



Governing Body

320th Session, Geneva, 13–27 March 2014

GB.320/INS/10

Institutional Section

INS

Date: 14 February 2014

Original: English

TENTH ITEM ON THE AGENDA

Follow-up to the resolution on the trade union situation in Fiji, adopted by the Governing Body at its 316th Session (November 2012)

Purpose of the document

The Governing Body is invited to take note of the information and consider the proposal in paragraph 6.

Relevant strategic objective: Promote and realize standards and fundamental principles and rights at work.

Policy implications: None.

Legal implications: None.

Financial implications: Financing of the direct contacts mission.

Follow-up action required: Depending on the decision of the Governing Body.

Author unit: International Labour Standards Department (NORMES).

Related document: GB.320/INS/11.

1. In the follow-up to the resolutions adopted at the 15th Asia and the Pacific Regional Meeting and at the 316th Session of the Governing Body (November 2012), the Governing Body, at its 319th Session (October 2013), in light of the proposal of the Officers of the Governing Body concerning the receivability of the article 26 complaint, and taking into account the communication from the Prime Minister of Fiji, dated 15 October 2013, asking that the direct contacts mission visit the country after the elections due for 30 September 2014:
 - (a) urged the Government again to accept the return of the direct contacts mission before its 320th Session (March 2014) to assist the Government and the social partners in finding solutions to the outstanding matters in relation to freedom of association; and
 - (b) placed this item on the agenda of its 320th Session (March 2014).
2. The article 26 complaint filed by certain Workers' delegates to the 102nd International Labour Conference (June 2013) against the Government of Fiji for non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Fiji in 2002, was declared receivable at the Governing Body's 319th Session (October 2013) and is also before the Governing Body at its current session.¹
3. The Director-General wrote once again to the Prime Minister on 18 November 2013, informing him of the decisions taken both as regards the follow-up to the resolution on the trade union situation in Fiji and as regards the decision of admissibility of the article 26 complaint. The Director-General encouraged the Fiji Government to confirm dates that would enable the direct contacts mission to take place prior to the March 2014 Governing Body session.
4. In a communication dated 24 January 2014, the Prime Minister of Fiji replied to the Director-General, both as regards the direct contacts mission and the article 26 complaint. A copy of the letter is attached. The full response to the allegations in the article 26 complaint is appended to document GB.320/INS/11.
5. The Prime Minister explains in his letter the reasons for his request, also made in October 2013, to defer the direct contacts mission to after the general elections in September this year. The Prime Minister reiterates the Fijian Government's commitment to engage with the ILO for a successful direct contacts mission and reiterates the Government's proposal to the ILO Governing Body in October 2013.²
6. ***The Governing Body may wish to include the discussion of the issues raised by this item in relation to the trade union situation in Fiji for consideration within the framework of the complaint against the Government of Fiji.***³

¹ GB.320/INS/11.

² GB.319/INS/8(Add.1).

³ GB.320/INS/11.

Appendix



PRIME MINISTER
SUVA, FIJI

24th January, 2014

Mr. Guy Ryder
Director-General
International Labour Organisation
Geneva
SWITZERLAND

(Fax No: 41 22799 8533)

Dear Director-General

Complaint under Article 26 of the ILO Constitution against the Government of Fiji

1. I refer to your 18 November 2013 letter conveying the decision of the 319th Session of the ILO Governing Body (“**ILOGB**”) held in October 2013.
2. I note that the ILOGB urged the return of the direct contacts mission (“**DCM**”) to Fiji prior to the 320th Session of the ILOGB to be held in March this year.
3. I further note that the October 2013 ILOGB considered as ‘receivable’ a complaint against the Fijian Government regarding the Freedom of Association and Protection of the Right to Organise Convention (No. 87) lodged pursuant to Article 26 of the ILO Constitution (“**Article 26 Complaint**”).
4. The Governing Body may be aware from earlier correspondences that our country recently promulgated our Constitution in September last year, and is now preparing for general elections to be held no later than 30 September of this year.
5. In preparation for this important national exercise, we now have a newly established Electoral Commission that is responsible for the registration of voters and the conduct of free and fair elections. Currently, Government is working on the finalization of electoral laws.
6. Registration of voters has been conducted nationally and internationally with over 540,000 Fijians now registered to vote under a new system of voting known as the proportional representation system. Registration was conducted in New Zealand last year and the exercise will move next to Australia, United Kingdom and the West Coast of America and other international locations this year.

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7. Further to this, the first 40 sets of Fiji's National Register of Voters ("Register") containing the names, coloured photographs, and addresses of registered voters were released in December last year. Members of the public have been invited to view the Register at selected locations to verify or correct their details. The full set of the Register has been made available at no cost at all to the 4 registered political parties.
8. The other important issues that will be addressed by the Electoral Commission and the soon to be appointed Supervisor of Elections in the next few months prior to elections are public education and awareness, continuous registration of voters and political parties, and training of political party officials on electoral rules.
9. We are also in the process of getting the parliamentary machinery ready for the first sitting of Parliament after the general elections. In this regard, the United Nations had in December last year conducted a needs assessment mission, and we look forward to working with the United Nations once we receive its report. A number of countries including India, New Zealand and Australia have also pledged to work with my Government to ensure that Parliament is properly established and resourced well before the general elections.
10. Further to this, in maintaining our commitment as a member state of ILO in protecting and promoting the rights and freedoms of Fijian workers, this year, all government employees received unprecedented pay increases of up to 23%. In total, more than \$92 million was paid out by government to cater for this.
11. In the education sector, for the first time in the nation's history, all Fijian children are provided with truly free primary and secondary education where families do not have to pay for any fees charged by schools.
12. Also for the first time in the nation's history, the Fijian Government has provided low-interest loans to tertiary students to cover the cost of tuition fees. This is in addition to fully paid scholarships offered to the top 600 students in Fiji.
13. On the international front, Fiji maintains its commitment to United Nations peacekeeping duties. For the last 3 decades we have always responded to the call of the United Nations to serve in the most difficult circumstances around the world including Lebanon, Iraq, the Sinai Peninsula, and now, the Golan Heights.

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14. Considering the enormous risks involved, we continue to deploy our troops, with the largest contingent from Fiji sent to the Golan Heights. Last year, when other countries were reluctant to send peacekeepers, Fiji, at the request of the United Nations, sent a large contingent of peacekeepers to the Golan Heights.

15. The ILO will note from these latest developments that whilst Fiji remains committed in carrying out its obligations to the ILO and the United Nations, we reiterate that any DCM to visit Fiji should occur after the general elections in September this year. This was our commitment in earlier correspondences, and this remains unchanged considering the current socio-political and constitutional transition in Fiji (as illustrated in the paragraphs above and earlier correspondences).

16. This transition in Fiji currently occupies Government's calendar in the months leading up to the September general elections. It therefore makes it impractical to allow a DCM prior to elections.

17. The Fijian Government is firmly committed to remain engaged with the ILO for a successful DCM to visit Fiji soon after the September 2014 general elections. In this regard, we re-produce the Fijian Government's proposal to the ILOGBM in October last year:

1. That the ILOGB notes Fiji's progress towards holding truly democratic general elections by September 2014 under the Constitution;
2. That the ILOGB takes note of Government's firm commitment towards welcoming the DCM soon after the general elections;
3. To ensure that the DCM is able to fully achieve its purpose in providing practical solutions to Fiji, it is proposed that the ILO sends a Senior ILO official to visit Fiji to provide assistance to Fiji in preparing for the DCM, including the finalization of the terms of reference;
4. That during the visit of the Senior ILO official, assistance is also provided to Fiji in facilitating, developing and the adoption of a Decent Work Country Programme ("DWCP") for Fiji in consultation with the tripartite partners;
5. That all matters pertaining to the DCM and the DWCP be submitted for endorsement and adoption by the ILOGB at its meeting in June this year;

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6. That the DCM visits Fiji soon after the completion of the general elections in Fiji in September this year, and that the report of the DCM to be submitted to the ILOGB at its November meeting this year.

18. With respect to the Article 26 Complaint, I enclose our response and urge the ILO to note the progress made by Fiji towards its first truly democratic parliamentary elections and to defer any discussions and decisions on the Article 26 Complaint to the November 2014 sitting of the ILOGB.

19. At this time, Fiji will have successfully completed its general elections, and a DCM will have visited Fiji and provided solutions to the issues raised against Fiji.

20. I am hopeful that the ILO will work together with the Fijian Government and the Fijian people to facilitate a conducive environment for the holding of elections under the new constitutional framework.

21. You can be rest assured that the Fijian Government remains committed to invite the DCM to Fiji soon after the general elections.

Thank you.

Yours sincerely



Josaia V. Bainimarama
Prime Minister of the Republic of Fiji

Encl

cc: 1. *Mr. Jone Usamate, Minister for Labour, Industrial Relations and Employment, Fiji*
2. *Mr. Aiyaz Sayed-Khaiyum, Attorney-General and Minister for Justice*
3. *Mr. David Lamotte, Director, ILO South Pacific*