

Geneva, June 2013

THE 2013 INTERNATIONAL LABOUR CONFERENCE

The focus of this year's Conference remained on the Committee on the Application of Standards (CAS). Unlike last year, a list of cases was adopted so that the work of the Committee could proceed. What did not change was the Employers' Group opposition to the Committee of Experts (CEACR) not clarifying the nature of its report and extensively interpreting international labour standards, specifically reading the right to strike into Convention 87 on Freedom of Association.

The IOE has spent the last year reinforcing the communication of the Employers' position to members and to Governments. This proved fruitful, with a growing number of Governments now supporting the Employers' position on the mandate of the Experts.

This debate has revealed the existence of a real crisis in the supervisory machinery of the ILO, which will not be resolved quickly. Nevertheless, it is clear, and further explanation is contained in this report, that the Employers' position is being seen as one based not only on principle, but also firmly on fact. Informal talks between Workers and Employers are being held in order to find short, medium and long term solutions to the proper functioning of the ILO supervisory machinery.

Other debates on demographics, and sustainable development and green jobs, gave rise to important differences of opinion, but no major conflicts. The Employers pushed for conclusions aimed at action, impact, and global relevance. The Group welcomed strong engagement in the discussions from all regions and hopefully all can find their national or regional realities reflected in the reports.

This year's recurrent item on social dialogue again failed to achieve what is expected of this kind of discussion, which is meant to focus the ILO's work on the needs of its constituents, what lessons have been learned and how the ILO can improve. Instead, as in the past, it resembled a general discussion. Nevertheless some relevant outcomes were agreed that will reinforce social dialogue through capacity building. The Group will continue to engage with the Office in the hope that next year's recurrent item, which will be on Employment, reflects the structure expected by the constituents as laid out in the 2008 ILO Declaration on Social Justice for a Fair Globalization.

The Director-General's report to the Conference was a major departure from those previously submitted to the Conference. In its shorter length of 27 pages, the Director-General laid out what he sees as the challenges for the ILO and its constituents in the period leading up to the ILO's centenary in 2019. The challenges are real, and whilst the responses from the Groups may be different, it will be important going forward to address them within the Governing Body.

Many thanks are extended to all who participated in the work of the various committees and drafting groups. We hope that all the Groups found value in the micro-site launched for the first time at this session. Within the Secretariat we will continue to look to enhance our services to delegates.

COMMITTEE ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The work of the Committee on the Application of Standards (CAS) was, as usual, divided into two main parts: the general discussion, including the discussion of the General Survey, which this year dealt with Collective bargaining in the public sector (Convention 151, Convention 154 and Recommendations 159 and 163), and the discussion of the 25 individual cases.

The discussion of the **General Survey** presented a good opportunity to reiterate some key points which the Employers have been stressing on collective bargaining in the public sector. Employers insisted on the need to recognize the flexibility that Convention 151 provides for governments in designing collective bargaining according to specific national frameworks and context, rather than interpreting this flexibility in a narrow and detailed way, especially regarding the need for adequate protection against acts of anti-union discrimination and interference. They also underlined that these Conventions do not establish the superiority of collective bargaining over consultation and stressed the voluntary (not compulsory) nature of collective bargaining. They emphasized the importance of taking into account the limitations on collective bargaining in the public sector in tackling economic crises, and called on the need to equally treat workers' and employers' requests for compulsory arbitration.

Within the context of the **General Discussion**, the Employers insisted on the urgent need to explore measures to make **ILO standards supervision** more effective and sustainable, and made concrete proposals for reforms. Additionally, and as a result of the debate in the Conference Committee in 2012, the Employers pointed out that there were several outstanding issues that required short and medium term solutions, particularly concerning the **mandate of the Committee of Experts, and the Committee's interpretation of the right to strike** as a component of Convention No. 87. The Employers also emphasized that the Conference Committee's conclusions could not be construed as recognising a consensus on the existence of the right to strike in Convention No. 87.

The Employers fulfilled their commitment of last year to ensure the discussion of individual cases: the final list included **25 cases** and one case of progress. In this regard, a major achievement was the inclusion of the following wording in the conclusions of all the (discussed) cases in which the right to strike was commented by the Experts (Bangladesh, Canada, Egypt, Fiji, Guatemala and Swaziland): "*The Committee did not address the right to strike in this case as the Employers do not agree that there is a right to strike recognised in Convention 87*".

Of all the cases, Uzbekistan/Convention 182 raised major concerns over forced labour or hazardous work by all children under 18. The Government was urged to take the necessary measures, as a matter of urgency, to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for all children. Based on the Government's willingness to engage in broad technical cooperation with the ILO, the Committee requested it to accept an ILO high-level monitoring mission during the 2013 cotton harvest in order to enable the Committee of Experts to assess the implementation of the Convention at its 2013 Session.

EMPLOYMENT AND SOCIAL PROTECTION IN THE NEW DEMOGRAPHIC CONTEXT **(General discussion)**

Employment and social protection in the new demographic context was the subject of a general discussion, with the new demographic context characterised by a growing world population expected to surpass 9 billion by 2050, the number of over-60s set to triple, and rising old-age dependency. But countries and regions are also at different stages of demographic transition. The discussion focussed primarily on the employment and social implications of this demographic shift in the population structure and made **policy recommendations** on how to mitigate its impact.

While there was almost unanimous agreement on the profound implications for the labour force, labour market dynamics, social security systems, employment and overall economic development, there were disagreements especially amongst Workers' and Employers' Groups on how to effectively respond. The disagreements focussed on how to increase labour force participation to respond to the decline in the active population.

The Employers' Group insisted that employment is the best social protection. **The Committee agreed with the Employers that employment-centred economic policies** are therefore needed and should include, among others, an enabling environment for sustainable enterprises, skills development and entrepreneurship. It also recommended well managed **labour migration policies** that take into account labour market needs, especially bearing in mind the need to address skills mismatches and referred to the need to foster employability and productivity, and to prevent skills obsolescence. More importantly the Committee agreed that, in many countries, ageing is leading to increasing pension costs and that there was a need to ensure the financial, fiscal and economic **sustainability** of pension systems. Reference was also made to the need for **gradual and flexible transition** from active working life to retirement through measures such as phased retirement, part-time work and job sharing even if the Employers' Group did not succeed in achieving a new look at seniority-based pay. However, not questioning the agreed approach to tackle the demographic challenges, the employers did obtain recognition on the necessary **flexibility (in labour frameworks)** that companies need to be competitive and innovative.

The Committee also came to an agreement that demographic transitions increase demand for the care sector, and supported the need to professionalise the delivery of care but **did not support the Workers' Group wish for the ILO to discuss a possible standard setting item for this specific issue.**

With regard to action to be taken by the ILO as follow-up, **the Committee recommended that the ILO assume an important role in providing global leadership and acting as a centre of excellence on demographic change. The Office should specifically support concrete actions in different fields**, among others, on national action plans to tackle demographic change, and to provide proper labour market information systems.

SUSTAINABLE DEVELOPMENT, DECENT WORK AND GREEN JOBS

(General discussion)

This was a timely debate coming after the outcome of the United Nations Conference on Sustainable Development held in Rio de Janeiro in 2012 (UNCSD, Rio +20) and anticipating the international discussions on the Sustainable Development Goals post-2015. The

Director-General has also given prominence to the work on green jobs in his vision for the ILO for the next six years.

The Committee discussed the effects of current environmental challenges and policies on the world of work. One of the main challenges for the Employers was to ensure a holistic approach to job and enterprise creation that recognised that green jobs, green enterprises and green economies are rooted in all jobs, enterprises and the economy as a whole.

The conclusions identified key policy areas and institutional arrangements that would provide **a just transition** for all to a more sustainable future **considering the balance of environmental, economic and social needs**. For employers this would mean governments providing the framework for sustainable enterprises and entrepreneurship development. Roles were identified for Governments, Employers' and Workers' Organisations and the ILO.

The ILO will prepare a **strategic action plan** to be discussed at the Governing Body in November 2013, which will indicate how this work will be integrated into the programme and budget implementation and the Strategic Policy Framework (2016–21) providing clear **follow-up mechanisms**, as well as specific objectives in the short and middle term.

A RECURRENT DISCUSSION ON THE STRATEGIC OBJECTIVE OF SOCIAL DIALOGUE UNDER THE FOLLOW-UP TO THE 2008 ILO DECLARATION ON SOCIAL JUSTICE FOR A FAIR GLOBALIZATION

This was the fourth in a series of recurrent item discussions, also referred to as cyclical review discussions, to **follow up on the 2008 ILO Declaration on Social Justice for a Fair Globalization**.

This discussion was of particular importance because it allowed the Employers to **ensure that the ILO responds effectively to the needs of the constituents** with regard to social dialogue because it can play an important role in mitigating the current challenges many countries are facing due to high unemployment and low growth. In many countries, social dialogue has historically helped significantly in dealing with the process of major political, economic and social transformation and in averting serious social unrest and crises. Employers defended their position regarding how crucial it is that **social dialogue be considered not as an end in itself**, but as a tool to deliver and reinforce the competitiveness of companies and the stability of societies.

The conclusions of the recurrent item discussion stress in Paragraph 1 that "Social dialogue has many forms", recognising that industrial relations systems around the world are very diverse. The term "social dialogue" is a broad one and encompasses very different kinds of negotiations, consultations and procedures for the exchange of information. It is important for the Employers that the **diversity of forms of social dialogue is taken fully into account** in the development of projects and initiatives on promoting social dialogue.

The conclusions further call on ILO member states to renew their commitment to social dialogue and tripartism, based on the full respect for freedom of association and the right to collective bargaining, consistent with the ILO Declaration on Fundamental Principles and Rights at Work. They also clearly state that **technical cooperation activities need to be in line with the diverse needs of the constituents affected**.

Central to the conclusions is that the Office should **strengthen social partner organisations to enable them to better fulfil their role**, which is key to their assuming their responsibilities, and to engaging constructively. This also means strengthening their involvement “in the design and implementation of Decent Work Country Programmes, technical cooperation agreements and public–private partnerships across all four strategic objectives of the ILO.”

SELECTION COMMITTEE

At last year’s ILC, initial steps were taken to bring to an end the Article 33 measures against Myanmar with regard to the use of forced labour. These measures, formally begun in 1999 and 2000, excluded **Myanmar** from receiving ILO technical support and from involvement in ILO activities. They also called on Member States to react, resulting in a range of sanctions against Myanmar. Last year, these measures were suspended in the face of broad and transformational reform efforts following a return to civilian rule, including direct measures against the use of forced labour. The ILO liaison office in Yangon was able to inform the ILO of the range of measures being taken, and of the dire need for ILO support and assistance. One year on, the Conference again considered the situation, unanimously agreed that the suspension last year be made permanent, and voted to discontinue the measures against Myanmar.

The ILO will however continue its monitoring and reporting on forced labour and will regularly keep the ILO Governing Body informed of the on-going efforts of the Government of Myanmar to eliminate the systemic use of forced labour in the country.

CREDENTIALS

In comparison with previous years, the 2013 Credentials Committee was taken up by a somewhat reduced number of objections and complaints.

As far as the Employers are concerned, one objection was lodged in the name of the IOE’s member federation in **Venezuela**, FEDECAMARAS, as is unfortunately the usual case, because the government of that country included in the delegation technical advisers from non-representative Employers’ Organisations. Furthermore, a complaint was also lodged for the non-payment of expenses for the participation in the Conference of a (large) part of the delegation of the Employers of Romania.

Regarding the objection in the name of the employers of Venezuela, the Committee noted that “...the Government has failed to convince the Committee that any other organization in the country could be deemed as a most representative employers’ organization in the sense of Article 3, paragraph 5, of the ILO Constitution. While the Committee noted in this connection the steps taken by FEDECAMARAS towards endorsing the nomination of a representative of CONFAGAN as Employers’ adviser, the Committee was concerned that the Government has again imposed an important number of advisers and other participants from the other organizations. The Committee noted that the Employers’ Group did not propose the advisers thus imposed for membership in committees of the Conference, which is its prerogative.

In relation to the payment of the travelling and subsistence expenses of the members of the employers’ delegation, the Committee stressed again that, in accordance with article 13, paragraph 2(a), of the Constitution, Members must pay the travelling and subsistence

expenses of their full delegation; when the Government nevertheless decides to pay for only part of the delegation, the agreement with the most representative organizations on the nomination of delegates and advisers must extend to the question as to whose costs are borne by the Government. The Government could therefore not cover the expenses of one adviser from each organization without the agreement of FEDECAMARAS.

In view of the above, the Committee reiterated its expectation that the Government will ensure that the nomination of the non-governmental delegations at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution...

Regarding the **complaint** against the Government of **Romania**, the Committee recalled the principle by which “governments must pay the travel and subsistence expenses of the entire delegation, by virtue of article 13, paragraph 2 (a), of the ILO Constitution ...while noting that the Government has agreed to reconsider its approach, the Committee expects it will give priority in its budget for participation in the work of the Conference by assuring the payment of travel and subsistence expenses for a sufficient number of advisers for each delegate.”

REPORT OF THE DIRECTOR-GENERAL

Towards the ILO centenary: Realities, renewal and tripartite commitment

This was Guy Ryder’s first report to the Conference as Director-General. With a new and shorter format, it aimed to bring a different approach to dealing with some of the challenges facing the ILO, to present more balanced data and to raise important issues for discussion. The Employers welcomed the **pertinent references to the challenging developments in production and employment**, how atypical forms of employment were becoming more typical, and how standard forms of employment were becoming the exception. Also noteworthy were the analysis made in the report of the role of tripartism and social dialogue (referring to some degree to its weakness) and the reference to the **importance of attitudes towards social dialogue**, which acknowledged the positive and negative impacts that different types of behaviour have on its successful functioning.

However some important criticism of the report was expressed by the Employers as follows.

It neglected to recognise the need for an **enabling environment** for the development of **sustainable enterprises**, which is key for recovery and development. Employers constantly reiterated the importance of the 2007 ILC Resolution on Sustainable Enterprises being fully exploited by the ILO.

Also lacking was sufficient recognition of the need for a robust, relevant, impartial and coherent **supervisory machinery for ILO standards**, although the Director-General rightly pointed out that efforts since last year’s ILC had clearly and encouragingly demonstrated that all constituents should be actively committed. Employers emphasised that short and medium term improvements to the system should be implemented.

The Director-General introduced a new and challenging approach by the **ILO towards companies**, to which the Employers responded that the involvement of employers’ organisations should be a precondition, as they had constitutional status within the inherently tripartite structure of the ILO and were legitimized to channel the general interest of the

private sector. Employers also pointed out that private sector involvement in the ILO also needed as a condition the proper use of **ACT/EMP** as an entry point.

The report highlighted the negative effects of the economic crisis on employment, as well as that strong economic growth brought with it **growing inequalities**. While Employers recognised that initial distortions in wealth distribution may have arisen, they insisted that it was essential to take a medium and long term view, bearing in mind that a growing middle class was already emerging in many developing countries, which would undoubtedly continue if an enabling environment for business was ensured.

When dealing with the seven **ILO centenary initiatives** suggested by the Director-General, the Employers called for the full involvement of the three constituencies and a more action-oriented approach.

For further information, you can access the Reports and the Conclusions of the various Committees at: <http://www.ilo.org/ilc/ILCSessions/102/lang--en/index.htm>