Committee and others would reply that gender balance in their delegation was not their problem but that of the social partners.
11. The Employers' group, the Workers' group and IMEC agreed on a new version of the point for decision as follows:
- The Governing Body:*
- (a) *invited the Credentials Committee of the International Labour Conference (ILC) to consider more detailed reporting on the proportion of women and men accredited in Conference delegations, taking into account the views expressed in the discussion by the Governing Body at its 316th Session (November 2012);*
 - (b) *further invited the Credentials Committee to consider contacts with ILC delegations with consistently low female participation in order to receive information about the reasons and include the results in its report, with a view to improving the situation;*
 - (c) *requested the Director-General to send letters after every Conference to Members which have not reached a 30 per cent level of participation of women in ILC delegations, and to periodically report to the Governing Body on any obstacles encountered as well as any measures taken to achieve gender parity;*
 - (d) *invited the Office to continue to collect relevant information and encourage and give assistance to concrete measures to be taken by governments, employers' and workers' organizations with a view to achieving gender parity in delegations to ILO meetings.*

12. *A Government representative of the Islamic Republic of Iran* reiterated ASPAG's view that the increase in reporting obligations arising from the new draft decision and its implications for the Credentials Committee should be considered with caution. Given that, in 2012, out of 186 member States, only 22 met the target of 30 per cent of women in their delegations, the Credentials Committee would be expected to review reports of 162 member States, in addition to the 25 objections and complaints that it received on average at every session of the Conference. He concurred with the Employers that it would represent too heavy a burden on the Credentials Committee, and also on the governments already overburdened with ILO reporting obligations.
13. *A Government representative of India*, endorsing the statement by the Islamic Republic of Iran, emphasized that countries were at different stages of development and should be encouraged rather than be called before the Credentials Committee.
14. *A Government representative of Trinidad and Tobago* questioned the role proposed for the Credentials Committee in paragraph 13(b) of the proposed new decision point. While the Director-General could contact Members to ensure that they improved their level of female representation in ILO meetings, he wondered what the constitutional basis would be for the Credentials Committee to reprimand Members.
15. *The representative of the Director-General* explained, in relation to the comments from the Government of the Islamic Republic of Iran, that the 30 per cent level of female participation was not necessarily the indicator that the Credentials Committee would use in its considerations; the 30 per cent indicator was proposed to determine the Members to which the Director-General would send letters. In relation to the question and comments from Trinidad and Tobago and India, she understood that the contacts of the Credentials Committee with delegations, called for in the suggested draft decision, would not involve new submissions in the form of objections, complaints or monitoring, for which an extension of the mandate of the Credentials Committee would be needed. Rather, they would be based on the constitutional principle of promotion of gender equality, which applied to all the constitutional obligations of ILO Members, including those involved in composing delegations to the Conference. That had also been emphasized by the Conference itself in its 1981 resolution, referenced in the document, when it determined that the promotion of gender equality directly applied to the Members' composition of delegations for the Conference.

Decision

16. *The Governing Body:*
 - (a) *invited the Credentials Committee of the International Labour Conference (ILC) to consider more detailed reporting on the proportion of women and men accredited in Conference delegations, taking into account the views expressed in the discussion by the Governing Body at its 316th Session (November 2012);*
 - (b) *further invited the Credentials Committee to consider contacts with ILC delegations with consistently low female participation in order to receive information about the reasons and include the results in its report, with a view to improving the situation;*
 - (c) *requested the Director-General to send letters after every Conference to Members which have not reached a 30 per cent level of participation of women in ILC delegations, and to periodically report to the Governing Body*

on any obstacles encountered, as well as any measures taken to achieve gender parity;

- (d) invited the Office to continue to collect relevant information and encourage and give assistance to concrete measures to be taken by governments, employers' and workers' organizations with a view to achieving gender parity in delegations to ILO meetings.*

(GB.316/LILS/1, paragraph 13, as amended by the Governing Body.)

International Labour Standards and Human Rights Segment

Third item on the agenda

Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART): Report on allegations submitted by teachers' organizations (GB.316/LILS/3)

17. *A representative of the Director-General* (Director, Sectoral Activities Department) recalled that the 11th Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) had been held from 8–12 October 2012 in Geneva. In line with past practice, the allegations examined by the CEART had been submitted to the Governing Body's Legal Issues and International Labour Standards Section for its review, with a view to communicating the results in a timely manner to the concerned governments and teachers' organizations. The full report of the 11th Session of the CEART would be submitted to the March 2013 session of the Governing Body.
18. *The Worker Vice-Chairperson* noted that the CEART had closed the cases from Australia and Ethiopia as no further information had been supplied by the parties. The Workers' group remained concerned by the situation in Ethiopia and called upon the Government to give effect to the recommendations made the previous year by the Committee on Freedom of Association, which related to the case dealt with by the CEART concerning serious violations of the right of teachers to form joint trade unions. In the case from Denmark, the Workers' group supported the CEART's recommendation to invite the Government of Denmark to make efforts to address the remaining concerns of the Dansk Magisterforening. With regard to the allegation concerning Portugal, the Workers' group welcomed the conclusions of the CEART to the effect that austerity measures were not an excuse to violate the principles of the Recommendation concerning the Status of Teachers. In the case concerning Japan, the Workers' group noted the progress that had been made and hoped that the reforms introduced would result in more effective social dialogue, which would resolve the problems addressed in the case.
19. The Workers' group also noted that the Joint Committee had discussed general developments concerning social dialogue and had expressed concern that social dialogue had not been employed extensively in preparing responses to the financial crisis in the

education sector. That was an important question not only in the education sector, and should be addressed as part of the preparatory work for the 2013 recurrent item discussion on social dialogue. The speaker concluded by noting that the CEART was a very good example of UN collaboration, and he supported the draft decision.

20. *The Employer Vice-Chairperson* noted that the present session of the Governing Body examined extracts of the CEART report on allegations submitted by teachers' organizations and that the whole report would be examined in March. She inquired whether it would not be more efficient to discuss the allegations together with the full report in March 2013, as that would allow the Governing Body to better understand the work carried out by the CEART.
21. The Employers' group also stressed that the CEART's examination of allegations resulted in non-binding recommendations addressed to the ILO member States. The recommendation on the case from Portugal, however, contained the term "violate", which in the context of non-binding recommendations appeared to be inappropriate. In terms of substance, the Employers' group did not believe that it was within the CEART's mandate to make recommendations regarding government action on austerity without really knowing the context in which the measures had been introduced in the country.
22. With regard to the draft decision, the Employers' group proposed to add in paragraph 5(b), after the words "communicate the report", the words "along with the record of the discussions on this point of the agenda at the Legal Issues and International Labour Standards Section of the 316th Session of the Governing Body". She supported the rest of the draft decision.
23. *The Worker Vice-Chairperson* agreed with the proposed amendment.
24. *Speaking on behalf of the Africa group*, a Government representative of Botswana noted the Joint Committee's recommendation in the case from Portugal that even though austerity measures might be taken for economic recovery, such measures could not be used as a reason for violating the principles of the Recommendation concerning the Status of Teachers. The Africa group, therefore, urged parties to resolve the issue in accordance with the principles of the Recommendation. It also encouraged the Government of Denmark to discuss issues raised by the CEART with the relevant parties and noted progress in the case of Japan. She supported the draft decision.
25. *The representative of the Director-General* noted the query by the Employers' group as to why allegations examined by the CEART were being discussed at the present session of the Governing Body when the whole report was to be discussed in March 2013. She stated that past practice had been to immediately bring allegations examined at a CEART session to the attention of the Governing Body to expedite communication to the relevant parties. The report of the entire CEART session, which was considered to be a sectoral meeting, was usually presented to the Social Dialogue Segment of the following Governing Body, which discussed the outcomes of sectoral meetings.

Decision**26. The Governing Body:**

- (a) *took note of the relevant parts of the report of the 11th Session of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel relating to allegations on the non-observance of certain provisions of the ILO–UNESCO Recommendation, 1966, or of the UNESCO Recommendation, 1997, in Australia, Denmark, Ethiopia, Japan and Portugal or both as applicable; and*
- (b) *authorized the Director-General to communicate the report, along with the record of the discussions held on this point of the agenda at the Legal Issues and International Labour Standards Section of the 316th Session (November 2012) of the Governing Body, to the Governments of Australia, Denmark, Ethiopia, Japan and Portugal and to the National Tertiary Education Union (NTEU) of Australia, the National Teachers' Association (formerly Ethiopian Teachers' Association (ETA)), the Dansk Magisterforening (DM), Education International, the National Teachers' Federation (FENPROF) of Portugal and the All Japan Teachers' and Staff Union (ZENKYO), and to invite them to take any necessary follow-up action as recommended in the report.*

(GB.316/LILS/3, paragraph 5, as amended by the Governing Body.)