



15 June 2007
G-2007/31 (21.96)

2007 INTERNATIONAL LABOUR CONFERENCE

This year's Conference Agenda, covering Sustainable Enterprises, Strengthening the ILO's Capacity and the finalization of a Convention in the Fishing Sector, provided areas of interest to employers and attracted increased IOE member attention. The Sustainable Enterprises discussion brought greater focus of ILO work on the key requirements for enterprise development, a new departure for the ILO in an area of highest priority for employers. The Strengthening the ILO's Capacity debate enabled key issues of the ILO capacity and policy focus on the world of work to be emphasized. The conclusion of the Fishing Convention enabled key employer concerns - missing from the 2004-2005 discussion - to be addressed, auguring well for the possibility of wide impact and ratification. More details of each of these debates is included in the Report.

The Conference was also notable as it was the first where ideas for revitalizing the Conference were attempted. The first two weeks focussed entirely on the work of the various Committees, whilst the third concentrated on the Plenary with delegate speeches and visitors to the Conference. Consideration needs to be given to the impact of the change, but alleviating the work of the Plenary from the first two weeks certainly helped in focusing the attendance of delegates on the work of the Committees. Work still needs to be done on making the Plenary more interactive. Having seven Special Guests this year slightly frustrated that expected interaction. The Governing Body will make a full assessment of the Conference at its November session.

Politically, the deteriorating situation of employers in Venezuela was a major issue and focus for the Employers' Group. The IOE General Council adopted a Resolution highlighting international support for FEDECAMARAS, the Venezuelan employers' federation, and underlining the key ILO principle of freedom of association as a means of addressing Government hostility to the private sector and its representatives.

Behaviour in the Conference Applications Committee when the case of Venezuela was discussed, which saw effort to interrupt the employers' statements by other attendees go uncensored, resulted in an official complaint to the President of the Conference.

Overall, the Conference was a successful one. Tripartism means that compromises are needed to achieve consensus. However, such compromises did not prevent the Employers' Group from achieving its objectives, and the outcomes of all three debates proved acceptable.

As mentioned earlier, International Labour Conference reform remains on-going. As "the" highest profile ILO event, work needs to continue to ensure that the Conference agenda is relevant to all of its constituents, that it addresses the real needs of the world of work and explores new ways to respond to the challenges and opportunities of labour and social policy within the context of globalization.

THE GLOBAL REPORT

The Global Report is one of the two Follow-up mechanisms of the ILO Declaration on Fundamental Principles and Rights at Work (the Declaration). The Declaration states that all ILO member States have an obligation to respect, to promote and to realize the principles concerning the fundamental rights (freedom of association, elimination of forced or compulsory labour, abolition of child labour and elimination of discrimination).

Every year, the Global Report reviews one of the four principles of the Declaration in detail and gives a dynamic picture relating to each category of fundamental principles. The Report is discussed during a one-day discussion in Plenary Sitting. The one-day discussion during the Conference is intended to provide the constituents with an opportunity to guide the ILO in determining the plan of action for the next four years. This year's Report entitled "Equality at work: tackling the challenges" addressed the principle of the elimination of discrimination in respect of employment and occupation.

In the debate, the Employers' Group highlighted its commitment to the Declaration and its four principles. The Group expressed its concerns regarding the broad definition of discrimination given in the Report, as it could give the impression that the grounds for discrimination are increasing and have been widely accepted.

The Group also stressed that not all differences in treatment are unlawful and that unlawfulness should be determined at national level with relevant consultations of the social partners.

The Employers' Group expressed its willingness to contribute to reducing unlawful discrimination in the workplace. However, inequalities can often stem from discriminations rooted in cultural differences around the world and from country to country. When workers arrive at the workplace it is often too late. Schools, the family and the community have an important role to play in combating discrimination.

It is hoped that the interventions made during the discussion will be taken into account by the ILO in setting the priorities for the next four years at the Governing Body Technical Cooperation meeting in November 2007, where the action plan for the next four years will be addressed.

PROGRAMME AND BUDGET PROPOSALS FOR 2008-09 AND OTHER QUESTIONS

Last March, the ILO Governing Body adopted the ILO Programme and Budget proposals for 2008-09 although the employers expressed some concerns on the renovation of the headquarters building (absence of any financial provision) and the vagueness surrounding the proposed Regular Budget Supplementary Account (RBSA). According to the financial rules the Budget proposals were presented to the Finance Committee of the Conference, which is composed solely of governments, before its adoption by the Conference in plenary. The PFAC employer spokesperson was invited to the Finance Committee to present the employers' views and to repeat our support despite our reservations. While the debate on the RBSA is still very confused for all (including within the Office), most Governments expressed their concerns about the building policy of the ILO, especially the renovation of the headquarters building, for which the Office did not allocate any funds.

Notwithstanding these comments, the Conference adopted the Programme and Budget, although five governments, including two main contributors (United States and United Kingdom) voted against. The Swiss Government abstained, to express its strong concern about the renovation of the headquarters building, as did the Government of Mexico.

APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The work of the CAS is divided into two main parts: the general discussion (including discussion of the General Survey – which this year was on the Forced Labour Convention No. 29 and Convention No. 105 – and the report on Teaching Personnel of the Joint ILO/UNESCO Committee of Experts) and discussion of the 25 individual cases in addition to the Special Sitting concerning Myanmar (Convention No. 29).

During the first part of the general discussion, the Committee considered its methods of work. Employer members agreed with them, but suggested that ongoing discussions should take place and, in particular, that criteria should be drawn up for cases added after the preliminary list of potential individual cases is distributed to member States prior to the Conference.

Within the context of the general discussion, one of the most arduous issues was the adoption of the list of individual cases to be discussed, due to very specific differences between employers and workers on certain cases - i.e. Australia C. 98, Colombia C.87, Costa Rica C. 87, Japan C. 29 and Turkey C. 87. The preliminary list, which was distributed to member States on 15 May, included 47 possible cases. The final list included 25 cases. Out of these cases, two Government delegations (Zimbabwe and the Democratic Republic of Congo) did not appear before the Committee.

Among the 25 cases selected, the most noteworthy cases were: Venezuela; Bosnia and Herzegovina and Belarus for Convention No. 87, Myanmar for Convention No.29, as well as Spain for Convention No. 155 – the latter was examined as a case of progress.

As a consequence of the discussion of the list of cases, three special paragraphs were included in the Committee's Report concerning Belarus, Zimbabwe and the Democratic Republic of Congo; direct contact missions to Cambodia, Ethiopia and Djibouti and high level missions to Bangladesh, Belarus, Guatemala, Philippines and Turkey are foreseen. In addition, technical assistance is to be provided to the following five countries: Bosnia-Herzegovina, the Democratic Republic of Congo, Guatemala, Iran and Romania; and detailed follow-up reports are expected from the following eleven countries: Argentina, Australia, China, Gabon, India, Italy, Japan, Sri Lanka, United Kingdom, United States and Venezuela.

Concerning Venezuela, the Committee referred to the following issues: legal restrictions on the right of workers and employers to establish organizations of their own choosing; restrictions on the right of organizations to draw up their constitutions and to elect their leaders without interference from the authorities and to organize their activities; the refusal by the authorities to recognize the results of trade union elections; the inadequacy of social dialogue and of the protection of civil liberties, including the right of freedom of movement. The Committee reached straightforward conclusions and the Government was asked to take a number of steps to comply in law and in practice with Convention 87. In particular, the Committee:

- Urged the Government to amend the legislation and to ensure that the announced constitutional reform would overcome all these problems;
- Urged the Government to make every effort to develop social dialogue in the framework of the ILO's standards and principles and to establish a permanent tripartite social dialogue body;
- Called on the Government to take measures to investigate the occurrence of the break-in and ransacking of the headquarters of FEDECAMARAS so that those responsible could be punished and similar events did not occur in the future;
- Urged the Government to refrain from any form of interference and to comply with Article 3 of the Convention;
- Emphasized the fundamental importance of respect for civil liberties as a prerequisite for observance of the rights set forth in the Convention;
- To provide the Committee of Experts sufficiently in advance with a full and detailed report replying to the comments of the high-level mission on the application of the Convention.

WORK IN THE FISHING SECTOR (Standard-setting Single discussion)

In 2005, after its second discussion of this item, the 93rd session of the ILC could not adopt the draft Convention on working conditions in the Fishing Sector. Employers abstained as did 66% of Asian countries where over 80% of the world's fishers can be found. This non-adoption was not just an accident, but rather a result of an accumulation of disappointments. The Conference Committee had simply failed to address the concerns of a majority of Asian countries and had not sufficiently acknowledged that developing countries would have had huge difficulties to comply with several of the requirements contained in the proposed text. Moreover, the Convention failed to take into account the growing importance of new employment relationships in the fishing sector.

This important issue was, however, given a third and last chance to be discussed and solved this year.

As soon as the decision was taken in June 2005 to hold a third discussion in 2007, the social partners, agreeing that a solution acceptable by the largest possible majority was necessary for the sector as a whole, immediately engaged in a virtually uninterrupted - although informal - dialogue.

The employers established a consultation network, essentially composed of those employer delegates who had attended the 2004 and/or 2005 discussion, and identified clearly those areas on which attention should focus in view of the 2007 discussion, namely:

- Manning and hours of rest
- Use of private employment agencies
- Accommodation of crews
- Medical examination and certification

In an attempt to facilitate the discussion of a text that could accommodate the concerns of all - developed, developing and Asian countries - the employers introduced the

concept of “progressive implementation” which provides a way to facilitate ratification by countries that might otherwise not be in a position to do so due to problems of a substantial nature in the light of insufficiently developed infrastructure or institutions. It also gives those countries concerned the opportunity to ratify the Convention at an early stage, implement the provisions regarding basic protection and take the time necessary to implement more demanding provisions and requirements on the basis of a plan of action, which includes projected time tables and moments for evaluation and consultation.

After several informal consultations with the workers, the employers approached the Conference focusing on a limited number of key issues as a package with a view to avoiding the vulnerability of a sequential examination of all the provisions of the 2005 text.

What employers wanted and what they obtained

As to hours of rest, the objective was to respond to the need to deviate from prescriptive hours in order to recognize diverse fishing operations as well as to allow for more flexible exemptions. This was largely obtained by including the possibility of exemptions in specific urgent situations (e.g. unanticipated catch or situations requiring immediate action) and by introducing the notion of “substantial equivalence” as opposed to the previous requirement for the same level of protection

Rejected by the governments and workers in 2005, private employment agencies are now recognized by the Convention.

Annex III underwent major changes and its provisions regarding length / tonnage ratio as well as accommodation requirements are now acceptable for Asian countries.

“Progressive implementation” will be possible for those ratifying countries needing to avail themselves of this possibility in areas such as medical certificates, crew list, written work agreement and public medical care / compensation schemes. Of importance is the fact that the employers managed to ensure eligibility to “progressive implementation” for vessels of up to 24 metres in length, remaining at sea for no more than seven days and normally navigating within 200 nautical miles from the coastline.

This new Convention clearly provides an opportunity for wide ratification, not only by developed countries, but also by Asian countries through the revision of its Annex III and by developing countries thanks to the possibility of progressive implementation of its most demanding requirements. It also includes new provisions that allow for flexibility, notably with the recognition of private employment agencies and by much less rigid requirements in terms of hours of rest.

This Convention - adopted by a vote of 437 for, 2 against and 22 abstentions - is the result of constant intense and open social dialogue for almost two years since 2005 and of a joint approach consisting of talking *with* each other instead of *at* each other.

STRENGTHENING THE ILO’S CAPACITY (General discussion)

This general discussion was the accumulation of almost two years’ of preparatory consultations that looked at how the ILO could better help constituents in the context of globalization. All groups saw this as an important debate, as for the first time since 1944 the

International Labour Conference had an opportunity to outline how it was felt the ILO could be more effective.

Shadowing this discussion was the issue of UN reform and how the ILO could best position itself to ensure it had a value-added contribution to make within a more integrated UN delivering at country level. There was convergence amongst the groups that the ILO could be most effective by focusing on its core mandate – the world of work. It was in this context that the ILO could best differentiate itself from other UN agencies and give visibility to the importance of the social partners in labour and social issues at national level in particular. However, real and repeated concerns were raised with regard to the capacity of the Office in terms of knowledge, skills and analytical capacity - issues which needed to be addressed with urgency if ILO action was to be actually delivered and its competency respected by others. This concern found itself within the Resolution of the Committee to the Governing Body so that a programme to correct this could be implemented as soon as possible. The outcome of the debate is that an item is likely to be placed on the 2008 agenda of the Conference to continue and conclude the discussion.

A number of ideas raised in the Report and in the Committee concerning the idea of annual cyclical or other periodic reports covering the three strategic objectives (with social dialogue being cross-cutting) and with a fourth being a review of Decent Work Country Programmes, still requires further discussion with regard to modalities as to how it could work and its impact on the Office and reporting obligations of member States.

The idea of an “authoritative document”, possibly in the form of a Declaration or other suitable instrument, will also be part of the 2008 discussion. In order to keep the emphasis on action rather than simply advocacy, consultations with the groups between now and November will be important in order for the employers to stress their key objectives with regard to both content and form, should an “authoritative document” emerge.

The conclusions and Resolution arising from the discussion were unanimously adopted by the Conference.

THE PROMOTION OF SUSTAINABLE ENTERPRISES (General discussion)

The debate on sustainable enterprises had the potential to become an ideological and potentially divisive discussion. In the end, the Report prepared by the Office, the constructive engagement by workers and in particular governments, along with balanced texts from the Office, helped to ensure it was not.

This was an employer-driven topic, with three key objectives. First, to have a debate at Conference level on the environment needed for enterprise creation and development – the vital ingredients of sustainability. Second, to clarify the different roles of the actors. Third, within the context of UN reform, to use the debate as an opportunity to guide and reinforce the existing work of the ILO in this area. In all three objectives, employers can be satisfied.

First, the conclusions emphasize the important role of the private sector in economic and social development and acknowledged some of the key determinants of enterprise sustainability, such as “*The legitimate quest for profit – one of the key drivers of economic growth*”. This is not usual language for the ILO.

In terms of the “business environment” the Committee outlined seventeen pillars or basic conditions needed for enterprise creation and development. These include the importance of property rights; establishing an entrepreneurial culture; putting in place an enabling legal and regulatory environment; and the rule of law. This is the first time these basic principles have been so clearly outlined in an ILO document. The consensus around these basic principles is very encouraging and they provide a very clear and useful framework to guide policy at national level.

Second, the debate served to clarify the different roles of the different actors. *Business to create wealth and, as a consequence, jobs; governments to create the environment to enable that to happen; workers as the crucial partners in these endeavours.*

Finally, and perhaps most importantly, these conclusions confirm the mandate of the ILO in creating and developing sustainable enterprises. It calls on the Office to reinforce its efforts in the areas of: entrepreneurship and SME development; its work on regulatory reform, in particular its connection to the informal economy; helping social partners with advocacy efforts; policies to develop an enabling business environment; clustering and upgrading enterprises. This is all very positive.

As this was a document arrived at by negotiation, there are naturally elements where employers would have liked to see a different outcome. The importance of open economies and economic integration could have been more strongly reflected in the text. Unfortunately, the negative effects of trade – and these do exist - were given too much prominence. The call for conditionalities on both public procurement and lending were also introduced into the text in rather specific, narrow and prescriptive language. Again this is unfortunate. Collective bargaining and more specifically its importance was given too much emphasis – but perhaps this was inevitable, as well as an exaggerated inclusion of “decent work” throughout the text.

In the final analysis, however, this debate and the conclusions it produced, are a positive outcome for employers.

CREDENTIALS COMMITTEE

The Credentials Committee deals with objections and complaints from the Employers’ and Workers’ Groups against Governments. Objections are lodged on the basis that the composition of delegations and the method of appointment of delegates and advisers to the Conference does not respect the provisions of the ILO Constitution. Complaints refer to the non-payment of travel and subsistence expenses of delegates which, according to the ILO Constitution, is an obligation of the Governments.

The ILO Constitution requires all Members to be represented at the ILC by a tripartite delegation. It further requires the worker and employer delegates to be chosen in agreement with the most representative organizations of employers and workers.

This year, the Employers’ Group presented two objections before the Committee, on behalf of the employers’ organizations from the Islamic Republic of Iran and Venezuela. Both cases were highly important for employers as they involved the non-consultation of the most representative employers’ organizations for the nomination of delegations to the ILC.

In the case of Iran, the Government nominated an employer delegation from an unknown group, which was not an employer organization.

The Iran Confederation of Employers' Associations (ICEA), the employers' organization which has enjoyed long-standing recognition at international level, has been suffering various acts of harassment and interference from the Government for a few months. (The IOE has presented a complaint before the Committee on Freedom of Association against the Government of Iran on this matter). This was reflected in the manner in which the Government nominated its employer delegation.

The Committee considered that excluding ICEA from the consultations to nominate the employers' delegation to the 96th Session of the ILC did not meet the requirements of the ILO Constitution. The Committee also encouraged the Government to benefit of the assistance of the Office in order to create the necessary conditions to ensure that future nominations of employers' delegations will be in full compliance with the ILO Constitution.

As for the case of Venezuela, once more the Credentials Committee had before it an objection concerning the employers' delegation. The case had two arguments: firstly, the employer delegate was not allowed to travel to the ILC, as she is the object of a judicial trial and her request to leave the country was denied; secondly, as in previous years, three of the seven employer advisers that were nominated by the Government to participate in the employers' delegation were from organizations that could not be considered as being representative under the provisions of the ILO Constitution.

Concerning the denial by the judicial power to grant permission to the employer delegate to leave the country, the Committee observed that, even if there is a separation of powers in Venezuela, the Government did not show any efforts to ensure the effective participation of the employer delegate to the Conference

The Credentials Committee again confirmed that FEDECAMARAS is the most representative employers' organization and hopes that the Government will ensure that the nomination of the employers' delegations will be in full compliance with the ILO Constitution in the future.

A complaint concerning only the partial payment of the travel expenses of the employers' delegate of Lesotho was also lodged by the Employers' Group. The employer delegate incurred supplementary travel expenses due to delays with the travel arrangements made by the Government. The Committee expressed its trust that an arrangement between the employer delegate and the Government in that respect could be found.

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