



Governing Body

313th Session, Geneva, 15–30 March 2012

GB.313/INS/2

Institutional Section

INS

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SECOND ITEM ON THE AGENDA

Agenda of the International Labour Conference

Purpose of the document

In the present document, the Governing Body is invited to adopt certain proposals concerning the place and agenda of the 103rd Session (2014) of the International Labour Conference, in the light of informal consultations held on the matter in February 2012 (see the points for decision in paragraphs 17 and 18).

It is also invited to request the Office to make the appropriate arrangements to continue the consultations on the process of setting the Conference agenda and to endorse proposals concerning the recurrent discussions for future sessions of the Conference (see the points for decision in paragraphs 16 and 19).

Relevant strategic objective: All four strategic objectives.

Policy implications: A decision to complete the agenda of the 103rd Session (2014) of the Conference will have implications for the programme of the Conference for that year.

Legal implications: The usual implications arising from the application of the Standing Orders of the Conference and the Standing Orders of the Governing Body.

Financial implications: The usual implications of placing items on the Conference agenda

Follow-up action required: Preparatory work, depending on the decisions taken by the Governing Body.

Author unit: The Employment, Social Dialogue, and Standards and Fundamental Principles and Rights at Work sectors.

Related documents: GB.308/5; GB.312/INS/2/1; GB.312/INS/2/2; GB.312/WP/GBC/1; GB.313.WP/GBC/1.

I. Place of the 103rd Session (2014) of the Conference

1. It is proposed that the 103rd Session (2014) of the Conference be held in Geneva.

II. Agenda of the 103rd Session (2014) of the Conference

2. The agenda of the 103rd Session (2014) of the Conference will contain the following standing items:
 - reports of the Chairperson of the Governing Body and the Director-General;
 - programme and budget and other financial questions;
 - information and reports on the application of Conventions and Recommendations.
3. The Conference examines in principle three technical items each year. Items considered for, but ultimately not placed on, the agenda of a particular session of the Conference are normally resubmitted as proposals for the agenda the following year, subject to any other decision taken by the Governing Body.
4. Article 5.1.1 of the Standing Orders of the Governing Body provides that “[w]hen a proposal to place an item on the agenda of the Conference is discussed for the first time by the Governing Body, the Governing Body cannot, without the unanimous consent of the members present, take a decision until the following session.”¹
5. Accordingly, the regular practice of the Governing Body has been to hold a first discussion each November on items proposed for the agenda of the Conference session taking place two-and-a-half years later. The purpose of this discussion is to select a short list of items for closer scrutiny the following March, when the Governing Body should – in principle – finalize the agenda of the Conference session in question. The Governing Body may also decide to postpone its final decision to a session closer to the Conference, subject to certain timelines, notably those in place for standard-setting items.²

Proposals submitted at the 312th Session of the Governing Body

6. At its 312th Session (November 2011),³ in the context of the proposals for the agenda of the 103rd Session (2014) of the Conference, the Governing Body had before it the following items (see also the appendix to the present document):
 - (i) a recurrent discussion on the strategic objective of employment;

¹ See ILO: *Compendium of rules applicable to the Governing Body of the International Labour Office*, Geneva, 2011, p. 21.

² See articles 38 and 39 of the Standing Orders of the Conference. See also GB.308/5, paras 9 and 10.

³ GB.312/INS/2/1 and GB.312/INS/2/2.

- (ii) a possible Recommendation on policy coherence among economic, financial, employment and social policies (following the recurrent discussion on employment) (standard setting);
- (iii) decent work in global supply chains (general discussion);
- (iv) finance with a social purpose (general discussion);
- (v) decent work in export processing zones (general discussion);
- (vi) promoting sound industrial relations through the prevention and resolution of labour disputes (general discussion – follow-up to the conclusions of the Cartier Working Party), with adjustments as necessary to the recurrent discussion on social dialogue;
- (vii) revision of the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71) (standard setting – follow-up to the conclusions of the Cartier Working Party);
- (viii) a possible Recommendation on the right to information and consultation (standard setting – revision and consolidation as a follow-up to the conclusions of the Cartier Working Party), with adjustments as necessary to the recurrent discussion on social dialogue.

7. The Governing Body decided to examine these proposals further at its 313th Session (March 2012) and invited the Office to organize informal consultations on this item.

III. The process of setting the Conference agenda

8. Also at the 312th Session of the Governing Body, the Working Party on the Functioning of the Governing Body and the International Labour Conference began discussing the process of setting the Conference agenda in the context of improvements to the functioning of the Conference.⁴ A number of ideas were raised during this first exchange. The Governments considered that this process should be subject to effective tripartite consultation. Agenda items that were put forward but attracted insufficient support in the Governing Body should not reappear year after year. The use of electronic expression of interest in items, in the form of an interactive portal, could be an option. The Office should identify current and emerging issues to which the Conference could develop concrete responses. The 2008 ILO Declaration on Social Justice for a Fair Globalization had put in place a series of recurrent discussions with a view to enabling the ILO to understand better the needs of its constituents. More weight should be given to these discussions in setting the agenda of the Conference, and in establishing their follow-up. The Workers stated that the Declaration was still in the early stages of implementation, and would certainly yield improvements in agenda setting. The Employers stressed that the credibility of the Conference depended on a high level of participation and on the pertinence of its agenda.

Tripartite informal consultations held in February 2012

9. Informal consultations were held on 2 February 2012 on the question of Conference agenda setting, including for the 2014 session. A further exchange took place on

⁴ GB.312/WP/GBC/1.

9 February 2012 within the framework of informal consultations on the functioning of the Conference. The main conclusions reached in relation to the setting of the Conference agenda are summarized in the document submitted at the present session of the Governing Body to the Working Party on the Functioning of the Governing Body and the International Labour Conference.⁵ They are:

- The selection of Conference agenda items to be submitted to the Governing Body (other than the items for recurrent discussions in accordance with the ILO Declaration on Social Justice for a Fair Globalization) should be a process under constant review, based on extensive consultations with the constituents. In this respect, three major sources were identified as potential “generators” of proposals: the Office; the outcomes of ILO meetings and issues emerging from the world of work; and the constituents themselves.
 - Even though the recurrent discussion should be considered as part of the preparatory work in the process of agenda setting and would generate new agenda items for future sessions of the Conference, this process should not automatically transform the recurrent discussion into a double discussion.
 - A slot should be kept open until the Governing Body session in June to allow for the possible selection of an item as follow-up to the work of one of the technical committees, including the committee for the recurrent discussion, or a topical issue requiring urgent examination. It was recognized that the timing of final decisions on agenda items needed to take into account not only the advantages of addressing issues of topical importance, but also the need for adequate time for preparation, including for standard setting.
10. The elimination of proposed agenda items which have repeatedly failed to garner support, after a certain period of time (for example, more than three years), was also mentioned. The item “Finance with a social purpose” could be among the items which fulfil this criterion. The Governing Body could identify other items that should be removed from the list on the basis of this criterion.
 11. The informal consultations did not result in the indication of a possible consensus on any of the items proposed, with the exception of the recurrent discussion on employment. The view was expressed that further efforts needed to be made to identify alternative options as a matter of urgency.
 12. Regarding the recurrent discussions on the different strategic objectives, it will be recalled that employment was discussed in 2010, and social protection (social security) in 2011; fundamental principles and rights at work will be discussed in 2012, and social dialogue in 2013. During the consultations, it was confirmed that, for the purpose of a balanced cycle, the following order for the topics for the three subsequent recurrent discussions was acceptable: employment (2014); social protection (labour protection) (2015); and fundamental principles and rights at work (2016).⁶

⁵ GB.313/WP/GBC/1.

⁶ GB.312/INS/2/2.

IV. Conclusions

13. Against this background, it appears that there is a need to continue tripartite consultations on the process of setting the Conference agenda, including the identification of relevant items other than those related to recurrent discussions. Due consideration should be given, inter alia, to the articulation between this process, the recurrent discussion and the standards review mechanism – the establishment of which was agreed to by the Governing Body at its 312th Session (November 2011) – once the modalities of this mechanism have been agreed upon.
14. As regards the agenda of the 2014 session of the Conference, it is recalled that the Governing Body is called upon to select three items. One of these items should be the recurrent discussion on the strategic objective of employment. In the light of the above, the selection of a second item could be postponed, pending the outcome of the Conference discussions in 2012. Concerning the third item, the Governing Body may decide:
- (a) either to select it from among the six remaining items currently on the list (see paragraph 6 – “Finance with social purpose” being withdrawn);
 - (b) or to consider three of the six remaining items to be appropriate for examination in the framework of future recurrent discussions – the two Cartier working party items (see paragraph 6(vi) and (vii)) being relevant to social dialogue 2013 and employment 2014, and the item on sound industrial relations through prevention and resolution of labour disputes being relevant to social dialogue 2013 – and to select the third item for 2014 from among the three remaining items: a possible Recommendation on policy coherence (standard setting); decent work in global supply chains (general discussion); and decent work in export processing zones (general discussion);
 - (c) or to include the selection of the third item in the consultations on the agenda that will be pursued, the result of said consultations being submitted thereafter to the Governing Body in November 2012.
15. Finally, the Governing Body may also decide that the last two recurrent items of the cycle would be social protection (labour protection) (in 2015), and fundamental principles and rights at work (in 2016), and that these items will be placed on the agenda of the Conference.

V. Draft decisions

16. *The Governing Body requests the Office to make the appropriate arrangements to continue the consultations on the process of setting the Conference agenda.*
17. *The Governing Body decides that the 103rd Session (2014) of the Conference will be held in Geneva.*
18. *For the agenda of the 103rd Session (2014) of the Conference, the Governing Body:*
- (i) *approves the proposal for a recurrent discussion on the strategic objective of employment;*
 - (ii) *agrees to postpone the selection of a second item, pending the outcome of the discussions of the 101st Session (2012) of the Conference;*

(iii) *either*

agrees to select the third item from among the six remaining items currently on the list before it (see paragraph 6 – “Finance with social purpose” being withdrawn);

or

agrees to select the third item from among the three remaining items on the list after withdrawing of “Finance with social purpose” and taking out the three items relevant to the recurrent discussions 2013 and 2014 (see paragraph 14b));

or

agrees to include the selection of the third item in the consultations on the agenda that will be pursued.

19. *As regards the agendas of future sessions of the Conference, the Governing Body decides that the last two recurrent discussions of the cycle will be on social protection (labour protection) (in 2015), and fundamental principles and rights at work (in 2016), and that these items will be placed on the agenda of the Conference.*

Appendix

1. **Proposal for a recurrent discussion in 2014 on the strategic objective of employment**

1. The first in the series of recurrent discussions took up the strategic objective of employment at the 99th Session of the International Labour Conference in 2010. Thus it is proposed that employment be the first repeated strategic objective to be taken up in the scheme of recurrent discussions set out in the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, adopted at the 97th Session of the Conference in 2008.¹ The second recurrent discussion was on the strategic objective of social protection (social security) in 2011. The third recurrent discussion will be on fundamental principles and rights at work in 2012. The fourth recurrent discussion is expected to be on the strategic objective of social dialogue in 2013.
2. This discussion will be of particular interest as the first of the strategic objectives to be taken up twice in the seven-year cycle for recurrent discussions. The 2014 discussion will thus set a precedent for combining a discussion of up-to-date issues and achievements by ILO Members in the area of employment with a discussion of how the Organization has acted on the conclusions agreed upon in the first recurrent discussion.

Proposed content and nature of the recurrent discussion report

3. The first section of the background report to be prepared by the Office will take stock of employment trends and challenges across the diverse group of member States, focusing in particular on areas of improvement and new challenges since the first recurrent discussion.
4. The second section will take stock of the policies that member States have put in place to respond to these new challenges. As the first recurrent discussion on employment coincided with the depth of the economic recession and employment crisis, the report for the 2014 discussion will include assessments of the crisis response and recovery measures five years on. It will be timely to take stock of recovery patterns and draw lessons from member States' recovery policies. The database on crisis response, developed in collaboration with the World Bank, will be one asset in developing this section of the report.
5. The stocktaking will similarly report on the efforts of member States less affected by the 2008 crisis to place employment at the centre of their development strategies and to build macroeconomic frameworks and labour market policies that accelerate the creation of productive and decent work for broader sectors of their societies.
6. The stocktaking section of the report will be informed by the information on national policies collected and made available through the Office-wide Knowledge Management System.
7. The third section will report on effect given to the guidance received in the conclusions of the first recurrent discussion on employment in 2010. This information will capture implementation steps by all sectors of the Office and will demonstrate the integrated approaches taken as appropriate in acting on the guidance provided.
8. The analysis of the progress and impact of the work under the strategic objective on employment will also highlight the measures taken to act on any conclusions adopted in the Conference general discussions on employment-related themes that are scheduled to

¹ ILO Declaration on Social Justice for a Fair Globalization, 2008, annex, Part II(B).

take place between the two recurrent discussions on employment, for example on the youth employment crisis (2012) and on employment and social protection in the new demographic context (2013). Similarly, the report will highlight actions taken through work on employment promotion to implement conclusions stemming from the recurrent discussions on social security (2011), fundamental principles and rights at work (2012) and social dialogue (2013).

9. The guidance stemming from the recurrent discussion on employment in 2014 will be timely in terms of reviewing the situation of labour markets around the world, discussing policies to improve the situation and also reviewing the work of the Organization during the Strategic Policy Framework 2010–15 and guiding the implementation planning for the subsequent six-year strategic plan of work.

2. **A possible Recommendation on policy coherence among economic, financial, employment and social policies** (following the recurrent discussion on employment) (standard setting)

Summary

Following the recurrent discussion on employment at the 99th Session (2010) of the Conference, the development of a Recommendation that could provide guidance to improve coherence at national level among economic, financial, employment and social policies with a view to promoting full, decent and freely chosen employment is proposed for the 2013 Conference agenda.

10. It has long been recognized that the quantity and quality of work in any country is influenced by a wide range of economic and social policies. The achievement of decent work therefore requires cooperation and coherence across many policy fields.²
11. The ILO has a clear mandate to promote policy coherence in the pursuit of decent work at both the national and international levels. This mandate is made explicit in a variety of important documents.
12. For example, the Declaration of Philadelphia (1944) provides the ILO with a responsibility to examine and consider all international economic and financial policies in light of the fundamental objective of social justice.
13. In 2004, the World Commission on the Social Dimension of Globalization drew attention to the need for policy coherence nationally and internationally. Its conclusions stated:

Ensuring greater coherence among policies is the responsibility not only of the organizations of the multilateral system but also of the governments and parliaments which oversee their work. In particular, the international organizations need to be given a clear political mandate to achieve greater policy coherence ...³
14. More recently the ILO Declaration on Social Justice for a Fair Globalization, 2008, reaffirmed the ILO's responsibility set out in the Declaration of Philadelphia and called for "Members and the Organization to implement the ILO's constitutional mandate, including through international labour standards, and to place full and productive employment and decent work at the centre of economic and social policies".⁴

² See GB.312/HL/1.

³ ILO: *A fair globalization: Creating opportunities for all*, Report of the World Commission on the Social Dimension of Globalization (Geneva, 2004), para. 605.

⁴ ILO Declaration on Social Justice for a Fair Globalization, 2008, Part I(A).

15. The Declaration also states:

Other international and regional organizations with mandates in closely related fields can have an important contribution to make to the implementation of the integrated approach. The ILO should invite them to promote decent work, bearing in mind that each agency will have full control of its mandate. As trade and financial market policy both affect employment, it is the ILO's role to evaluate those employment effects to achieve its aim of placing employment at the heart of economic policies.⁵

16. Since 2008 the global financial crisis and the dramatic labour market and social consequences of the recession have demonstrated that, despite the abovementioned commitments to policy coherence, this objective has not been attained. There is therefore a clear need to provide greater guidance on what policy coherence should entail in practice at both the national and international levels. The need for more practical and detailed guidance on how to implement policy coherence was articulated by ILO constituents at the International Labour Conference in 2010. The conclusions concerning the recurrent discussion on employment adopted by the Conference:

Request the Director-General to rapidly initiate discussions with the main international financial and economic institutions and other relevant international bodies with the objective of achieving a better coherence between economic, financial, employment and social policies at the international level. Invite the Director-General to submit to the November 2010 session of the Governing Body a document outlining the elements and possible forms of a framework with the objective of promoting coherence between these policies. This document should provide a coherent framework to give governments and social partners the best possible advice to achieve full and productive employment and decent work at the centre of economic and social policies, while enhancing cooperation and exchange of experiences among them. In preparing the elements of such a framework, the Office should consult with the main economic and financial international institutions with a view to achieving a better coherence among economic, financial, employment and social policy at the international level, bearing in mind the contribution this can also make to facilitate coherence amongst government policies at the national level and their advocacy internationally.⁶

17. During the 2010 Conference debate the Workers' group suggested that the framework for policy coherence mentioned above should take the form of a Recommendation. A number of governments supported this proposal.

18. Such an instrument could provide valuable guidance to improve coherence at national level between economic, financial, employment and social policies with a view to promoting full, decent and freely chosen employment. It could do so by promoting employment impact assessments of proposed policy measures, as well as policy coordination mechanisms including tripartite policy consultations and inter-ministerial coordination.

19. The Recommendation would thus contribute to the strengthening of domestic economies and sustainable economic growth.

⁵ *ibid.*, Part II(C).

⁶ ILO: Resolution concerning the recurrent discussion on employment, International Labour Conference, 99th Session, Geneva, 2010, conclusions, para. 50.

3. Decent work in global supply chains (general discussion)

Summary

The growth of supply chains that often stretch across the globe as a result of increasing globalization is generating much debate on the implications for the quantity, quality and distribution of employment throughout the world. Issues include opportunities and challenges for countries and individual companies to tap the economic development potential of global supply chains while maintaining or raising social standards. The proposed discussion item would address the economic, social and employment consequences of the structural changes taking place in key sectors of the global economy, specifically the identification of policies, programmes and tools to achieve productive employment and decent work outcomes in global supply chains. Special attention would be paid to the potential economic, social and employment effects that economic crises might have on global supply chains and the potential of global supply chains to stabilize labour markets and create new jobs. To provide focus and grounding for the discussion, the report would use the framework of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), provide an overview and analysis of foreign direct investment (FDI) and might select a few representative and important supply chains to guide the discussion (e.g. such as information and communication technology-related equipment, global food chains and services such as industrial design, software development or tourism).

20. Supply chains have a major impact on the structure of product, service and labour markets throughout the world. Participation in international supply chains has resulted in significant creation and growth of enterprises and employment in some developing countries and is a principal means by which many developing countries are linked to the global economy. This has resulted in the expansion of service, manufacturing and agricultural markets and production capability in these countries.
21. The fact that to date only some developing countries have been able to take advantage of these opportunities is a clear indication that countries, particularly developing ones, face both opportunities and challenges in terms of supporting the development, diversification and upgrading of their enterprise base.
22. Increased market openness and foreign direct investment (FDI), together with changes in technology, including transport and communication systems, have had a major impact on the organization of production and on business relationships. In many sectors, enterprises have decided to concentrate on core competencies while outsourcing a range of production and service-related activities. This has, in turn, resulted in increasingly long and often complex international supply chains that involve a variety of enterprises in the development, production and distribution of products and services.
23. Increasingly, outsourcing arrangements reflect a change in business relationships brought about by these changes. In important economic sectors there has been an increase in the power of enterprises that market goods or services, relative to the power of those firms that produce them – a shift that has had a profound impact on the world of work. In the past, most lead companies in global supply chains were located in developed countries. A new trend is the growth of multinational enterprises (MNEs) based in developing countries.
24. A decision to outsource is often a decision to offshore. These decisions are typically based on the consideration of a range of factors, including labour costs, production and service capacity, product quality, time to market, reliability, and access to infrastructure. The choice of suppliers affects the choice of country. Criteria can include the full range of factors identified in the 2007 Conference conclusions concerning the promotion of sustainable enterprises, including political and economic stability, the availability and capacity of human resources and the linguistic abilities of workers, quality of infrastructure (transport, telecommunications), the availability of effective financial services, the strength of the rule of law, including as it relates to the protection and enforcement of property rights, and the availability of conflict resolution mechanisms, among others. So the opportunities for countries to integrate into global supply chains and promote productive employment and decent work depend to a large extent on national policy frameworks.

25. A range of strategies can be employed by countries to better tap the potential of global supply chains to generate economic growth and productive employment and to reduce poverty. Strategies to take advantage of global supply chain opportunities can include targeted programmes to upgrade skills, productivity and competitiveness of particular sectors and clusters of enterprises. Infrastructure development, product development, testing facilities, technology transfer and supplier development programmes can be effective ways to help enterprises, particularly in developing countries, to integrate in beneficial and sustainable ways into global supply chains. Furthermore, efforts to use value chains at the national and international levels to link the more than 1.3 billion working poor in the informal economy to more productive job opportunities can form part of a poverty reduction strategy.
26. The growth of supply chains and outsourcing raises issues surrounding the application of international labour standards. For a number of reasons, including inadequate resources, governments in developing countries do not always adequately monitor labour practices and enforce labour standards. Intense competitive pressures on enterprises, particularly at the lower end of the chain, have influenced the development and application of law. As a result, there have been growing concerns that international labour standards and fundamental principles and rights at work are not being observed in many areas of international business activity.
27. For a number of reasons, including growing concerns regarding labour and social practices in supply chains and the desire to upgrade management practices and productivity, many sourcing companies have begun to address labour practices of their suppliers. Often, these efforts involve the adoption of codes of conduct for suppliers and various implementation and monitoring schemes. These initiatives raise many questions, especially the issue of one enterprise assuming some responsibility for the labour practices of another enterprise, which it does not own or control.
28. There is a lack of clarity regarding the division of responsibilities between enterprises and governments in terms of how the sourcing company can effectively monitor the labour practices of its suppliers and how it should deal with non-compliance; and if and how enterprises can effectively implement codes, which often reference international labour standards in situations where the government does not assume or respect its responsibilities with respect to these standards.
29. Workers' organizations, in particular, have expressed concern that arm's length supply chain relationships can be a way for sourcing companies to avoid their obligations as employers in terms of respecting fundamental principles and rights at work. They argue that the relative power of sourcing companies can negatively affect the potential of collective bargaining to protect workers by denying workers down the supply chain access to the real decision-makers who effectively determine their working conditions. The right to information and consultation is especially critical in the current economic and financial crisis. Employers' organizations have expressed concerns that the proliferation of codes and monitoring regimes result in added cost and uncertainty for enterprises, without necessarily resulting in improved labour conditions. There is concern that enterprises are expected to shoulder responsibilities which should be met by the concerned governments. Furthermore, some governments, particularly in developing countries, express concerns that such arrangements may constitute a non-tariff barrier to exports.
30. Supply chains can also have a significant effect on national policy-making in the field of national taxation policy, competition or investment policies and even in the realm of social policies covering, for example, social security and welfare provision.
31. The recent decision of the International Labour Conference (2010) to launch a review to develop a promotional follow-up mechanism for the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) also has the potential to provide visibility and avenues for action linked to the only international framework adopted unanimously on a tripartite basis.

32. Existing ILO programmes – such as Better Work, SCORE (Sustaining Competitive and Responsible Enterprises) and value-chain development for small and medium-sized enterprises – would also be discussed, including the possible replication in other sectors.

Some issues for discussion

33. The discussion would focus on how employment and decent work can be promoted in global supply chains. Issues to be covered may include:

- What are some of the key structural changes and trends in global supply chains?
- What are the key drivers of these trends?
- How are these trends affected by the economic and financial crisis?
- What is the impact of these changes on the quantity, quality and distribution of employment?
- How can global supply chains help to stabilize labour markets, create jobs and contribute to addressing the current jobs crisis?
- What could be the role of international policies to address the structural changes in global supply chains?
- Which policies are most effective for upgrading competitiveness, productivity and decent work in global supply chains?
- What could be the national, local and sectoral policies and strategies for promoting productive employment, and for linking the large number of working poor to national and global supply chains?
- Which public regulations and other monitoring systems could address the issues related to the global supply chains and decent work?
- What is and could be the role of programmes such as Better Work, SCORE and other initiatives to manage social issues in global supply chains?
- What are the effects of global supply chains on collective bargaining and on social dialogue?
- What are the implications for governments and for workers' and employers' organizations of the structural changes in global supply chains and their impact on productive employment and decent work?
- What advisory services, tools and technical assistance might be developed by the ILO to support job creation and enterprise upgrading in global supply chains, in line with the ILO MNE Declaration?
- How can employers' and workers' organizations promote compliance with codes of conduct and international labour standards in global supply chains?

Intended outcomes

34. The intended outcomes of the Conference discussion would be:

- a stocktaking of the international debate on the impact of structural changes in global supply chains on the quantity, quality and distribution of employment, in the context of the Decent Work Agenda; and
- recommendations for ILO work to enhance the use of the MNE Declaration through coherent policies, strategies and tools for technical support to constituents that promote productive employment and decent work in global supply chains.

4. Finance with a social purpose (general discussion)

Summary

Social finance has a key role to play in the promotion of job-rich and inclusive growth. Microfinance ¹opens opportunities for productive employment, leads out of informality, helps improve working conditions and provides security against income shocks. In 2008 the ILO initiated collaboration with more than 70 microfinance institutions and microinsurance providers to experiment with innovations that address decent work deficits.

The financial crisis demonstrated the importance of financial strategies that serve the real economy and respond to the needs of households and enterprises. One of these strategies is microfinance. Its growth and impact are evidence that socially responsible finance is possible, feasible and sustainable.

Against the backdrop of the financial crisis, the Conference discussion would be an opportunity to extract the lessons learnt from the innovations for policy formulation. It would thus be a timely opportunity to define the ILO position on socially responsible finance, translating into action the Declaration of Philadelphia and the ILO Declaration on Social Justice for a Fair Globalization.

¹ As defined in the ILO, social finance means gearing financial policies and financial institutions towards decent work outcomes. "Microfinance" and "socially responsible finance" are therefore subsets of social finance.

Rationale

35. Several sessions of the Conference have identified access to credit and finance as a key constraint for decent work and productive employment, whether in the context of sustainable enterprises, rural development, youth employment, cooperatives, social protection, gender, the informal economy or migration. The Governing Body has also requested the Office to explore ways to gear financial systems more towards decent work and make finance more inclusive. To deepen the analysis, better understand these mechanics and locate entry points for policy, the Office started pilot initiatives in the framework of the joint outcome on social finance. Partnering with leading institutions worldwide, the Office tested a variety of financial innovations to tackle decent work issues concretely, guided by local employers' and workers' organizations. In parallel, the Office started several initiatives to strengthen the capacity of workers' and employers' organizations to guide and assist their members in the access to and management of finance. This also covers governments that seek the advice of the Office in the design and management of social funds meant to absorb the shocks of the financial crisis.
36. The Conference discussion would review good practices in the use of selective financial instruments for productive employment and decent work and define the implications for policy-making. It would identify good practices in capacity building of the social partners and ministries of labour, and help them interact more effectively with ministries of finance and central banks.

Relevance for decent work

37. Social finance influences different key aspects of decent work:
 - Improvements in the access to finance enhance entrepreneurship, investments and productivity and stimulate the demand for labour; the closer financial intermediaries operate to smaller enterprises, the better they are able to respond quickly to the demand for finance. Financial institutions with a social purpose in particular, for example, credit unions, municipal savings banks, promotional banks, community banks and microfinance institutions, demonstrate in different ways how to keep financial intermediation firmly responsive to the needs of households and enterprises in the real economy, whilst operating on market-based principles. This applies also to the design of individual financial products and services. Credit can be packaged in such a way that parents are induced to keep their children at school and not to make

them work. An institution in Morocco, for example, gives parents an interest rebate if they produce a school attendance certificate for their children.

- A programme in Bangladesh covering close to 1 million women provides free food grain for an 18-month period to destitute, female-headed households that are at the highest risk of hunger. The programme uses food grain relief assistance to attract the hardcore poor and cater to their immediate consumption needs, but then adds skills, training and savings and credit services to build their development capacity. Hence, when the cycle of free food grain ends, participants are able to engage in income-generating activities and become clients of regular microfinance programmes. This approach would merit to be better known in a situation of continuing food crisis.
- Finance can also be an effective tool to address debt bondage, a fundamental violation of labour rights. An institution in Pakistan, for example, combines social mobilization, training and savings to make sure that *haaris*, a group of former bonded labourers, do not slip back into debt bondage.
- Financial contracts represent a path out of informality. For a variety of reasons, some financial institutions provide incentives to their clients to formalize. A business association in Egypt, for example, links lending to clients' efforts to obtain documentation, thus encouraging borrowers to slowly "graduate" out of the informal economy. One of the documents required relates to the social security status of employees.
- Improvements in the access to finance can change the distribution of working time between men and women. Microfinance has been found to give more voice to women in household internal decision-making related to the credit-financed activity and in managing the entire household budget. Still, many women, especially in rural areas, have difficulties accessing financial services because of discrimination in access to literacy, property rights and social attitudes.
- Social finance addresses a host of other decent work issues:
 - (a) enhance access to insurance and microcredit for workers living with HIV and AIDS and their families and dependants, without any discrimination;
 - (b) design savings and investment products for families of migrant workers receiving remittances;
 - (c) offer access to life and health insurance;
 - (d) organize home or contract workers in savings and credit clubs;
 - (e) give young jobseekers a chance to start up;
 - (f) integrate people with disabilities into mainstream services; and
 - (g) make it possible for employers in the informal economy to provide benefits to their workers, such as health insurance, etc.

Objectives

38. The discussion at the Conference would:

- create knowledge about good practices: what works, when and under which circumstances in gearing selective financial instruments to decent work; and
- identify possible partnerships between social partners, governments and relevant financial institutions. The debate will throw light on possible areas for capacity building of the social partners and guide government policy to support such initiatives.

Points to be discussed

39. Points to be discussed reflect the ILO policy statement in this field of work and would include:

- How can selective financial instruments and institutions promote productive employment and decent work?
- How can finance move operators from the informal to the formal economy?
- What can workers' and employers' organizations do to better protect workers and independent producers against abuses in finance, avoid over-indebtedness, ensure transparent pricing and enhance ethical behaviour by bank staff?
- How best to assist ministries of labour in the management of funds set up to help create jobs for those laid off as a result of the financial and economic crisis or otherwise excluded from the labour market?
- How can employers' organizations:
 - (a) influence the portfolio orientation of financial institutions towards entrepreneurship development;
 - (b) better interact with financial institutions to deal with restrictions in access to credit, lower investment costs and promote risk-sharing instruments suitable for SMEs;
 - (c) articulate their members' needs with regard to a better access to capital;
 - (d) encourage savings by workers and facilitate remittances?
- How can workers' organizations:
 - (a) through pension funds and socially responsible investment promote social finance institutions;
 - (b) partner with local financial institutions to ensure the provision of affordable and secure savings, insurance and credit facilities for workers;
 - (c) enhance the financial competence of workers to ensure a better appreciation of the risks and opportunities of financial contracts, complementing collective bargaining efforts to protect real purchasing power of workers?

5. Decent work in EPZs (general discussion)

Summary

EPZs are industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being exported again. EPZs are prevalent in both developed and developing economies. They take a variety of names in different countries and in general represent a policy instrument frequently used by governments to promote trade and FDI and job creation. Even though EPZs offer opportunities to access formal sector employment to groups of workers such as young women and low-skilled workers, they remain a source of ongoing concern regarding the quality and sustainability of jobs created and the enforcement of labour standards.

The proposed general discussion will aim at discussing recent trends in EPZs; identifying and disseminating good practices; identifying new areas for research, knowledge building and knowledge sharing; identifying, notably in the context of continuing economic and financial crises, a strategy for future ILO action including technical cooperation, building on the ILO's comparative advantage in this area and providing clear directions to the Office as to the expected results and services to be delivered; and identifying potential areas for inter-agency work, taking into account the mandate and priorities of each UN agency.

Background

40. Several countries around the world have established EPZs in order to stimulate economic growth by attracting FDI. The ILO defines EPZs as “industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being exported again”.⁷ EPZs take a variety of names and forms in different countries (including free trade zones, special economic zones (SEZs), industrial development zones (IDZs), bonded warehouses, free ports and *maquiladoras*). A significant amount of the exports in many countries are concentrated in textiles and clothing and electronics. EPZs have become increasingly common as countries move from import-substitution policies to export-led growth policies. The typical incentives attributed to their growth include special concessions on taxes and tariffs and a relaxed regulatory environment, including with respect to the enforcement of labour rights and standards.
41. According to ILO estimations, in 2006 there were 3,500 EPZs or similar types of zones in 130 countries, accounting for over 66 million direct jobs. China alone would account for 40 million employees; outside China, EPZ employment would have doubled between 2002 and 2006 from 13 to 26 million.⁸ While Chinese expansion has been particularly rapid, EPZs have become commonplace in almost all regions of the world. In sub-Saharan Africa, the percentage change in EPZ employment has been even greater than in China, and EPZ employment has risen significantly in South Asia and Eastern Europe. EPZs account for significant – though recently declining – percentages of exports across many poor countries. Still, EPZ and EPZ-like employment remains a fraction of the global working population, with an average of less than three per cent of the global workforce in EPZs.⁹

Overview of issues

42. As the number of EPZs around the world continues to grow, some of them continue to raise questions and concerns in terms of employment creation, respect for workers’ rights – especially in the areas of freedom of association and collective bargaining, the application of labour law, and working conditions.¹⁰
43. Although the available data on employment levels in EPZs are not always clear, it would appear that EPZs rarely constitute a viable source of employment creation.¹¹ The recent global economic downturn may have negatively impacted several EPZs, as slumping demand has led to fewer markets for exports and possibly higher input costs. This may have further deteriorated the situation of employment in the developing world.

⁷ See ILO: *Labour and social issues relating to export processing zones*, Report for discussion at the Tripartite Meeting of Export Processing Zones-Operating Countries, TMEPZ/1998 (Geneva, 1998) p. 3; see also GB.301/ESP/5.

⁸ W. Milberg and M. Amengual: *Economic development and working conditions in export processing zones: A survey of trends*, Working Paper No. 3 (Geneva, ILO, 2008), p. 4.

⁹ *ibid.*

¹⁰ For a recent overview of EPZ-related issues, see J.K. McCallum: *Export processing zones: Comparative data from China, Honduras, Nicaragua, and South Africa*, Working Paper No. 21, Industrial and Employment Relations Departments (Geneva, ILO, 2011).

¹¹ GB.301/ESP/5.

44. EPZs are moreover characterized by an absence of adequate mechanisms and processes for information sharing and consultation, let alone negotiation and dispute settlement.¹² Some EPZ-operating countries have, under their laws, either deprived EPZ workers of their right to organize themselves, or placed severe limitations on the free exercise of this right.¹³ Even when labour legislation is applicable to EPZs without exemption, law enforcement may be problematic because of difficulties in accessing the zones and the usual challenges associated with labour inspection (notably, the lack of access by labour inspectors combined with lack of human and financial resources).¹⁴
45. From the point of view of conditions of work, EPZs appear to be often confronted with high levels of machine-related accidents, dust, noise, poor ventilation, and exposure to toxic chemicals.¹⁵ EPZs can therefore be associated with high labour turnover, absenteeism, low productivity and labour unrest. Several studies identify the issue of long working hours, often in violation of national laws, as endemic in EPZs throughout the world.¹⁶ Despite evidence of States' efforts to address these issues, the track record of many EPZs in this respect remains poor. As young women often account for the majority of the workforce in EPZs (with those at the lower end of the occupational and skill hierarchy), it is usually the female workforce of EPZs that experiences difficult living and working conditions, and is the first to be affected by global economic crises.

ILO action

46. The ILO has been monitoring developments in EPZs for over 20 years and has been reporting on its activities to the Governing Body which has on several occasions, instructed the Office to continue examining this question. In 1998, the ILO organized a highly successful Tripartite Meeting of Export Processing Zones-Operating Countries.¹⁷ The conclusions of this meeting have been the main framework for subsequent ILO action on EPZs. The Programme and Budget for 2006–07 included an InFocus Initiative on EPZs, which envisaged a number of activities.¹⁸ In March 2008, the Governing Body discussed a paper on the latest trends and policy developments in EPZs¹⁹ and invited the Office to continue examining the issue and to provide further detailed information and statistical data. It further requested a progress report to be submitted to subsequent sessions.

¹² *ibid.*

¹³ R. Gopalakrisanan: *Freedom of association and collective bargaining in export processing zones: Role of the ILO supervisory mechanisms*, Working Paper, International Labour Standards Department (Geneva, ILO, 2007), p. 1.

¹⁴ On the special role of labour inspection in EPZs, see Report of the Committee on Labour Administration, International Labour Conference, 100th Session, Geneva, 2011, *Provisional Record* No. 19, para. 22.

¹⁵ R. Loewenson: "Globalization and occupational health: A perspective from southern Africa", *Bulletin of the World Health Organization*, 2001, Vol. 79, No. 9 (Geneva).

¹⁶ Milberg and Amengual, *op. cit.*

¹⁷ ILO: *Note on the proceedings*, Tripartite Meeting of Export Processing Zones-Operating Countries (Geneva, 28 September–2 October 1998), TMEPZ/1998/5.

¹⁸ These were reported in GB.303/3/2 (Appendix II, para. 2).

¹⁹ See GB.301/ESP/5 and GB.301/13(Rev.).

47. Since 2008 the Office has been developing a number of research, capacity-building and knowledge-sharing activities.²⁰ The research activities aim at gathering both quantitative and qualitative information about industrial relations practices in EPZs (especially in the areas of freedom of association and collective bargaining, labour inspection and social dialogue). Furthermore, an online resource guide to compile key information on EPZs has been developed and maintained by the ILO's Bureau of Library and Information Services.²¹
48. It should be noted that data collection on EPZ-related matters (such as employment trends and levels; gender and sectoral dimensions of EPZs; working conditions, including working time; occupational safety and health; and migrant workers), encounters major challenges. These challenges, explained elsewhere,²² point to the need for developing a common definition of EPZs, as well as an inter-agency collaboration strategy aimed at facilitating the collection of up-to-date information on EPZs across the world.

Proposed Conference focus

49. Under the prism of the ILO Decent Work Agenda and the Global Jobs Pact, the Conference could focus on the following interrelated questions:
- (a) the contribution of EPZs to national industrial development policies and the role of FDI;
 - (b) strengthening productivity and improving the prospects for job creation and decent work in EPZs;
 - (c) the legal and institutional framework for realizing rights at work in EPZs;
 - (d) strategies for promoting the application and enforcement of labour legislation for workers in EPZs, notably through labour inspection;
 - (e) the role of the social partners in promoting decent work in EPZs, including through freedom of association and collective bargaining;
 - (f) the roles and responsibilities of international organizations representing workers and employers at the global level, including by sector of activities, in promoting decent work in EPZs; and
 - (g) the role of MNEs and other businesses involved in the global supply chain of MNEs, in promoting decent work in EPZs.
50. In the proposed general discussion, particular attention would be paid to the situation of young women workers who make up the bulk of the workforce in EPZs, as well as to the question of migration (including internal migration).

Possible outcomes of the Conference discussion

51. A general Conference discussion of EPZs may be a timely exercise, as the subject has not been addressed in a fully fledged ILO tripartite discussion since 1998,²³ while the recent global financial and economic crisis has generated new socio-economic realities, including

²⁰ See GB.309/2/2, Appendix II.

²¹ Available at: <http://www.ilo.org/public/english/support/lib/resource/subject/epz.htm>.

²² See GB.309/2/2, Appendix II.1.3(a).

²³ See ILO: *Labour and social issues relating to export processing zones*, Report for discussion at the Tripartite Meeting of Export Processing Zones-Operating Countries, Geneva, 1998, TMEPZ/1998, p. 3

within EPZs. Additionally, the proposed Conference discussion may present an interest not only from the perspective of the ILO and its constituents, but also for other multilateral agencies (such as the World Trade Organization), which often solicit the Office's advice and request its technical input so as to ensure global policy coherence. Finally, the discussion would allow for wide dissemination of any good practices that may have recently emerged in this area.

52. In particular, based on recent ILO research and the expertise developed by the Office through a number of technical assistance and capacity-building projects, the proposed general discussion could aim at discussing recent trends in EPZs; identifying and disseminating good practices; identifying new areas for research, knowledge building and knowledge sharing; identifying, notably in the context of continuing economic and financial crises, a strategy for future ILO action including technical cooperation activity, building on the ILO's comparative advantage in this area and providing clear directions to the Office as to the expected results and services to be delivered; and identifying potential areas for inter-agency work, taking into account the mandate and priorities of each UN agency.

6. Promoting sound industrial relations through the prevention and resolution of labour disputes (general discussion – follow-up to the conclusions of the Cartier Working Party)

Summary

While global economic integration may have given rise to economic growth in a number of countries, the unequal distribution of its benefits has led to increased social tensions. The current economic downturn has exacerbated these tensions. This proposal seeks to examine recent trends in labour disputes, different approaches to the prevention and resolution of disputes and the role that voluntary conciliation, arbitration and mediation services can play in this regard. It will examine the role of the social partners and means for strengthening the prevention and resolution of disputes, through voluntary means.

53. In 1992 the Governing Body considered a proposal for a potential Conference agenda item regarding dispute settlement. This was subsequently the subject of deliberations during a number of Governing Body sessions, including a detailed report at the 261st Session, and most recently in March 1999. At the time, the topic was proposed for a general discussion, but the proposal was not taken up.
54. The social and economic developments that have resulted from globalization have been widely documented. While these phenomena have given rise to economic growth in a number of countries, the unequal distribution of its benefits has led to increased social tensions. The current economic downturn has exacerbated these tensions and there has been a dramatic rise in industrial disputes between employers and workers in some countries.
55. Labour disputes are recognized as a natural occurrence in the labour and employment relationship. The prevention, wherever possible, and the efficient and effective settlement of labour disputes are key features of sound labour relations. Voluntary conciliation and arbitration can play an important role in the prevention and settlement of disputes. As such, a stocktaking and discussion of new developments in relation to the prevention and resolution of disputes would be beneficial.

56. As an agenda item for the Conference, a general discussion could examine the numerous existing international labour standards²⁴ as well as national legislation and practice. The discussion would provide the Office as well as the constituents with recommendations for follow-up action. It could represent an important opportunity for member States to inform the Office on the possible need to update related ILO Recommendations, as outlined in the conclusions of the Working Party on Policy regarding the Revision of Standards (the Cartier Working Party).²⁵ It will complement the recurrent discussion on social dialogue at the same session of the Conference, the scope of which would be adjusted to take into account but not specifically address the prevention and resolution of labour disputes. A separate and detailed general discussion of the prevention and resolution of disputes is envisaged that would examine a number of subjects in detail.

57. The subjects that could be considered during a general discussion include, inter alia:

- the overall trends and developments in labour dispute prevention and resolution;
- different approaches to the prevention and resolution of labour disputes;
- the roles of voluntary conciliation, arbitration and mediation services in the prevention and resolution of labour disputes;
- means of strengthening systems for labour disputes settlement and integrating new approaches, tools and techniques, referring to key features (i.e. the legal framework, institutions, mechanisms and procedures) of successful systems;
- the role(s) of the social partners; and
- prospects for further research, advisory services and technical cooperation.

58. Should the Governing Body decide to undertake a general discussion in a future session of the Conference, it may wish to request the Office to launch a research programme aimed at identifying the current situation with respect to legislation, institutions and practice on the subject.

7. **Revision of the Employment (Transition from War to Peace) Recommendation, 1944 (No. 71)** (standard setting – follow-up to the conclusions of the Cartier Working Party)

Summary

The Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), was adopted by the ILO in 1944. It is the only international labour standard that specifically provides for measures to promote the reconstruction of post-conflict societies through employment. However, the characteristics of conflicts and post-conflict recovery have changed considerably since the end of Second World War. Consequently, the Recommendation needs to be updated in order to realize its full potential and to provide governments and social partners with up-to-date guidance.

Recently, the issue of rebuilding post-conflict societies through work has become one of the main concerns of the UN, as demonstrated by the UN Policy for post-conflict employment creation, income generation and reintegration, adopted in 2008. In line with the Organization's mandate, the ILO is one of the key players for the implementation of the Policy. In this regard, the adoption of a new international labour

²⁴ The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92); the Examination of Grievances Recommendation, 1967 (No. 130); the Collective Bargaining Convention, 1981 (No. 154); the Collective Bargaining Recommendation, 1981 (No. 163); the Labour Relations (Public Service) Convention, 1978 (No. 151); and the Labour Relations (Public Service) Recommendation, 1978 (No. 159).

²⁵ The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), and the Examination of Grievances Recommendation, 1967 (No. 130).

standard based on the Decent Work Agenda and the UN Policy would be one of the most appropriate ways to implement the principles set out in the Policy. Furthermore, in addition to enhancing the ILO's efforts and credibility in the area of peace building, the revision of Recommendation No. 71 would provide the Organization with a unique opportunity to honour its commitment to economic and social recovery in the aftermath of conflict as part of the wider UN effort.

Background

59. In accordance with the ILO Constitution, and with the Declaration of Philadelphia (which was subsequently incorporated into the Constitution), the ILO's mandate is to promote social justice and the creation of decent jobs in order to achieve universal peace. More recently, the 2008 Declaration on Social Justice for a Fair Globalization and the 2009 Global Jobs Pact both reaffirm this goal. The adoption of international labour standards has been identified as one of the most appropriate ways to make this a reality and continues to be one of the primary means of action of the Organization.
60. The Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), is the only standard that addresses the issue of restoring peace after armed conflict through employment and proposes a number of measures that States should take in the reconstruction of post-conflict societies. However, Recommendation No. 71 was adopted in 1944 in the specific context of Second World War,²⁶ when conflicts largely had different characteristics than those of today. These contexts and approaches to post-conflict recovery have evolved significantly since.
61. The question of revising Recommendation No. 71 was raised for the first time in November 1998 by the Governing Body.²⁷ Subsequently, the Working Party on Policy regarding the Revision of Standards (the Cartier Working Party) requested information on the need to replace this Recommendation.²⁸
62. Faced with the recurrence and urgency²⁹ of the challenges posed by contemporary armed conflicts, the question of rebuilding post-conflict societies through employment is understandably one of the main concerns of the United Nations and the wider international community, as reflected by the UN Policy for post-conflict employment creation, income generation and reintegration³⁰ (hereinafter referred to as the UN Policy). This Policy, which was adopted in May 2008, was the result of several years of studies, analysis and work conducted jointly by a significant number of bodies from within the UN system.³¹ In line with the principles enshrined in the ILO Declaration on Social Justice for a Fair Globalization (2008), the Policy's aim is to "scale up and maximize the impact, coherence and efficiency of employment support provided by UN agencies to post-conflict

²⁶ Moreover, the terminology used in Recommendation No. 71 is obsolete, as reference is made to "Axis aggression", "Axis territories" and "territories occupied by the Axis".

²⁷ GB.273/2.

²⁸ GB.274/LILS/WP/PRS/3, II.1, R1, 3(a)(ii), and GB.274/4(Rev.1).

²⁹ GB.273/2, para. 68.

³⁰ United Nations Policy for post-conflict employment creation, income generation and reintegration, United Nations, Geneva, May 2008. Available at: http://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/@ifp_crisis/documents/publication/wcms_117576.pdf.

³¹ The following agencies in particular contributed to the preparation of the UN Policy: ILO, UNDP, DESA, DPA, DPKO, ESCWA, FAO, OHCHR, OSAA, PBSO, SRSG CAAC, UNCDF, UNHCR, UNICEF, UNIFEM and UNRWA.

countries”.³² To this end, the UN Policy gives the ILO, in collaboration with the United Nations Development Programme (UNDP), the leading role in supporting its implementation.³³

63. In addition, the Organization is committed to “promote its standard-setting policy”³⁴ and “ensure the role of standards as a useful means of achieving the constitutional objectives of the Organization”,³⁵ in such a way as to honour its commitments and work effectively to promote the settlement of conflicts, economic recovery and peace building. More recently, at the 306th Session of the Governing Body in November 2009, the Committee on Technical Cooperation recalled the need for a “strong commitment” towards and “unwavering ILO support” for the UN Policy.³⁶
64. As a result of its major contribution, the ILO has been given a central role to play and is, given its mandate, one of the key agencies in the Policy’s implementation.
65. Recommendation No. 71 is the only international labour standard to date that fully identifies the mechanisms needed to help rebuild post-conflict societies through employment, and is thus in a position to strengthen the adherence to the UN Policy significantly. If revised – and better framed within the context of current conflicts and their new demands – the Recommendation would be able to provide essential support to the peace-building efforts carried out by the ILO and the wider UN system.

The ILO’s role in the peace-building process

66. As a result of both its unique tripartite structure and experience, the ILO clearly has a comparative advantage for promoting employment in post-conflict contexts amongst other international organizations and UN specialized agencies.³⁷ Given its mandate with regard to employment promotion, international labour standards and social justice, the Organization has a crucial role to play in the reconstruction and development efforts that countries undertake in post-conflict situations. This is also recalled in the ILO Declaration on Social Justice for a Fair Globalization, 2008, which recognizes that the ILO has a key role to play in the peace-building process.
67. Typically, in post-conflict situations, adequate employment opportunities and income generation are vital for short-term stability, socio-economic reintegration and the achievement of sustainable peace and stable democratic societies. The shift in the nature of conflicts has brought this topic back to the centre of peace-building efforts. Consequently, various summits and institutions have reiterated the importance of decent work and the need to enhance its impact through the concrete measures outlined in the UN Policy. The programmes developed and implemented over the last two decades by the ILO and other partners have yielded important lessons for effective action.
68. The Committee of Experts on the Application of Conventions and Recommendations has highlighted the importance of the right to work in post-conflict situations. The Committee

³² UN Policy, para. 5 (see also GB.306/TC/5).

³³ *ibid.*: the “ILO and UNDP ... will provide leadership in supporting the implementation of this policy”.

³⁴ *ibid.*

³⁵ ILO Declaration on Social Justice for a Fair Globalization, 2008.

³⁶ GB.306/TC/5.

³⁷ GB.273/2, para. 67.

has also made specific reference to Recommendation No. 71, recalling the centrality of the measures it provides for.³⁸

69. Updating international labour standards that could be used to promote the reconstruction of post-conflict societies through work would strengthen the ILO's support to post-conflict operations foster democratic and stable transitions and support the implementation of the UN Policy.

The need to revise Recommendation No. 71

70. In sum, since the adoption in 1944 of Recommendation No. 71, there have been major geopolitical changes, the main impact of which has been a change in the characteristics of contemporary conflicts. Since the end of the Cold War, there has been an increase of internal armed conflicts, often sparked by ethnic or religious differences. Similarly, the general climate of insecurity, particularly for civilians, is also a new factor, as many latent tensions continue to persist after the cessation of hostilities and threaten to ignite further clashes. Similarly, a significant experience has been gained in addressing post-conflict situations. Women and vulnerable groups in societies often pay the highest prices, therefore particular attention should be given to find adequate space for gender equality issues in the new text.
71. These are all important factors that warrant the revision of Recommendation No. 71.
72. Unlike the UN Policy, Recommendation No. 71 does not specifically contemplate the need to take a step-by-step and priority-based approach to the peace-building process. In other words, the 11 principles set out in the Recommendation do not strictly form part of a progressive and coherent approach to crisis management, but rather propose solutions to one-off and isolated problems, without distinguishing between those that require urgent action and those that need to be settled through a framework of mid- to long-term action.
73. The UN Policy takes a completely different approach, as its first guiding principle “be coherent and comprehensive”, calls for the avoidance of “isolated and fragmented responses”,³⁹ and highlights the need for multifaceted and interlinked interventions. The UN Policy is based on three programming “tracks”,⁴⁰ each of which has a specific objective and addresses specific challenges. While the tracks vary in intensity, they should be implemented simultaneously.⁴¹
74. Such an approach makes it possible to tackle the process of rebuilding post-conflict societies with all their subtleties and to take into account in a coherent way the multitude of challenges and to find appropriate solutions. Instead of viewing the peace-building process in a static way, an evolving approach is proposed, which can be adapted according to the context of the crisis in question. Recommendation No. 71, could therefore be revised to provide a comprehensive approach to the problems as well as to include the link to the building of the ILO for strategic objectives in the specific settings, while providing the flexibility needed for effective action by the constituents.

³⁸ General Survey concerning employment instruments, 2010, para. 190.

³⁹ UN Policy, op. cit., Annex 3, Guiding principle 1: “Be coherent and comprehensive”.

⁴⁰ *ibid.*

⁴¹ The first of the three tracks focuses on the need for an urgent response to satisfy the basic needs of, and to take care of, certain particularly vulnerable groups, while the second is focused more on the recovery of the local economy, and the third on the creation at the national level of an economic and legal framework that will encourage long-lasting and sustainable peace.

75. In this regard, the revision of Recommendation No. 71 would provide a unique opportunity for the ILO to honour its commitments, in terms of both its original mandate and its recent involvement in the implementation of the UN Policy. Accordingly, special attention should be given to the proposal to adopt an up-to-date standard that could greatly enhance the effectiveness of the Organization in the field of peace building.

8. A possible Recommendation on the right to information and consultation
(standard setting – revision and consolidation – follow-up to the conclusions of the Cartier Working Party)

Summary

Globalization and rapidly changing markets have led businesses to adopt numerous strategies in an effort to maintain and increase their competitive advantage. The current financial crisis has further amplified the need for, and has accelerated the pace of, adjustments required. Given the considerable impact that constant adjustments may have on the workforce, the enterprise and society at large, it is important that they be accompanied by appropriate forms of social dialogue – at all levels – providing for effective responses to the challenges arising from these external pressures. Following up on the conclusions of the Cartier Working Party, the inclusion of this standard-setting item on the agenda of the International Labour Conference – for a double discussion – would provide an opportunity for constituents to reflect on the importance of social dialogue as a tool for effectively managing change and enable a consolidation and updating of three related Recommendations. These are: the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Communications within the Undertaking Recommendation, 1967 (No. 129).

Background

76. Pressures on enterprises to constantly adjust in response to national and international developments are increasing, owing to such factors as: changes in the situation of sectors – including the public sector – in national economies; the increase in new forms of productive organization, including the rapid expansion of global supply chains following the decline of mass production; and the impact of globalization coupled with the financial crisis. Many enterprises are facing more intense competition than before. This leads to pressures to adapt workplaces to match the efficiency, output and quality of market leaders – or, in many cases, to close down.⁴² Whatever the cause, enterprise restructuring may result in social costs of various types, including job losses, higher unemployment, inequality of treatment among workers, greater insecurity in the workplace and industrial and social conflicts.
77. There are many examples where the social partners have collaborated successfully in responding to structural and other changes generated by the current crisis, mobilizing the full potential of their enterprises.⁴³ Mention should be made of those efforts to improve the adaptability of enterprises relying on a consultative approach and directed towards achieving a balance between flexibility and security. While not challenging the employer's need to restructure in an efficient and effective manner, such an approach can increase the competitiveness of enterprises by seeking the understanding and support of the workforce

⁴² ILO: *Changing patterns in the world of work*, Report of the Director-General, Report I(C), International Labour Conference, 95th Session, Geneva, 2006.

⁴³ L. Rychly: *Social dialogue in times of crisis: Finding better solutions*, Working Paper No. 1, Industrial and Employment Relations Department (Geneva, ILO, 2009). K. Papadakis: *Restructuring enterprises through social dialogue: Socially responsible practices in time of crisis*, Working paper No. 19, Industrial and Employment Relations Department (Geneva, ILO, 2010).

in implementing proposed changes. Through this approach, workers can continue to benefit from decent wages and working conditions and, by providing inputs into the proposed changes, they have the opportunity to affect the best possible outcomes for the workforce. In this context, changes are emerging in the traditional labour–management relationship. The patterns of negotiation are changing, as is the content of bargaining and the approaches adopted by the actors involved. Different solutions are being negotiated by the social partners at all levels, often leading to agreements on packages that deal with issues such as job security, working time, wages, lifelong learning possibilities and new methods of work organization.

78. Existing procedures for informing and consulting employees and their representatives are essentially twofold in nature. First, informal rules may be agreed between the social partners themselves at various levels through bargaining. Legal frameworks may also be developed, providing for information sharing and consultation in case of threatened or actual redundancies, transfers of undertakings, delocalization and other forms of restructuring affecting an enterprise. In many countries, legal provisions are frequently based on a reactive approach rather than recognizing the need for ongoing social dialogue at all levels to adequately consider the economic and employment impact of decisions taken.
79. Increasing globalization of capital, product and labour markets means that decisions affecting enterprises and their workers are often taken by multinational enterprises. Information and consultations at this level are not very well developed. This is in spite of the attempts of some multinational enterprises and regional integration groupings, especially in Europe, where adoption of the Works Council Directive in 1994 has led to the development of a wide variety of consultation and information exchange practices.⁴⁴ Even in this situation, however, the main objective of providing workers with a real voice in corporate decision-making processes has been achieved in only some cases. In addition, many of the relevant European works councils' procedures remain predominantly directed to provision of information with the minimum information requirement often oriented towards the past rather than the future situation of an enterprise.⁴⁵ Against this background and with a view to reinforcing the role of European works councils in informing and consulting employees, in particular in the event of significant change in the structure of companies, the 1994 European Works Council Directive was revised in 2009.⁴⁶ Member States had until 5 June 2011 to transpose the revised Directive into national law. European works councils operate in 820 companies across the European Union, covering some 14.5 million employees.⁴⁷
80. The issues faced, and the approaches to consultation and information adopted, are not uniquely European phenomena however. Of the 90 countries included in the ILO's Employment Protection Legislation Database (EPLex), 66 report some level of consultation with employees' representatives in the event of collective redundancies.⁴⁸

⁴⁴ As reflected in Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, establishing a general framework for informing and consulting employees in the European Community.

⁴⁵ A. Weiler: European works councils in practice (Luxembourg, European Foundation for the Improvement of Living and Working Conditions, 2004).

⁴⁶ See the *Official Journal of the European Union* dated 16 May 2009.

⁴⁷ For the full text of the proposal for a directive, please visit <http://ec.europa.eu/social/BlobServlet?docId=458&langId=en>.

⁴⁸ The Employment Protection Legislation Database – EPLex – is accessible online at: <http://www.ilo.org/dyn/epl/termmain.home>.

81. Finally, in recent years global markets have grown rapidly, without the parallel development of economic and social institutions necessary for their smooth and equitable functioning;⁴⁹ a situation that exists at the level of nations, industries and individual enterprises. The lack or weakness of such institutions and procedures of dialogue between governments and between employers and workers and their representative organizations makes it difficult to achieve consensus on important issues that affect enterprises operating within and across borders. As noted in a recent report on social dialogue, the current crisis led many governments to intensify their appeal to social partners to negotiate or participate in joint consultations. This is true even in countries with less dialogue-oriented administrations, not only in Europe but also in Asia or Latin America.⁵⁰

The ILO's response: ILO normative action

82. The ILO's concern that workers in the enterprise be informed and consulted on issues which affect them and, more generally, in fostering ongoing cooperation between management and labour around enterprise development, was clearly articulated in the Declaration of Philadelphia when it called on the Organization to develop programmes with a view to promoting "effective recognition of the right to collective bargaining and cooperation between management and labour in the continuous improvement of productive efficiency ..." (paragraph III(e)).
83. This institutional obligation is reflected in various later instruments, such as the Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Communications within the Undertaking Recommendation, 1967 (No. 129). Recommendation No. 129 provides detailed guidance on how to build mutual understanding and confidence within enterprises, stating that information should be provided to workers and their representatives and consultations should take place with them before decisions on matters of major interest are taken by management (paragraph 2). The Recommendation provides that management should give workers information on a whole range of subjects, including, inter alia, with respect to the general situation of the enterprise and prospects or plans for its future development and to explain decisions which are likely to affect workers, directly or indirectly (paragraph 15(2)). These Recommendations emphasize that information and consultation processes should coexist with and complement the institution of collective bargaining.
84. The Cartier Working Party concluded that information was needed on Recommendation Nos 94 and 129 to assess the need to replace these two instruments.
85. Recent developments in labour-management relations at enterprise level, including new forms of consensus building through information and consultation, that proved useful to mitigate the impact of the crisis, as well as related developments in social dialogue at industry, national and transnational levels suggest that updated international guidance on these issues would be useful.

⁴⁹ ILO: *A fair globalization: Creating opportunities for all*, Report of the World Commission on the Social Dimension of Globalization (Geneva, 2004).

⁵⁰ L. Rychly, op. cit.

***International Labour Conference discussion
and outcomes***

86. A Conference discussion on this item in 2014 and 2015 could build upon the conclusions of the 2013 recurrent discussion on social dialogue and result in the consolidation and updating of three related Recommendations with a view to the adoption of a single instrument (a Recommendation) dealing with information, consultation and cooperation at all levels.