



## Governing Body

323rd Session, Geneva, 12–27 March 2015

GB.323/INS/7(Rev.1)

Institutional Section

INS

Date: 25 March 2015

Original: English

### SEVENTH ITEM ON THE AGENDA

## Complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution

#### Purpose of the document

The Office communicates to the Governing Body the information provided by the Government of Fiji in Appendix I to this document. This document contains the recommendation of the Officers of the Governing Body concerning the decision to be taken (see the draft decision in paragraph 3).

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

**Policy implications:** None.

**Legal implications:** None.

**Financial implications:** Depends on the decision of the Governing Body.

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

**Author unit:** International Labour Standards Department (NORMES).

**Related documents:** GB.322/INS/9/1; GB.322/INS/9/2; GB.322/PV/Draft.

1. At its 322nd Session (November 2014), when considering the complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by several Workers' delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution, the Governing Body adopted the following decision:

Taking into account the information contained in the report of the direct contacts mission to Fiji (GB.322/INS/9/2), as well as that contained in document GB.322/INS/9/1, and on the recommendation of its Officers, the Governing Body deferred until its 323rd Session (March 2015) the decision on the appointment of a Commission of Inquiry and invited the Government to provide follow-up information on the complaint.<sup>1</sup>

2. In a communication dated 25 February 2015 (see Appendix I), the Government of Fiji provides an update and response to the issues it regards as most pertinent to the article 26 complaint. In particular, the Government states that it has prepared a Memorandum of Understanding (MoU) that it considers more accurately reflects the intention of the tripartite partners and which it has made available to the representatives of the Workers' group and the Employers' group with the intention that all the tripartite partners will execute the MoU in good faith shortly.

### **Draft decision**

3. ***Taking into account the Tripartite Agreement recently signed by the Government of the Republic of Fiji, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) (see Appendix II), the Officers of the Governing Body recommend that the Governing Body should:***
  - (a) request the Government and the social partners, in accordance with the Tripartite Agreement, to submit a joint implementation report to its 324th Session (June 2015); and*
  - (b) defer until its 325th Session (November 2015) the decision to consider the establishment of a commission of inquiry.*

<sup>1</sup> GB.322/PV/Draft, para. 269.

## Appendix I



PRIME MINISTER  
SUVA, FIJI

25 February 2015

(Fax No: 41 22799 8533)

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

Dear Director-General

### **323<sup>rd</sup> Session of the ILO Governing Body Meeting – Article 26 Complaint against Fiji**

1. We refer to your 22 January 2015 letter (“**Letter**”) addressed to the Honourable Minister for Employment, Productivity and Industrial Relations, Mr Jioji Konrote regarding the above matter.
2. We note in particular that the Article 26 complaint against Fiji will be considered again at the 323<sup>rd</sup> Session of the ILO Governing Body Meeting (“**ILOGBM**”) scheduled to be held from 12 to 27 March 2015. We further note that Case No. 2723 will also be considered at the ILOGBM.
3. As the ILO may be aware, the Fijian Government accepted the ILO Direct Contacts Mission (“**DCM**”) via letter dated 30 September 2014 and the DCM conducted their work in Fiji from 6 to 11 October 2014.
4. The Report of the DCM (“**Report**”) was made available at the 322<sup>nd</sup> Session of the ILO Governing Body Meeting in November last year however we take note that the Officers of the ILO Governing Body deferred the decision on the appointment of a Commission of Inquiry and sought further information from the Fijian Government on the Article 26 Complaint.
5. Following perusal of the Report, the Fijian Government acknowledges the Report and the recommendations therein and we will provide a detailed response to the recommendations and the annexure to the Letter concerning Case No. 2723.
6. However, in regards to the issues most pertinent to the Article 26 Complaint, we set out below our update and response.

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7. In terms of the Memorandum of Understanding (“MOU”) to be executed by the tripartite partners, the Fijian Government has prepared a MOU on the future of labour relations in Fiji that more accurately reflects the intention of the tripartite partners. This MOU has been made available to the representatives of the Workers Group and the Employers Group with the intention that all the tripartite partners will execute the MOU in good faith shortly.
8. The MOU includes the review of labour laws and practices and an undertaking that any review will be done in conformity with the Constitution and for the economic well-being and sustained livelihoods of all Fijians. The Fijian Government shall work closely with international organizations and will invite the ILO to be part of the review process. The recommendations of the review will be submitted to Parliament for approval and adoption.
9. Further, the Fijian Government will also establish a committee to review the Essential National Industries (Employment) Decree 2011 (“Law”). The committee will ensure that representations are received from all relevant stakeholders. The ILO Office in Suva will also be invited.
10. Following review of the Law, any proposed amendments to the Law will be formulated for consideration by Parliament at its earliest possible sitting.
11. The Cabinet has also recently approved the increase in the National Minimum Wage which will benefit approximately 100,000 unskilled workers and an increase in the percentage of wages for the 10 established sectors covered under the Wages Regulations Orders. This increase in wages will be effective from 1 July 2015.
12. Currently, we are also drafting amendments to the Workmen’s Compensation Act 1978 which has not been reviewed for decades, and under which the amendments for compensation awarded to workers for death or disability arising out of employment will be increased at least two-fold. The amendments will be presented in the May sitting of Parliament.
13. The Fijian Government has this year continued to provide free education for primary and secondary school students with this initiative extended to also cover pre-school students. The initiative of free medicine has also been introduced in which workers earning \$20,000 or less annually now have free medicine available to them. In addition, households earning \$30,000 or less annually will not have to pay water fees for the usage of 91, 250 litres of water a year. In other words, it will be free. Furthermore,

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the Fijian Government has also increased the electricity subsidy for low-income families.

14. The above initiatives together with the scholarship and tertiary education loan scheme assist in achieving targeted assistance in particular to those at the lower end of the socio-economic scale while creating further economic well-being and sustained livelihood opportunities.
15. In regards to training and capacity building for workers and employers, the Fijian Government notes the comments in the Report of the DCM to engage with the ILO on a comprehensive training and capacity building programme. We welcome the provision of any technical assistance from ILO to the tripartite partners in Fiji to ensure a comprehensive understanding of fair labour practices.
16. We are confident that the ILO will work with the Fijian Government to fulfill the constitutional rights of Fijian workers and employers while at the same time maintaining the economic well-being of Fiji.

Thank you.

Yours sincerely



**Josaia V. Bainimarama**  
**Honourable Prime Minister of the Republic of Fiji**

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

## Appendix II

### Tripartite Agreement

The Government of the Republic of Fiji ('**Government**'), the Fiji Trades Union Congress ('**FTUC**') and the Fiji Commerce and Employers' Federation ('**FCEF**') ('**Parties**') to this Agreement agree:

1. That the Employment Relations Promulgation ('**ERP**') shall form the primary basis for labour management relations in Fiji.
2. That the review of the labour laws including the ERP conducted under the Employment Relations Advisory Board ('**ERAB**') mechanism to ensure compliance with the ILO Core Conventions ('**Review**') is duly acknowledged.
3. That any further issues and recommendations identified by any of the Parties in respect of the Review shall only be raised and negotiated through the ERAB mechanism. Any such issues and recommendations shall take into account the findings of the Review to be presented by way of a Bill to the Fijian Parliament no later than the August 2015 session. ERAB shall vet the Bill before it is presented to Cabinet and then to Parliament. It is further agreed that the Bill once approved by Parliament shall be implemented no later than the end of October 2015.
4. That the Government shall restore the check-off facilities.
5. That the Parties shall submit a joint implementation report to the June 2015 Session of the ILO Governing Body.

6. To urge the ILO Governing Body to defer the decision to consider the establishment of a Commission of Inquiry to the November 2015 Session of the ILO Governing Body.


Dated this 25<sup>th</sup> day of March 2015 at the ILO Head Quarters, Geneva, Switzerland:

  
Chief Executive Officer  
Fiji Commerce and Employers'  
Federation

  
Minister for Employment,  
Productivity and Industrial  
Relations

  
General Secretary  
Fiji Trades Union  
Congress

IN THE PRESENCE OF:

  
Director-General  
International Labour Organisation