



## ДЛЯ ПРИНЯТИЯ РЕШЕНИЯ

ВТОРОЙ ПУНКТ ПОВЕСТКИ ДНЯ

### Дата, место проведения и повестка дня Международной конференции труда

#### Повестка дня 99-й сессии (2010 г.) Конференции

#### Введение

1. На своих 301-й (март 2008 г.) и 303-й сессиях (ноябрь 2008 г.) Административный совет отобрал следующие технические вопросы для обсуждения на 99-й сессии Международной конференции труда, которая состоится в 2010 году:
  - достойный труд для домашних работников (разработка нормы – первое обсуждение);
  - расширение национальных ответных мер на ВИЧ/СПИД в сфере труда (второе обсуждение – в целях принятия отдельной рекомендации);
  - периодическое обсуждение стратегической задачи содействия.
2. По завершении трехсторонних консультаций, состоявшихся в феврале 2009 года, в настоящее время предлагается включить еще один пункт, что позволит Конференции критически проанализировать функционирование механизма реализации Декларации МОТ 1998 года об основополагающих принципах и правах в сфере труда.

#### Предыстория вопроса

3. Декларация МОТ об основополагающих принципах и правах в сфере труда и механизм ее реализации (Декларация 1998 г.) была принята на 86-й сессии Конференции в июне 1998 года. В Приложении к ней, озаглавленном «Механизм реализации Декларации» излагается суть двух процедур отчетности. Они нацелены на то, чтобы поощрять государств-членов к тому, чтобы они прилагали усилия и содействовали основополагающим принципам и правам в сфере труда. Признавая новаторский и экспериментальный характер этих процедур отчетности, предложение предусматривает, что «Конференция своевременно рассмотрит работу этого механизма

реализации в свете приобретенного опыта и даст оценку того, достигнута ли надлежащим образом общая цель, изложенная в Части I» (настоящего Приложения).

4. В июне 2008 года 97-я сессия Конференции приняла Декларацию МОТ о социальной справедливости в целях справедливой глобализации (Декларация о социальной справедливости). Основопологающие принципы и права в сфере труда определены в Декларации о социальной справедливости в качестве одной из четырех стратегических задач МОТ. Таким образом на них также распространяются метод применения Декларации о социальной справедливости и положения, включенные в механизм ее реализации.

## **Необходимость обеспечения последовательности и эффективности**

5. В разделе II В Приложения «Механизм реализации» Декларации о социальной справедливости предусматривается, что Организация внедрит систему проведения периодического обсуждения на Конференции, основанного на основных приоритетах, согласованных в Административном совете, и при этом не будет допускать параллелизма в работе с контрольным механизмом МОТ, с тем чтобы, помимо прочего, глубже понимать различные реалии и потребности своих государств-членов в отношении каждой из стратегических задач.
6. В соответствии с решением Административного совета, принятым на его ноябрьской сессии 2008 года, со 2 по 4 февраля 2009 года были проведены трехсторонние консультации относительно механизма реализации Декларации о социальной справедливости. В документе, подготовленном к консультациям и прилагаемом к настоящему документу,<sup>\*</sup> излагается ряд возможных изменений к процедурам, предусмотренным механизмом реализации Декларации 1998 года. Многие участники консультаций высказали свои мнения по этому вопросу.
7. С учетом вышесказанного предлагается в повестку дня 99-й сессии Конференции (2010 г.) включить дополнительный пункт, касающийся критического анализа функционирования механизма реализации Декларации МОТ об основополагающих принципах и правах в сфере труда.
8. *Административный совет может пожелать включить в повестку дня 99-й сессии (2010 г.) Международной конференции труда следующий пункт: Критический анализ функционирования механизма реализации Декларации МОТ 1998 года об основополагающих принципах и правах в сфере труда.*

Женева, 26 февраля 2009 г.

*Предлагаемое решение:* п. 8.

\* Прим. ред.: прилагается на английском языке.

## Приложение

### 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,<sup>1</sup> 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 (GB); and (v) the GB could establish a “committee of the whole” if necessary to allow the participation of Governments that were not members of the GB.
5. In practice, there has been no need to resort to a discussion by the GB 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.
6. As proposed by the Expert-Advisers and reported to the GB, an information system has been developed that has become a knowledge tool, known as the “baselines”. In tabular

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

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 GB 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 GB 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 GB 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 GB. 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.