



Governing Body

312th Session, Geneva, November 2011

GB.312/INS/2/2

Institutional Section

INS

SECOND ITEM ON THE AGENDA

Agenda of the International Labour Conference

Proposals for the agenda of the 103rd Session (2014) of the Conference

Overview

Summary

The following items are proposed for the agenda of the 103rd Session (2014) of the International Labour Conference: a recurrent discussion on the strategic objective of employment, the consolidation of three Recommendations on the right to information and consultation (as a follow-up to the conclusions of the Cartier Working Party), as well as the proposals for the agenda of the International Labour Conference contained in GB.312/INS/2/1 not selected for the agenda of the 102nd Session (2013) of the Conference.

Policy implications

None.

Legal implications

None.

Financial implications

The usual implications of items to be developed for the agenda of the Conference.

Decision required

Paragraph 8.

Follow-up action required

Preparatory work for the second discussion of the Governing Body.

Author unit

Employment, Social Dialogue and Standards and Fundamental Principles and Rights at Work Sectors.

References to other Governing Body documents and ILO instruments

GB.304/PV, GB.310/PV, GB.312/INS/2/1.

ILO Declaration on Social Justice for a Fair Globalization, 2008.

Introduction

1. In accordance with its regular practice, the Governing Body holds in November each year a first discussion on items that are proposed for inclusion on the agenda of the Conference's session which takes place two-and-a-half years later. In conformity with article 5.1.1 of the Standing Orders of the Governing Body,¹ the purpose of this discussion is to select a shortlist of items for closer scrutiny at its following session.
2. As a general rule, the Governing Body in March each year finalizes the agenda of the session of the Conference to be held two years later. It may also decide, as is the case this year, to postpone its decision to a session closer to the Conference. At the present session, the Governing Body is thus called upon both to complete the agenda of the 2013 Conference,² and to examine and shortlist proposals for consideration for the 2014 Conference.

Proposals for the agenda of the 103rd Session (2014) of the Conference

The recurrent discussions under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization

3. Under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, the Organization has introduced a scheme of recurrent discussions by the International Labour Conference.³ In March 2009, the Governing Body decided that the length of the cycle would be seven years.⁴ It was also agreed that the strategic objectives of employment, social protection and fundamental principles and rights at work would be discussed twice in the cycle and social dialogue would be discussed once.
4. The first recurrent discussion took place in 2010 and covered the strategic objective of employment. The second recurrent discussion took place in 2011 and covered social protection (social security); the third one, in 2012, will be on fundamental principles and rights at work; and the fourth recurrent discussion, in 2013, will cover the strategic objective of social dialogue. By 2013, the four strategic objectives will have been either totally or partially reviewed. Thus, for the purpose of a balanced cycle, the order of the themes for the three subsequent recurrent discussions should be as follows: employment (2014); social protection (labour protection) (2015); and fundamental principles and rights

¹ See ILO: *Compendium of rules applicable to the Governing Body of the International Labour Office* (Geneva, 2006), pp. 21–22.

² See GB.312/INS/2/1.

³ ILO Declaration on Social Justice for a Fair Globalization, 2008, Annex, Part II(B).

⁴ See GB.304/PV, para. 183(b).

at work (2016).⁵ In this manner, all strategic objectives apart from social dialogue will be discussed on an alternating schedule with an interval of either four years or three years.⁶ It is therefore proposed that the fifth recurrent discussion deals with the strategic objective of employment (see section I of the Appendix).

Items not selected for the 2013 session of the Conference

5. Items considered for, but not placed on, the agenda of a specific year of the Conference are normally resubmitted as a proposal for the agenda the following year, subject to any other decision taken by the Governing Body. Consequently, items proposed for the agenda of the 103rd Session (2014) will include those items that were not placed on the agenda of the 2013 session of the Conference, unless the Governing Body decides otherwise. These proposals are annexed to the document on the agenda of the 102nd Session (2013) of the Conference.⁷

Follow-up to the conclusions of the Cartier Working Party

6. In addition, as explained in the document on the agenda of the 2013 session of the Conference, in the context of the follow-up to the conclusions of the Cartier Working Party, the item on the right to information and consultation has been revised, and is now submitted as a proposal for standard setting – revision for the 2014 session of the Conference with a view to updating and consolidating into a single instrument (a Recommendation) three related Recommendations: the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94); the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113); and the Communications within the Undertaking Recommendation, 1967 (No. 129) (see section II of the Appendix). As with the proposed item on the prevention and resolution of labour disputes,⁸ the selection of this item could complement the recurrent discussion on social dialogue to be held in 2013, which would be adjusted as necessary.

Other proposals

7. The Governing Body may also wish to indicate other topics that should be developed by the Office for the 2014 session of the Conference and beyond. In light of the recurrent

⁵ Following the Governing Body decision taken in March 2011 (GB.310/PV, para. 156(ii)), as of 2014 the General Surveys prepared by the Committee of Experts on the Application of Conventions and Recommendations will be discussed by the Conference one year before the recurrent discussion on the same theme, and for the purpose of this realignment, there will be no new General Survey on employment during the present cycle.

⁶ The sequence over the second cycle would be the same as for the first cycle: employment (2017); social protection – (social security) (2018); fundamental principles and rights at work (2019); social dialogue (2020); employment (2021); social protection – (labour protection) (2022); fundamental principles and rights at work (2023).

⁷ See GB.312/INS/2/1, Appendix.

⁸ See GB.312/INS/2/1, Appendix, para. 60.

discussion that will take place in June 2012, account may also have to be taken of any new proposals that might be made.

8. *Against this background, the Governing Body is invited to:*

- (a) examine the proposal for a recurrent discussion on the strategic objective of employment, the proposal on the right to information and consultation (standard setting – revision as a follow-up to the conclusions of the Cartier Working Party), as well as the proposals for the agenda of the International Labour Conference contained in GB.312/INS/2/1 not selected for the agenda of the 102nd Session (2013) of the Conference;*
- (b) select the proposals to be examined in greater depth at its 313th Session (March 2012), in order to finalize the agenda of the 103rd Session (2014) of the Conference; and*
- (c) indicate any other item that it wishes to see developed for the 103rd Session of the Conference and beyond.*

Geneva, 18 October 2011

Point for decision: Paragraph 8

Appendix

I. Proposal for a recurrent discussion in 2014 on the strategic objective of employment

1. The first in the series of recurrent discussions took up the strategic objective of employment at the 99th Session of the International Labour Conference in 2010. Thus it is proposed that employment be the first repeated strategic objective to be taken up in the scheme of recurrent discussions set out in the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, adopted at the 97th Session of the Conference in 2008.¹ The second recurrent discussion was on the strategic objective of social protection (social security) in 2011. The third recurrent discussion will be on fundamental principles and rights at work in 2012. The fourth recurrent discussion is expected to be on the strategic objective of social dialogue in 2013.
2. This discussion will be of particular interest as the first of the strategic objectives to be taken up twice in the seven-year cycle for recurrent discussions. The 2014 discussion will thus set a precedent for combining a discussion of up-to-date issues and achievements by ILO Members in the area of employment with a discussion of how the Organization has acted on the conclusions agreed upon in the first recurrent discussion.

Proposed content and nature of the recurrent discussion report

3. The first section of the background report to be prepared by the Office will take stock of employment trends and challenges across the diverse group of member States, focusing in particular on areas of improvement and new challenges since the first recurrent discussion.
4. The second section will take stock of the policies that member States have put in place to respond to these new challenges. As the first recurrent discussion on employment coincided with the depth of the economic recession and employment crisis, the report for the 2014 discussion will include assessments of the crisis response and recovery measures five years on. It will be timely to take stock of recovery patterns and draw lessons from member States' recovery policies. The database on crisis response, developed in collaboration with the World Bank, will be one asset in developing this section of the report.
5. The stocktaking will similarly report on the efforts of member States less affected by the 2008 crisis to place employment at the centre of their development strategies and to build macroeconomic frameworks and labour market policies that accelerate the creation of productive and decent work for broader sectors of their societies.
6. The stocktaking section of the report will be informed by the information on national policies collected and made available through the Office-wide Knowledge Management System.
7. The third section will report on effect given to the guidance received in the conclusions of the first recurrent discussion on employment in 2010. This information will capture implementation steps by all sectors of the Office and will demonstrate the integrated approaches taken as appropriate in acting on the guidance provided.

¹ ILO Declaration on Social Justice for a Fair Globalization, 2008, Annex, Part II(B).

8. The analysis of the progress and impact of the work under the strategic objective on employment will also highlight the measures taken to act on any conclusions adopted in the Conference general discussions on employment-related themes that are scheduled to take place between the two recurrent discussions on employment, for example on the youth employment crisis (2012) and on employment and social protection in the new demographic context (2013). Similarly, the report will highlight actions taken through work on employment promotion to implement conclusions stemming from the recurrent discussions on social security (2011), fundamental principles and rights at work (2012) and social dialogue (2013).
9. The guidance stemming from the recurrent discussion on employment in 2014 will be timely in terms of reviewing the situation of labour markets around the world, discussing policies to improve the situation and also reviewing the work of the Organization during the Strategic Policy Framework 2010–15 and guiding the implementation planning for the subsequent six-year strategic plan of work.

II. Proposal for revision as a follow-up to the Cartier Working Party conclusions

Social dialogue

The right to information and consultation
(standard setting – revision)

Summary

Globalization and rapidly changing markets have led businesses to adopt numerous strategies in an effort to maintain and increase their competitive advantage. The current financial crisis has further amplified the need for, and has accelerated the pace of, adjustments required. Given the considerable impact that constant adjustments may have on the workforce, the enterprise and society at large, it is important that they be accompanied by appropriate forms of social dialogue – at all levels – providing for effective responses to the challenges arising from these external pressures. Following up on the conclusions of the Cartier Working Party, the inclusion of this standard-setting item on the agenda of the International Labour Conference – for a double discussion – would provide an opportunity for constituents to reflect on the importance of social dialogue as a tool for effectively managing change and enable a consolidation and updating of three related Recommendations. These are: the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Communications within the Undertaking Recommendation, 1967 (No. 129).

Background

10. Pressures on enterprises to constantly adjust in response to national and international developments are increasing, owing to such factors as: changes in the situation of sectors – including the public sector – in national economies; the increase in new forms of productive organization, including the rapid expansion of global supply chains following the decline of mass production; and the impact of globalization coupled with the financial crisis. Many enterprises are facing more intense competition than before. This leads to pressures to adapt workplaces to match the efficiency, output and quality of market leaders – or, in many cases, to close down.² Whatever the cause, enterprise restructuring may result in social costs of various types, including job losses, higher unemployment, inequality of treatment among workers, greater insecurity in the workplace and industrial and social conflicts.

² ILO: *Changing patterns in the world of work*, Report of the Director-General, Report I(C), International Labour Conference, 95th Session, Geneva, 2006.

11. There are many examples where the social partners have collaborated successfully in responding to structural and other changes generated by the current crisis, mobilizing the full potential of their enterprises.³ Mention should be made of those efforts to improve the adaptability of enterprises relying on a consultative approach and directed towards achieving a balance between flexibility and security. While not challenging the employer's need to restructure in an efficient and effective manner, such an approach can increase the competitiveness of enterprises by seeking the understanding and support of the workforce in implementing proposed changes. Through this approach, workers can continue to benefit from decent wages and working conditions and, by providing inputs into the proposed changes, they have the opportunity to affect the best possible outcomes for the workforce. In this context, changes are emerging in the traditional labour–management relationship. The patterns of negotiation are changing, as is the content of bargaining and the approaches adopted by the actors involved. Different solutions are being negotiated by the social partners at all levels, often leading to agreements on packages that deal with issues such as job security, working time, wages, lifelong learning possibilities and new methods of work organization.
12. Existing procedures for informing and consulting employees and their representatives are essentially twofold in nature. First, informal rules may be agreed between the social partners themselves at various levels through bargaining. Legal frameworks may also be developed, providing for information sharing and consultation in case of threatened or actual redundancies, transfers of undertakings, delocalization and other forms of restructuring affecting an enterprise. In many countries, legal provisions are frequently based on a reactive approach rather than recognizing the need for ongoing social dialogue at all levels to adequately consider the economic and employment impact of decisions taken.
13. Increasing globalization of capital, product and labour markets means that decisions affecting enterprises and their workers are often taken by multinational enterprises. Information and consultations at this level are not very well developed. This is in spite of the attempts of some multinational enterprises and regional integration groupings, especially in Europe, where adoption of the Works Council Directive in 1994 has led to the development of a wide variety of consultation and information exchange practices.⁴ Even in this situation, however, the main objective of providing workers with a real voice in corporate decision-making processes has been achieved in only some cases. In addition, many of the relevant European works councils' procedures remain predominantly directed to provision of information with the minimum information requirement often oriented towards the past rather than the future situation of an enterprise.⁵ Against this background and with a view to reinforcing the role of European works councils in informing and consulting employees, in particular in the event of significant change in the structure of companies, the 1994 European Works Council Directive was revised in 2009.⁶ Member States had until 5 June 2011 to transpose the revised Directive into national law. European

³ L. Rychly: *Social dialogue in times of crisis: Finding better solutions*, Working Paper No. 1, Industrial and Employment Relations Department (Geneva, ILO, 2009).

⁴ As reflected in Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, establishing a general framework for informing and consulting employees in the European Community.

⁵ A. Weiler: *European works councils in practice* (Luxembourg, European Foundation for the Improvement of Living and Working Conditions, 2004).

⁶ See the *Official Journal* of the European Union dated 16 May 2009.

works councils operate in 820 companies across the European Union, covering some 14.5 million employees.⁷

14. The issues faced, and the approaches to consultation and information adopted, are not uniquely European phenomena however. Of the 90 countries included in the ILO's Employment Protection Legislation Database (EPLex), 66 report some level of consultation with employees' representatives in the event of collective redundancies.⁸
15. Finally, in recent years global markets have grown rapidly, without the parallel development of economic and social institutions necessary for their smooth and equitable functioning;⁹ a situation that exists at the level of nations, industries and individual enterprises. The lack or weakness of such institutions and procedures of dialogue between governments and between employers and workers and their representative organizations makes it difficult to achieve consensus on important issues that affect enterprises operating within and across borders. As noted in a recent report on social dialogue, the current crisis led many governments to intensify their appeal to social partners to negotiate or participate in joint consultations. This is true even in countries with less dialogue-oriented administrations, not only in Europe but also in Asia or Latin America.¹⁰

The ILO's response: ILO normative action

16. The ILO's concern that workers in the enterprise be informed and consulted on issues which affect them and, more generally, in fostering ongoing cooperation between management and labour around enterprise development, was clearly articulated in the Declaration of Philadelphia when it called on the Organization to develop programmes with a view to promoting "effective recognition of the right to collective bargaining and cooperation between management and labour in the continuous improvement of productive efficiency ..." (paragraph III(e)).
17. This institutional obligation is reflected in various later instruments, such as the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Communications within the Undertaking Recommendation, 1967 (No. 129). Recommendation No. 129 provides detailed guidance on how to build mutual understanding and confidence within enterprises, stating that information should be provided to workers and their representatives and consultations should take place with them before decisions on matters of major interest are taken by management (paragraph 2). The Recommendation provides that management should give workers information on a whole range of subjects, including, inter alia, with respect to the general situation of the enterprise and prospects or plans for its future development and to explain decisions which are likely to affect workers, directly or indirectly (paragraph 15(2)). These Recommendations emphasize that information and consultation processes should coexist with and complement the institution of collective bargaining.
18. The Cartier Working Party concluded that information was needed on Recommendation Nos 94 and 129 to assess the need to replace these two instruments.

⁷ For the full text of the proposal for a directive, please visit <http://ec.europa.eu/social/BlobServlet?docId=458&langId=en>.

⁸ The Employment Protection Legislation Database – EPLex – is accessible online at: <http://www.ilo.org/dyn/epl/termmain.home>.

⁹ ILO: *A fair globalization: Creating opportunities for all*, Report of the World Commission on the Social Dimension of Globalization (Geneva, 2004).

¹⁰ L. Rychly, op. cit.

19. Recent developments in labour–management relations at enterprise level, including new forms of consensus building through information and consultation, that proved useful to mitigate the impact of the crisis, as well as related developments in social dialogue at industry, national and transnational levels suggest that updated international guidance on these issues would be useful.

*International Labour Conference discussion
and outcomes*

20. A Conference discussion on this item in 2014 and 2015 could build upon the conclusions of the 2013 recurrent discussion on social dialogue¹¹ and result in the consolidation and updating of three related Recommendations with a view to the adoption of a single instrument (a Recommendation) dealing with information, consultation and cooperation at all levels.

¹¹ If this item were subsequently selected by the Governing Body, the recurrent discussion on social dialogue would be adjusted as necessary.