



ORGANISATION INTERNATIONALE DES EMPLOYEURS
ORGANIZACION INTERNACIONAL DE EMPLEADORES
INTERNATIONAL ORGANISATION OF EMPLOYERS

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**REPORT ON THE
291st SESSION OF THE ILO GOVERNING BODY**

A NEED FOR FOCUS

The Report of the World Commission on the Social Dimension of Globalization permeated the debates this session both within the technical meetings as well as the Governing Body itself.

This was particularly true within the PFAC (see full report) where the Strategic Policy Framework 2006-2009 was up for debate. This Framework is used by the Office to shape the programme and budget development of the House and is seen as encapsulating the vision for the future direction of the Organization. The Employers' Group was concerned by the vision underlying the document. Amongst all the words it was clear that the Organization was proposing to move the focus away from the world of work and instead concentrate on the wider issues of globalization and poverty alleviation; away from technical co-operation toward advocacy.

In response to this the Employers' Group prepared a full response setting out its vision for the ILO and how it should position itself to deliver the needs of the Employers' Group.

“The ILO must remain an organization that looks to create the right national labour market environments which are conducive to business and enterprise creation; that promotes employment; that protects workers in their work and, through social protection, ensures an affordable and sustainable safety net in times of adjustment and need.”

Through all of the debates this point was reinforced, as was the fact that the Report of the World Commission was not ILO Policy and, until such time that it is, the Organization was not empowered to follow up on its recommendations.

Politically this was an important Governing Body. The elaboration of a clear employers' position provides a clear template against which the 2007 Programme and Budget can be considered by the Group next March and provides a clear list of the priorities and needs of employers that the Office can draw on in preparing the text.

Keeping the ILO properly focused will not be easy but, if the ILO is to remain relevant and effective, the needs of its constituents must be reflected in its activities and programmes. For us the ILO is an organization focused on the world of work and it is through real responses that focus on that reality that the ILO can make a real and sustainable impact on national social and economic improvement. The challenge now will be to try and find ways to help the Organization to give effect to these priorities.

GOVERNING BODY

AGENDA OF THE 2007 INTERNATIONAL LABOUR CONFERENCE

As is usual, the Governing Body had a first discussion on the content of the 2007 Conference Agenda. A final decision will be taken in March 2005.

The ILO suggestions were problematic and showed the challenge of developing items for Conference discussions. Only one item was proposed for standard-setting – an item on the prevention of sexual harassment at work – which received negligible support. In addition, three other topics were presented for general discussion on the basis of the integrated approach (gender; child labour and protection of young workers; and employment on aging societies).

No group was happy with the proposed list of items. It raised questions as to whether the ILO was able or needed to have a standard-setting item at each Conference or even whether or not a Conference was needed every year. The employers stated a need to place on the agenda items which advanced what it regarded as the core mandate of the house. In this vein it proposed two topics for general discussion in 2007 or later. The first topic referred to “Professional training: transit between education and first-time employment” and the second referred to a “Need analysis for the creation of a propitious environment for the establishment of sustainable enterprises”.

Given this debate, the Office has now a difficult task to come up with a relevant agenda paper next March.

MYANMAR

The situation of forced labour in Myanmar continues to cause real concern. The Governing Body had considerable information on both the activities of the Acting Liaison Officer and his concerns about the continual use of forced labour.

What is clear is that complaints are now being received from local people. Whilst the government responses to these complaints are not always as the Group would like to see them, at least people now feel comfortable enough to raise them. This reinforces a view that the problem is more one of legal enforcement than the law itself. Progress was also noted with regard to the prison sentences imposed on three Burmese, part of which originally related to their contact with the ILO. The courts have reduced their sentences and have stated that contact with the ILO is not an unlawful act.

The Government is keen to start the implementation of the Programme of Action developed with the ILO but now in abeyance because of concerns as to its ability to be effective in the face of internal conditions. Whilst these concerns persist, the Governing Body continued its engagement with the authorities and has sought concrete progress with regard to the Government’s political commitment to take the problems identified seriously, particularly the impunity extended to those engaging in forced labour, so that the vocal commitment given by the government is translated into real and sustainable improvements. The Governing Body has approved a high-level mission to Myanmar, before March 2005, in order to evaluate the attitude of the authorities and assess their commitment to work with the ILO and to seriously address the issue of forced labour. The modalities of this will be

determined in consultation with the groups and a report will be given to the Governing Body in March. At the same time a paper will be prepared to report on the actions taken since the Resolution of 2000.

BELARUS

The Governing Body discussed the Report of the Commission of Inquiry that visited Belarus. The ILO Constitution provides for a procedure that allows constituents to launch complaints against ILO member States for alleged non-compliance of ratified Conventions. This procedure may lead to the establishment of an ILO Commission that visits the country and assess the situation. This procedure is often perceived as an international sanction, which Governments usually try to avoid. The ILO began learning about alleged violation of freedom of association in Belarus since 1995. In its report, the Commission of Inquiry concluded that national legislation concerning registration of trade unions violates Convention No. 87 as it impedes the free formation of trade union organizations. Undue interference from the Government in trade union affairs was also found. The Commission also received information on anti-union discrimination and harassment to trade unions, its membership and its leaders.

The Commission endorsed the comments of the ILO supervisory bodies concerning several provisions of the Law on Mass Activities, which in its view violates the right of workers to organize their activities freely. Furthermore, it was also found that legislation limited the right of workers' and employers' organizations to benefit from their relationships established with international organizations. Serious deficits in the functioning of social dialogue within the country were also found – in particular the incomplete development of the industrial relations system in a manner better adapted to a system of Government where social partners are separate and distinct entities, has facilitated interference in trade union affairs. The Commission believes that social dialogue would be enhanced by further efforts to delineate the boundaries between the Government and the social partners. The Commission has fixed a time-bound limitation to the implementation of the recommendations and has requested that they should be completed at the latest by June 2005.

VENEZUELA

The employer complaint concerning the non-observance by Venezuela of Conventions Nos. 87 and 98 on Freedom of Association and the Right to Organize, was received by the Governing Body, and the Government of Venezuela has now been asked to communicate its observations on the complaint. The possibility of a Commission of Inquiry on Venezuela will be discussed at the March 2005 Session of the Governing Body.

COMMITTEES OF THE GOVERNING BODY

WORKING PARTY ON THE SOCIAL DIMENSION OF GLOBALIZATION

This session of the *Working Party* was the first occasion, in tangible terms, that the ILO's response to the Report and Recommendations of the *World Commission on the Social Dimension of Globalization* was discussed. Despite an extremely opaque paper before the WP on the follow-up to the Commission, the outcomes and direction given were clear.

The employers' basic message in terms of this Report and the ILO's role is that it should not distract the ILO from its central mission and its key areas of competencies where it can add value and where it has a particular niche in the multilateral system. In this respect a number of governments (US, Canada, Australia, Japan, Switzerland) supported the employers' view, while the European Union (and some candidate and prospective candidate countries) also shared many of our concerns. However, the Workers' Group appears to be fully supportive of the approach proposed in the paper which appears to want to take the Organization in the direction of becoming a 'policy advocate rather than a policy implementer'.

The employers' spokesperson underlined that the Director-General's Report to the Conference in June, where he identified six areas¹ for ILO follow up, was not the 'agreed policy' of the Organization. Policy Coherence with other international organizations is a key theme in the Report and a central area that the Office wants to follow up on. The Office has already started work on an initiative in this respect. However, what is clear from progress so far (at a technical level) is that other organizations are only willing to proceed in areas in which the ILO has a clear mandate.

In this respect the employers suggested a major area for follow-up to the Report should be the informal economy - an approach that received much support. In terms of 'Policy Coherence Initiatives' it is also clear that this area and more broadly speaking 'labour market policies and institutions' is where the other international organizations (such as the World Bank and IMF) would like to focus future cooperation with the ILO.

The Globalization Policy Forum, very strongly supported by the Director-General, could also not find broad support within the Committee and was shelved, albeit for the meantime. Vague references in the document before the Committee to some form of future 'Declaration' (perhaps on decent work) were referred to in the text but in an extremely unclear way. The Office will come back in March with concrete suggestions.

This was a good meeting of the Working Party from an employers' perspective. Clear direction was given on what it should move forward with, what it should not and what it needs to be clarified. Based on this discussion a more comprehensive paper will come before the next session in March.

COMMITTEE ON FREEDOM OF ASSOCIATION

The number of cases was very high this session, with 39 cases for discussion and an additional case from Mexico relating to a procedural question. Of the 39 cases, 26 were from the Americas, one from Africa, six from Asia and six from Europe.

The most significant case this session was the case of Switzerland. The Union Syndicale Suisse (the "USS") filed a complaint alleging that Swiss laws do not provide sufficient protection against anti-union discrimination because the current damages award is capped at six months' salary and reinstatement is not statutorily available.

¹ National policies to address globalization; decent work in global production systems; dialogue and policy coherence around growth, investment and employment; a socio-economic floor for the global economy; the cross border movement of people; and strengthening International labour standards.

A number of arguments were brought to the CFA's attention. First, given that the overwhelming majority of businesses in Switzerland are SMEs, the six month salary penalty is very dissuasive. Secondly, and most significantly, Switzerland recently completed extensive national tripartite negotiations as a result of the bilateral agreements between Switzerland and the EU that will take effect in June 2005. Among the issues discussed in the tripartite negotiations were the damages award and reinstatement. The employers brought this information to the attention of the CFA and an interim decision was issued pending the provision of further information to the CFA on the negotiations.

The employers used this case (and others that also addressed reinstatement) to question the CFA's long established practice of recommending reinstatement in cases of alleged anti-union discrimination. The employers drew the CFA's attention to the fact that none of the Conventions require reinstatement and that the decision to include reinstatement as a statutory remedy must be taken at national level. To the extent that the remedy is statutorily available, the final decision to award reinstatement must be left to the judiciary. In making this argument, employers took another step in the long process of challenging the CFA's interpretation of key principles that greatly impact employers.

Regarding the special sitting for Colombia, the outcomes were positive. The CFA took note of the positive developments and, once again, acknowledged the will of the government of Colombia to collaborate with the ILO both through its supervisory bodies and its special technical cooperation programme. The CFA also drew attention to the need for the complainants to improve their cooperation with the government to address their concerns. Though the workers will provide a concrete proposal in March 2005 of the next steps to be taken in the case, the employers remain convinced that the CFA is limited in what it can do in Colombia.

Please refer to the attached annex for pending cases concerning individual countries before the Freedom of Association Committee.

COMMITTEE ON LEGAL ISSUES AND INTERNATIONAL LABOUR STANDARDS

The debate on possible improvements to the ILO standards-related activities continued during this session. The Committee adopted new measures to regulate the process through which representations are made against ILO member States for alleged non-compliance of ratified Conventions. In the past, employers have argued that this procedure was often misused by trade unions by simultaneously overlapping it with other ILO supervisory procedures. This not only represents a drain on ILO resources, but also hampers the credibility and efficiency of the whole system. The new regulations seek to avoid duplication of representations concerning the same situation, as well as guidance with regard to prescription and the assessment of whether or not an organization qualifies – and therefore has the right to use the procedure – as an industrial association (either workers' or employers' organizations).

A decision was also taken with regard to the Consolidation of Rules and Regulations governing the ILO Governing Body. The Office will present a finalized proposal during the March 2005 session. The employers' hope that the final outcome of this debate will result in a strengthening of the Governing Body's decision-making role in the Organization.

The Committee also took a decision on the topics on which General Surveys will be presented to the International Labour Conferences in 2007 and 2008. These General Surveys, which will be subject for discussion within the Committee on the Application of Standards, will be on “Forced Labour” in 2007 and on “Labour clauses in public contracts” in 2008.

At its next session (March 2005) the Committee will have before it a document on progress achieved to date on the debate concerning possible improvements to the ILO standards-related activities. This discussion will be extremely important, as it will determine our strategy on ILO standard-setting policy in general.

SUBCOMMITTEE ON MULTINATIONAL ENTERPRISES

There was only one issue on the agenda of this session’s meeting, namely a paper on the Follow-up to the Symposium on the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (the “MNE Declaration”) and related multilateral initiatives. The paper prepared by the Office reviewed a number of CSR-related activities by the OECD, the Global Compact Office, the European Commission, the World Bank, the International Finance Corporation and the Office of the High Commissioner for Human Rights and proposed opportunities for cooperation with these organizations to promote the MNE Declaration. As was done at the Subcommittee meeting in November 2003, representatives from these organizations were invited as observers. Those who attended, namely the European Commission, World Bank and the Global Compact Office, also made brief presentations on recent developments in their CSR activities.

The Employers’ Group expressed its satisfaction with the Office’s intention to work in cooperation with other agencies to promote the MNE Declaration. However, the Group expressed concern with the fact that, under the Office’s proposal, the responsibility for promoting the MNE Declaration was left almost entirely up to the other organizations. The Subcommittee therefore requested the Office to prepare a work plan of the activities in which it proposed to engage over a period of approximately three years to promote the MNE Declaration. The paper will be discussed at the next Governing Body session. The employers and workers committed to supporting the allocation of appropriate resources to implement the work plan.

Suggestions were also made by the workers and other members of the Subcommittee to link the activities of the Subcommittee to the follow-up of the World Commission. The employers were very clear in stating that the Subcommittee could not take any mandate from the World Commission until the Governing Body had decided on the level, if any, of the ILO’s involvement in the follow-up to the World Commission.

The Subcommittee also addressed ISO’s involvement with CSR activities. Both the workers and the employers drew the attention of the Office to the fact that ISO had not followed through on its agreement to first consult with the ILO before assessing the level of its involvement in the CSR debate. The Subcommittee called upon the Director-General to write a letter to ISO expressing his concerns in this matter.

PROGRAMME, FINANCIAL AND ADMINISTRATIVE COMMITTEE

Politically, this was an important debate for the Employers' Group as it had before it a major discussion on the Strategic Policy Framework covering the period 2006–2009. The purpose of this document is to set the overall approach of the Organization for that three-year period and provide the programme structure for the budgets falling in that period.

In reading the document it became clear that the Organization, using the Recommendations of the Report of the World Commission on the Social Dimension of Globalization as its rationale, was looking to shift the emphasis of the work of the Organization away from its traditional work and priorities, which are supported by the Employers' Group. This shift was seen as one in which the ILO would be less focused on the delivery of technical co-operation in support of constituents needs, to that of an organization where advocacy on globalization and poverty reduction in support of a "fair globalization" and "decent work as a global goal" would be its primary tasks.

In the face of this shift, the Employers' Group set out in some detail to describe its priorities and focus. In its statement the Group spelt out a simple vision for the ILO (see first page) and stated that it was through this vision that the ILO was best placed to credibly contribute to addressing the challenges of the Millennium Development Goals. A number of Governments and to some extent the Workers' Group shared this feeling that the debate was occurring at what was seen as a possible "point of departure" for the ILO.

In concluding its presentation the Employers' Group advised that it was unable to endorse the Office Strategic Policy Framework and instead took note of it and asked that the Office prepare a draft Programme and Budget for consideration next March which recognized the stated needs of the Employers' Group and which recognized also that any follow-up to the World Commission Report could only be acted upon as and if agreed by the Governing Body. Finally the financial constraints that exist for the Organization had to be borne in mind and the future programme needed to work within that reality.

Another important paper amongst what was, as always, a heavy agenda related to the ILO's Human Resources Strategy. The Employers' Group has repeatedly expressed concerns about what it sees as a lack of strategic direction in the human resources of the House. Issues of training, staff development, succession-planning, job-grading, young professionals, recruitment practices, etc. are still awaiting appropriate attention and funding. The Group expects another paper on this in March 2005 but also expressed the view that there was a need to see that strategy reflected in the draft Programme and Budget.

Costs are proving to be an issue. In many instances expected expenditure has increased or unexpected expenditure has occurred. An example of the problem is the installation of new computer IT software that has tripled from US\$ 20 million to US\$ 60 million with projected ongoing annual maintenance costs of US\$ 6 million. This increase is having to be paid for not only out of additional financial support, but from within existing income. This has had considerable impact on all other ILO programmes with constant demands for savings being made to feed this project. The concern lies in the line between savings and programme cuts. There is a limit as to how much savings can be made and we are already seeing reductions in ILO technical co-operation activities in order to meet this cash demand. Whilst, thankfully, a new management structure has been put in place to manage this process, the Employers' Group will continue to monitor this programme and

continue its calls for enhanced fiscal prudence and the maintenance of employers' programmes in the House. Again this will be revisited in March.

These financial demands will lead to an interesting debate in March as the Office has already begun to justify calls for an increase in contributions to the ILO. The Governments do not have a united position on this, but there have already been some preliminary statements from some of the larger contributors to the effect that such increases cannot be relied upon and that the ILO should continue to plan on the basis of its current level of income.

COMMITTEE ON TECHNICAL COOPERATION

The Committee met to review the ILO's technical cooperation programme for 2003 and to approve the ILO's second action plan under the Declaration on Fundamental Principles and Rights at Work regarding freedom of association and the effective recognition of the right to collective bargaining.

The Employers' Group has in the past expressed a number of concerns regarding reports on technical cooperation activities submitted to the Committee by the ILO. The reports tend to be descriptive and have little in terms of analysis, apart from a catalogue of unconnected projects and activities. This was still the case for this year's report. The employers felt that the ILO should have a strategic approach to technical cooperation both in terms of project implementation and in the way of reporting. The Office responded that this was being looked into by the Director-General, as the department responsible for technical cooperation and regions was now reporting directly to him.

Another area of concern was that there were no points for decision in the paper submitted for discussion, as had been requested by the Committee. Employer members of the Committee have felt strongly that having points for decision not only enhances the governance role of the Committee but also ensures follow-up of the Committee's work. It was for this reason that the worker and employer members of the Committee jointly submitted a point for decision requesting the Governing Body to take note of the ILO's technical cooperation programme for 2003, to call on the Office to implement its resource mobilization strategy as outlined in the paper and report back to the Committee results obtained and to carry out independent evaluations of projects and report their findings to the Committee. The point for decision was endorsed by the Committee.

The Employers' Group also expressed strong concerns on the decline of resources for the Employment Sector. It was ironic that resources for employment creation, enterprise development and entrepreneurship and skills development were declining at a time when the ILO was engaged in international efforts to mainstream employment as the path out of poverty. The Employers' Group called on donors to ensure that there was a better balance in sectoral and geographical resource allocations as most of the extra-budgetary resources were being allocated to standards-related projects. Employer and government members of the Committee felt that the other ILO strategic objectives could not be realised without job creation.

A further issue was the slow pace of implementation of the Resolution on Tripartism and Social Dialogue, adopted by the International Labour Conference in 2002. Both employers and workers have in the past called for an Office-wide implementation of the Resolution by all ILO sectors and departments. Such a measure will ensure that the needs of

the social partners are taken on board when designing and implementing technical cooperation projects. The Executive Director responsible for social dialogue gave an oral presentation on efforts made by the Office so far to mainstream tripartism and social dialogue. A written report on these efforts will be submitted to the Committee in March 2005.

The theme of tripartism and social dialogue also featured in a presentation made to the Committee by the representative of DFID, the UK government agency responsible for development cooperation and which has signed a partnership agreement with the ILO. Both ACT/EMP and ACTRAV have in the past complained that the concerns of the social partners have been largely ignored during the ILO's discussions with donors. This was an occasion to address some of these concerns with one of the major donors. The Committee hopes to have similar discussions with other donors in future.

With regard to the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, the Employers' Group declined to endorse the approach proposed by the Office to give effect to this year's International Labour Conference discussion on the Global Report on Freedom of Association and the Right to Collective Bargaining. The Group felt that the approach proposed was too open-ended, lacked a clear focus and was not directed at concrete, meaningful and measurable results. This position was supported by the workers and some governments. The Office promised to go back to the drawing board and to prepare another paper taking into account the concerns expressed in the discussions. The Committee decided to merely take note of the paper presented.

EMPLOYMENT AND SOCIAL POLICY COMMITTEE

The agenda of the ESP Committee is governed, at least for the time being, by the Global Employment Agenda (GEA) and the Committee, as a way forward, is taking two of the GEA's ten core elements for discussion per session (at this session the two elements concerned trade and macro economic policy). Generally speaking, the discussion on these two core elements was in many respects somewhat irrelevant. The ILO is simply not technically equipped to deal substantially with these areas and calls for increased resources for the ILO in both these areas were rejected by the employers, principally on the grounds of the ILO's mandate. (Many other speakers also underlined the central issue of limited resources). Other organizations, such as the WTO and the International Financial Institutions are equipped to deal with these areas, as pointed out by the Chairperson of the Committee. The GEA calls for partnership arrangements with other organizations and certainly it was the employers' understanding that other organizations would bring their technical expertise to the GEA implementation.

There is concern at the direction the ESP Committee is taking and this session exemplified the competing vision it would appear workers have of the ILO – that is to turn it into a house of macroeconomic and trade policy advice. There is a view that tedious and abstract debates about issues not related to the ILO's mandate could be a strategy to weaken (or even render irrelevant) the Committee.

One very positive aspect however did emerge from the macroeconomic discussion. The Office took on board as "the number one building block" in following up the discussion the employers' recommendation to strengthen ILO work in assisting constituents at the national level in participating in Poverty Reduction Strategy Papers (PRSPs) - the ILO is currently assisting only 16 out of 54 PRSP countries.

The weakest paper of the five before the Committee was sadly the most important – the update paper on the implementation of the GEA – lacking as it did in real detail of both ILO activity and any indication of impact. However, in subsequent discussions an understanding was reached to considerably ‘beef-up’ this paper for the next session so as to include in it one or two country-level examples where the GEA is being implemented, and additionally to invite a tripartite delegation from these countries to present this update to the Committee. This at last may give the Committee the ‘practical’ emphasis it is clearly lacking.

The social side of the work of the Committee was balanced by a discussion on minimum wages and on the follow-up to the OSH discussion at the 2003 Conference. The second of these papers was largely positive, although a little retrospective in nature. The employers’ spokesperson did signal that future papers of this kind outlining future activities would be more beneficial. This is a technical issue that was included in the ESP agenda mainly because there was nowhere else to put it, which raises the question as to whether having some form of subgroup to discuss OSH would be a good idea.

As for the agenda item on minimum wages, the workers signalled that this was a core element of the ILO’s mandate. In terms of the agenda before the Committee, with its emphasis on trade and economic policy, they have a point. Calls for some follow-up work, in particular in terms of research, were broadly supported, although the ‘wish list’ of areas for follow-up as suggested by the workers was simply impracticable.

Additionally, the Employer’s Group raised issues of governance and cited two specific examples. The first related to follow-up to the World Commission – a policy coherence initiative with which the Office is proceeding without any clear mandate from the Governing Body. The second related to an ILO Report *Economic Security for a better world* that was published specifically without Governing Body approval.

For the next session in March only one core GEA element will be discussed – that of technology. The Committee will also have before it papers on micro-financing (2005 is the international year of micro finance) and on HIV/AIDS and employment.

Overall, despite a difficult agenda, the employers emerged from the ESP Committee somewhat satisfied. Clear messages have been transmitted to the Office in terms of the direction in which the Employers’ Group would like the ILO to proceed, that is in keeping with its traditional mandate and not as an advocating institution on macroeconomic and trade policy.

COMMITTEE ON SECTORAL AND TECHNICAL MEETINGS AND RELATED ISSUES

The main item at this session concerned the implementation of the revised Sectoral Activities Programme.

The report submitted to the Committee was in two parts: the first described the progress made in the implementation of the seven action programmes launched in 2004, and the second contained broad proposals for the 2006-2007 biennium.

As to action programmes, the Employers’ Group expressed its support of their continuation, provided that tripartite consensus remained an absolute prerequisite to any

decision and action and that those action programmes suited the needs of the various sectors. However, where constituents agreed to traditional tripartite meetings, they would be supported by the programme

The discussion on the 2006-2007 biennium was essentially an initial exchange of views on the possible nature of the programmes for the selected sectors and will serve as a basis for the debates and decisions to be taken in March 2005.

In anticipation of the March 2005 debate, the Employers' Group reiterated its support of tripartite sectoral meetings. This comes in the face of a strong push from the Office, as well as from some Governments and the Workers' Group, for the programme's emphasis to instead be given to national action programmes. Whilst recognizing that national action programmes have their place, the Employers' Group stressed that it was for the constituents themselves to determine what means of action best suited them and it was clear that some sectors continued to support tripartite meetings as the most appropriate action by the ILO.

In reply to a number of proposals by the Office, the Group insisted that it remains opposed to further merging of sectors, as well as to a "thematic approach" for all sectors which would see similar themes being discussed by the different sectors. Such an approach in the Group's view would fail to address the specific problems of each sector

The Employers' Group also made it clear that the proposed reduction of participants in sectoral meetings to 15 from each Group would be the minimum it could support, and that in its view, meetings of less than five days were not a viable solution to the budgetary concerns and would work against the possibility of reaching positive acceptable outcomes.

The Group also added that the principle of rotation among the 22 sectors should be maintained. However, a possible solution to the financial issue could be to spread activities over three biennia instead of two.

Finally, with a view to accelerate the process of definition of constituent-driven sectoral activities through the option of national action plans where these are supported, the Employers' Group proposed that the Office, the IOE and the ICFTU draft and send a joint letter to governments and social partners (identified by the Groups' secretariats) asking them to identify in tripartite agreement the priority issues in these sectors for the next biennium and the type of activity these issues would require. Their joint tripartite replies (one per country) would be considered by the Governing Body STM Committee, which would then select a feasible number of activities.

All the above issues will be finally decided during the March 2005 session of the Governing Body.

INTERNATIONAL INSTITUTE FOR LABOUR STUDIES (IILS)

The two main items on the agenda were the Institute's strategic review and the proposal for a Decent Work Prize.

In relation to the strategic review, though the employers had been given an opportunity to provide input prior to the meeting, they repeated their concern about taking any mandate from the World Commission Report (the "Report"), including the Globalization

Policy Forum, until the Governing Body has decided what aspects, if any, it will adopt from the Report. The employers, however, supported other speakers in their expression of support for the ILS's attempt to position itself as a leader in the field of labour and social policy research. Given the various views expressed during the Board meeting, it was agreed that the Task Force, established amongst Board members, would review the strategy paper during the Governing Body. This meeting proved more difficult than the debate in the Board meeting. The problem related to references in the strategy paper to follow-up to the World Commission Report. The Employers' Group persisted with its position that it was inappropriate for the ILS to consider giving effect to the World Commission Report when such follow-up had not been agreed by the Governing Body itself. In the end, any references to the World Commission Report were clearly worded so as to require Governing Body support.

The Board's discussion on the Decent Work Prize was brief but pointed. Employers again expressed concern with the reference to "Decent Work" in the context of such a prize and reminded the Board members of the fact that many details remain to be worked out before any decisions can be taken. The employers further expressed concern about the financial commitment that would be required to create such a prize at the possible expense of pressing priorities. The Board provided the Task Force with the mandate to present it with a proposal at its next meeting in November 2005.

BOARD OF THE TURIN CENTRE

The Board met to review, among other issues, the activities of the Centre in 2003-2004 and to approve the Centre's programme and budget proposals for 2005. Employer members of the Board commended the Centre for its performance in 2003. They noted the large increase in the number of activities developed by the Centre and also in the number of participants trained. However, they regretted that this increase in activities did not benefit employer organizations as much as other groups since their participation in the Centre's activities remained low. Moreover, they felt that fellowships awarded to employers were not being directed to employer priority areas like capacity building for employers' organizations, entrepreneurship, employment policy formulation, corporate social responsibility, etc.

Another area of concern is the slow pace of progress made so far by the employers' activities programme. Although members are aware of the fact that the programme must mobilize its own resources, they felt that the Centre could do more in terms of its support to the programme. They welcomed the suggestion by the Centre to set up a working group bringing together ACT/EMP, the IOE and the Centre to look into the issue of resource mobilization for the programme as a means of supplementing its income.

Equally important is the financial viability of the Centre. Currently, the Centre receives a third of its funding from the ILO and the Government of Italy. The rest of its funding must come from income generated from training. This situation puts the Centre in a very vulnerable situation. It was for this reason that the Workers' and Employers' Groups organized a meeting on 11 November 2004 for ILO Governing Body members to look into the issue of funding for the Centre. The meeting – attended among others by the ILO Director-General and the Ambassador of Italy to the UN – felt that ILO technical cooperation projects and programmes should utilize the Turin Centre more for their training programmes.

IPEC STEERING COMMITTEE MEETING

As has become the practice at this Steering Committee, IPEC presented its annual report on its activities over the past year, which was used as the basis for the discussion.

The Employers' Group congratulated IPEC on a concise and informative report and expressed its general satisfaction with the work of IPEC. However, the employers took the opportunity to raise issues of concern to employers.

With the recent completion of the IPEC Evaluation, the employers highlighted the need to ensure that the recommendations in the Evaluation report are given proper follow-up. The Office responded that it would prepare a paper on this follow-up for discussion in March 2005. It is likely that the very role of the Steering Committee itself will be an issue for that discussion since, as was pointed out in the Evaluation report, the name "Steering" Committee is a misnomer. The Committee has no power or capacity to direct IPEC and it is used primarily as a vehicle for information exchange.

The Employers' Group also stressed the need to ensure that the role of employers in the fight against child labour is properly recognized and included in all IPEC initiatives, including the development of programmes, training and research. Throughout the discussion, both the workers and the employers drew IPEC's attention to the need to work with the social partners in the early stages of the development of all initiatives.

The debate also included a discussion of IPEC's apparent focus on the Worst Forms of Child Labour. Despite disagreement between the speakers as to whether or not this is the focus of IPEC's work, the Employers' Group expressed its strong support for making the worst forms of child labour a priority.

The IPEC report also included a special section that addressed how the work of IPEC is, and could be used to become further, in line with the World Commission Report. As they did in all other Committees during this Governing Body session, the employers pointed out that any work of the World Commission follow-up was contingent on pre-approval of the Governing Body.

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PENDING AND NEW CASES
BEFORE THE COMMITTEE ON FREEDOM OF ASSOCIATION

November 2004

New cases are marked in bold letters. Should you wish to have more information on a particular case concerning your country, we suggest that, given the confidential nature of the complaints, you contact directly the relevant authorities of your Government dealing with ILO matters.

[EXCERPTS]

CANADA / ALBERTA

- Case No. 2277 - The complainant alleges that the provincial Government significantly altered the rights to organize and to bargain collectively of health-care sector employees, through the speedy adoption of a piece of legislation, without proper consultations with trade unions

CANADA / QUEBEC

- Case No. 2278 - The complainant alleges that the legislation prohibits the right to organize and the right to bargain collectively to the Deputies Attorney-General of Quebec

CANADA / QUEBEC

- Case No. 2314 - Legislative interventions cancelling the trade union licences of some workers in health and social services (Bill No.7) and child welfare services (Bill No.8); depriving them of the status of employees in accordance with the Labour Code by imposing on them a status of independent contractors and thereby denying the right to join a trade union; imposing on these workers a frame to join “representative” bodies, in fact dependent on the good will of the authorities, in charge of reaching agreements on working conditions and denying the right to bargain collectively through independent trade union organizations

CANADA / BRITISH COLUMBIA

- Case No. 2324 - The complainant organization alleges that the Government has adopted a law (Bill No. 94) which nullifies any clauses of collective agreements in the health sector that restrict or regulate the employer’s ability to contract out. The complainant also criticizes the adoption, in a context of privatization of the public ferry system, of a law (Bill No. 18) which allows private contractors to override contracting-out provisions

contained in existing collective agreements; and a back-to-work legislation (Bill No. 95) putting an end to a legal strike of its members in the newly privatized BC Ferry Corporation

CANADA / QUEBEC

- Case No. 2333 - Legislative intervention cancelling the trade union licences of some workers in child welfare services (Bill No. 8); depriving them of the status of employees in accordance with the Labour Code by imposing on them a status of independent contractor and thereby denying the right to join a trade union; imposing on these workers a frame to join “representative” bodies, in fact dependent on the good will of the authorities, in charge of reaching agreements on working conditions and denying the right to bargain collectively through independent trade union organizations

CANADA / QUEBEC

- Case No. 2343 - **The complainant organization alleges that the Government, without previous consultations with representative organizations, has modified through legislative action (Bill No. 30) the regimes of union representation and collective bargaining in the health and social affairs sector, thereby violating workers’ right of freedom of association. The new compulsory certification structure: cancels existing certifications of workers’ organizations (thereby obliging them to obtain a new certification); requires or prohibits some regroupings of salaried employees according to criteria which are unfavourable to workers and may lead to deunionization of workers; all of which could happen under ministerial decree. The legislation alters the collective bargaining regime by imposing bargaining at national or regional level, and does not provide for an arbitration system that would offer all guarantees of independence and impartiality**

CANADA / NEWFOUNDLAND AND LABRADOR

- Case No. 2349 - **The complainant organization alleges that the Government did not bargain collectively in good faith with representative trade unions for the renewal of public service collective agreements, and did not rely on an independent arbitration system. Rather, the Government introduced back-to-work legislation (Bill No. 18), with harsh penalties, to end a legal strike and impose by law a four-year collective contract containing wage freezes and contract concessions, including as regards some benefits previously negotiation for retired public servants**
