



Governing Body

310th Session, Geneva, March 2011

GB.310/9

NINTH ITEM ON THE AGENDA

Report of the Working Party on the Functioning of the Governing Body and the International Labour Conference

Oral report of the Chairperson

1. The Working Party on the Functioning of the Governing Body and the International Labour Conference met on Monday, 14, Thursday, 17 and Monday, 21 March 2011. HE Ambassador Farani Azevêdo was Chairperson, while Mr Daniel Funes de Rioja and Sir Roy Trotman were Employer and Worker spokespersons, respectively.
2. The Chairperson expressed profound sympathy, on behalf of the Working Party, for the Japanese people, following the earthquake and the ensuing tsunami that had hit the country.
3. The Government representative of Japan thanked participants for their good wishes and affirmed that Japan would unite to overcome the hardship incurred.
4. The Chairperson said that the Working Party had before it a document presenting a draft proposal of a reform package on the functioning of the Governing Body.¹ This proposal had been drawn up by the Office following an extensive process of formal and informal consultations and the inter-sessional meeting of the Working Party held on 9 and 10 February 2011, which had recognized that sufficient progress had been made and sufficient convergence reached for the Governing Body to move forward to a decision on reform.
5. The Executive Director of the Standards and Fundamental Rights at Work Sector, Mr Guy Ryder, introduced the reform package, drawing attention, first, to the revision clause, allowing adjustments to the reform adopted, possibly at the 318th Session of the Governing Body (November 2013), that is, within the three-year mandate of the Governing Body to be elected in June 2011. Secondly, the reforms carried implications for the Standing Orders of the Governing Body; the Office of the Legal Adviser was reviewing the question and would provide a list of indicative changes to the Working Party at its second sitting. Thirdly, there were areas which would require further discussion, including the issue of the right to address the Governing Body and that of establishing a facility to promote full participation by Governments in the life and governance of the ILO.

¹ GB.310/WP/GBC/1(Rev.).

6. The Employer spokesperson reiterated his group's recognition of the need for reform and supported the spirit and structure of the proposed reform package. He requested clarification of the screening procedure for agenda setting and of the mandates of the chairpersons and spokespersons of the specific sections or segments of the reformed Governing Body. Clearer orientations were required to avoid overlap between the Policy Development Section (POL) and the strategic policy element of the High-Level Section (HL). The Institutional Section (INS) should precede the Programme, Financial and Administrative Section (PFA). On the right of observers to speak, the Employers' group understood "observers" to refer to observer governments. In respect of time management and documentation, the group wished all documents to include a synoptic frame listing the points for decision and the reasoning behind them.
7. The Worker spokesperson said that it was a matter of great importance to the group that deputy Governing Body members could continue, as before, to perform as group spokespersons, and that those duties should not be exclusively limited to regular members. With that proviso, his group also supported the spirit and structure of the proposed reform package. There were concerns regarding some of the language in the package, which appeared occasionally to diminish the Organization's tripartite vocation and reduce the status of the Workers' and Employers' groups. The reform package should aim to facilitate, rather than restrict or undermine, the role of the ILO in setting and supervising standards and promoting social justice. He felt that the composition of certain consultative groups, with the inclusion of the Officers of the Governing Body, the Chairperson of the Government group, the regional coordinators, and possibly others, would not be conducive to true tripartism, but would become unwieldy. The group understood that there was strong support for maintaining the Working Party on the Social Dimension of Globalization and agreed with that position, stressing that there should be a means of channelling follow-up to its deliberations to the Governing Body. The report of the Committee on Freedom of Association should be submitted and adopted as at present.
8. The Chairperson of the Government group said that the reform package provided a good basis for discussion. The group supported the inclusion of a revision clause; strongly supported the proposed improvements to the agenda-setting mechanism and the basic concepts of the new structure; and stressed the importance of good time management and timely reporting, with clear, decision-oriented documents made available sufficiently in advance of meetings. The group attached great importance to government participation in tripartite consultation processes on an equal footing with the social partners. A government support structure in the form of an independent liaison unit assigned exclusively to assist the Government group should be established. That would allow linkages between the regional groups and the ILO officials responsible for regional activities in the Office and would work closely with the Chairperson of the Government group and the regional coordinators. The group would submit a detailed paper in that connection.
9. Government representatives took the floor to express support for the orientations and four main pillars of the proposed reform package. Many speakers acknowledged that the proposed reform package took good account of different individual proposals that had been put forward by Governments. There was also broad support for the establishment of an independent government support unit within the ILO. Government representatives stressed in particular the need to protect tripartism by allowing Governments to play their full role within the Governing Body. They needed to be informed of, and involved in, the consultations process in the same way as the social partners were, including through the action of ACT/EMP and ACTRAV. Government representatives also supported the proposed review of the reform by the 318th Session of the Governing Body. There was support for a time limit by which documentation for the Governing Body must be made available, although some questions were raised as to derogations to the deadline beyond which a document would not be considered by the Governing Body. A document listing

papers produced for “information only” would be a useful addition. The principle of no two meetings running concurrently was again stressed as being of great importance to Governments. Current reporting procedures should remain in place and a compilation of amendments to reports could be web posted. A suggestion was made that a cost evaluation of the reform package should be provided.

- 10.** Concerns were expressed in respect of: the right of non-members and of representatives of NGOs and of international organizations to address the Governing Body; the organization of side events; and reporting procedures. Certain Government representatives felt, as did the Employers’ group, that there might be confusion between the HL section and the POL section. Some Government representatives felt that the HL section should not be included automatically, but should be a space maintained for use if and when necessary. It was also felt that the chairing of the various sections and segments required more clarification. Some Government representatives said that the issuance of a draft agenda two days prior to its scrutiny by the proposed screening group was insufficient and five days’ prior issuance was required. Clarification was needed as to the precise methodology of the screening group, although its composition, as set out in the document, met with approval. That composition had functioned well on a trial basis for two Governing Body sessions and should now be formalized. Some questions were raised regarding the content of each of the sections or segments.
- 11.** The Legal Adviser, in response to the question asked by the Worker spokesperson, replied that under article 7(7) of the Constitution of the ILO, the Officers of the Governing Body must be regular members of the Governing Body. Consequently, in a Governing Body structured as one continuous unit with thematic sections or segments, the Chairperson of the Governing Body could only delegate his or her authority to act as chairperson of a particular section or segment to a regular Governing Body member. That requirement did not, however, apply to the group spokespersons, who could be either regular or deputy members.
- 12.** Mr Ryder identified four areas which required further consideration, as follows: the issue of the right to speak; Office support to the Government group; the delegation of the Officers’ authority to chairpersons of sections or segments, which would certainly benefit from further legal clarifications; and the design and scope of the HL section. He suggested that providing a draft agenda for the screening group more than two days before its meeting could be problematic in practice, as the Governing Body would not have completed its current agenda at that moment. With regard to the functioning of the screening group, it would seek to operate by consensus, and experience would reveal the best *modus operandi*. As to the questions concerning the content of the sections or segments, he suggested that the principle of business determining structure, and not the contrary, should be applied.
- 13.** The Chairperson invited the Working Party to put forward detailed proposals for amendments to the wording of the sections of the proposed reform package. Their various suggestions were included in a revised version of the reform package,² which was submitted for further consideration by the Working Party at its second sitting, on Thursday, 17 March 2011.
- 14.** The second sitting of the Working Party was also provided, as requested, with a list of provisions of the Governing Body Standing Orders which might be affected by the current proposals on Governing Body reform (elements established on the basis of the document

² GB.310/WP/GBC/1(Rev.1).

discussed on 14 March 2011).³ Concern was expressed by both the Workers' and Employers' groups that the political balance ensured by tripartism, which had been established when the ILO was founded in 1919, would be disturbed if the role of the Government group Chairperson became equivalent to that of a Government Vice-Chairperson. It was also felt that the Office of the Legal Adviser should continue to seek solutions to the constitutional requirement that the chairperson of a section or segment of the Governing Body must be a regular, rather than a deputy, Governing Body member. Some Governments were anxious that the new structure would make the timetable of meetings unpredictable, thus rendering it difficult for ministers or experts on particular subjects to gauge when they had to be present in Geneva. The Office explained that the screening process would be fully able to provide a sufficient level of predictability in fixing the timetable.

- 15.** The Chairperson invited the Working Party to conduct a section-by-section review of the revised reform package, presenting and justifying proposed amendments. The Working Party held thorough discussions on the text before it and achieved sufficient progress to be in a position to produce a revised version,⁴ taking account of the various concerns explained briefly in the present oral report. This revised version would be put before a tripartite consultative group on the afternoon of Monday, 21 March, for possible fine-tuning, before submission to a third sitting of the Working Party, on the evening of Monday, 21 March, for approval and forwarding to the Governing Body for final adoption.
- 16.** The tripartite consultative group reviewed thoroughly the revised version of the reform package. After in-depth discussion, the group made certain adjustments to the text to answer the Government group's concern that it should be able to play its role fully in the decision-making and governance function of the ILO, the Employers' and Workers' concern that tripartite balance should be maintained, in particular in respect of the constitutional roles and functions of the Officers of the Governing Body, and in order to resolve the problem arising from the need to replicate, as far as possible, the current arrangements for chairing Governing Body committees in respect of chairing segments of LILS or POL. The consultative group also agreed on a draft decision point on Governing Body reform. The revised text and decision point were then reviewed by the Working Party on the Functioning of the Governing Body and the International Labour Conference at its third sitting, on Monday, 21 March.
- 17.** The Employer and Worker spokespersons and regional coordinators in the Working Party supported the proposed reform package and the point for decision. Governments expressed the view that the lengthy and sometimes difficult discussions had led to a balanced reform package, which would produce a more effective Governing Body, with reinforced tripartism. Particular mention was made of the consultative process that would improve the setting of the Governing Body agenda. A call was reiterated for a cost evaluation of the reform to be presented to the Governing Body, and the Office was requested to ensure early tripartite engagement in the required revision of the Standing Orders of the Governing Body. Care was urged to ensure that the High-Level Section should feature in sessions on a "need-to" basis and that the Governing Body should not replicate the International Labour Conference. There was general agreement that any difficulties encountered in practice could be resolved when the reform package was reviewed by the 318th Session (November 2013) of the Governing Body.

³ GB.310/Room document.

⁴ GB.310/WP/GBC/1(Rev.2).

18. The reform package approved by the Working Party is submitted for adoption by the Governing Body in document GB.310/9/1.

Geneva, 22 March 2011