



Governing Body

326th Session, Geneva, 10–24 March 2016

GB.326/INS/7(Rev.)

Institutional Section

INS

Date: 14 March 2016

Original: English

SEVENTH ITEM ON THE AGENDA

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

Purpose of the document

The Governing Body is invited to take note of the information and consider the point for decision set out in paragraph 5.

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

Policy implications: None.

Legal implications: Depending on the decision of the Governing Body.

Financial implications: None.

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

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.325/INS/9(Rev.).

1. At its 325th Session (November 2015), when considering the complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by several Workers' delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution, the Governing Body adopted the following decision:

Regretting the continuing failure to submit a joint implementation report to the Governing Body in accordance with the Tripartite Agreement signed by the Government of the Republic of Fiji, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) on 25 March 2015, and as requested by the Governing Body at its 324th Session (June 2015), the Governing Body decides:

- (a) to call on the Government of Fiji to accept a tripartite mission to review the ongoing obstacles to the submission of a joint implementation report and consider all matters pending in the article 26 complaint;
 - (b) that, if the tripartite mission did not take place in time for a report to the 326th Session of the Governing Body (March 2016), then the 326th Session should take a decision on the appointment of a commission of inquiry under article 26; and
 - (c) to place this question on the agenda of its 326th Session.
2. The ILO tripartite mission took place from 25 to 28 January 2016. It was led by Sammie Pesky Eddico (Chairperson of the Government group of the Governing Body and Ambassador and Permanent Representative of Ghana to the United Nations and other international organizations in Geneva and Vienna), Richard Wagstaff (President of the New Zealand Council of Trade Unions) and Hiroyuki Matsui (Employer member of the Governing Body, Senior Adviser of Keidanren (Japan Business Federation)). The mission's report can be found in Appendix I.
 3. In a communication dated 1 February 2016, the Government of Fiji submitted a joint implementation report signed by the Government of the Republic of Fiji, the Fiji Trades Union Congress (FTUC) and the Fiji Commerce and Employers' Federation (FCEF) on 29 January 2016 (see Appendix II).
 4. The Employment Relations (Amendment) Bill of 2016 introducing the changes agreed to in the joint implementation report was submitted to Parliament on 9 February 2016 and was adopted on 10 February 2016.

Draft decision

5. *In light of the above information, the Officers recommend for the Governing Body's decision:*
 - (a) *that the complaint presented originally in 2013 would not be referred to a Commission of Inquiry; and*
 - (b) *that, as a result of this decision, the procedure filed under article 26 of the ILO Constitution, in June 2013, be closed.*

Appendix I

Report on the ILO tripartite mission to Fiji (Suva, 25–28 January 2016)

I. Background, purpose and terms of reference

1. Following a complaint concerning non-observance by Fiji of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by several Workers' delegates to the 102nd Session (2013) of the International Labour Conference under article 26 of the ILO Constitution, the Governing Body has been regularly monitoring the situation in Fiji with a view to determining whether it would be appropriate to establish a Commission of Inquiry. In March 2015, the Governing Body welcomed a Tripartite Agreement signed by the Fijian social partners (Government, Fiji Trades Union Congress (FTUC) and Fiji Commerce and Employers' Federation (FCEF)) in Geneva on the way forward, and requested the parties to present it with a joint implementation report, as committed to in the Agreement. In November 2015, as the parties had not yet been able to present a joint implementation report signed by all three signatories, the Governing Body called on the Government of Fiji to accept a tripartite mission to review the ongoing obstacles to the submission of such a report and consider all matters pending in the article 26 complaint. The ILO tripartite mission took place from 25 to 28 January 2016 and was guided by the agreed terms of reference. It was led by Sammie Eddico (Spokesperson of the Government group of the ILO Governing Body; and Ambassador and Permanent Representative of Ghana to the UN and other international organizations in Geneva and Vienna), accompanied by Richard Wagstaff (President of the New Zealand Council of Trade Unions) and Hiroyuki Matsui (Employer member of the Governing Body; Senior Adviser of Keidanren (Japan Business Federation)). The mission was assisted by Ms Karen Curtis, Chief of the Freedom of Association Branch of the International Labour Standards Department, Ms Christine Bader, Legal Officer (Freedom of Association and Collective Bargaining) of the International Labour Standards Department, and Mr Jajoon Coue, Labour Standards Specialist of the ILO Regional Office in Bangkok.

II. Meetings

A. Government

Meeting with His Excellency the Prime Minister

2. His Excellency the Prime Minister of Fiji expressed his gratitude to the ILO tripartite mission for visiting Fiji with a view to reviewing the status of certain outstanding matters which he considered constituted a thorn in the side of the Fijian economy. In his view, one of the obstacles to the submission of a joint implementation report had been the decision of one of the members of the Employment Relations Advisory Board (ERAB) not to participate in its meetings. He expressed the hope that all parties would cooperate and engage in the important work of the ERAB in the future, and that the mission would facilitate this process.

Meeting with the Minister for Employment, Productivity and Industrial Relations

3. The Minister for Employment, Productivity and Industrial Relations provided information on the difficulties he had encountered when taking office in 2015 stemming from the

divergences between the two umbrella unions and the fact that the FTUC had decided not to attend the meetings of the ERAB in its expanded form. He hoped that the ILO could mediate among the unions to assist them in building a united front. The Minister further explained that the rationale for creating bargaining units composed solely of workers employed in a certain enterprise had been to provide an alternative for non-unionized workers who were not interested in joining a trade union but preferred to organize and negotiate at enterprise level without outside interference. In essential national industries, workers now had the choice of forming or joining a trade union or a bargaining unit or to remain non-organized. He added that check-off facilities had been restored, while there were certain difficulties subsisting in the practical application, and that the reinstatement of the grievances terminated under the Essential National Industries Decree (ENID) had been decided by the ERAB and entailed the need for legislative changes.

Meeting with the Solicitor-General

4. The Solicitor-General stressed that the main issues raised by the ILO supervisory bodies had been addressed through the repeal of the ENID as agreed by the ERAB. He stated that, under the Employment Relations Promulgation (ERP) as amended in 2015, workers in essential national industries once again had the right to organize in trade unions, the right to bargain collectively and the right of recourse to an independent body (Arbitration Court) in case of dispute. He underlined that the reason for retaining the right to organize in bargaining units was that workers had voiced the need to continue to be able to organize in-house instead of through an external trade union. Circulars had been issued on the restoration of check-off (most recently in public enterprises) and the few implementation difficulties signalled in the ERAB were being addressed. Check-off would be restored in accordance with the law, that is, if the relevant worker was affiliated to the union and consented to the wage deduction. The Solicitor-General further indicated that the ERAB had agreed on the reinstatement of disputes that had been terminated by the ENID and other decrees and the reduction of the strike notice in essential industries, and that the necessary legislative amendments to the ERP would be drafted in due course. The list of essential services would be reviewed with ILO technical assistance. In his capacity as new ERAB Chairperson, he informed the mission that the outcome of the extensive law review undertaken by the ERAB in 2013 (matrix), which had only been agreed upon by an ERAB subcommittee, had now been circulated to all ERAB members and would be the basis for the discussions on labour law reform during the monthly scheduled ERAB meetings. With regard to other legislative issues, the Solicitor-General considered that the Public Order (Amendment) Decree (POAD) only applied to public meetings and did not normally concern trade union meetings, and that the Political Parties Decree prohibited political functions and activities that compromised not only union office, but all public offices.

Meeting with the Attorney General and Minister for Justice, Finance, Public Enterprises and Public Service

5. The Attorney General considered that the repeal of the ENID had rectified the acknowledged freedom of association breaches, and regretted that this progress had not resulted in the withdrawal of the article 26 complaint. In addition, the draft legislative amendments relating to the reduction of strike notice and the restoration of terminated grievances as decided by the ERAB would be submitted to Parliament at its next session at the beginning of February 2016. He highlighted the fact that, at present, workers were free to join or not to join trade unions or bargaining units or both. Bargaining units had been carried over into the ERP because workers had asked for this form of worker representation to continue on the grounds that it served the needs of workers in an enterprise more effectively than overly politicized trade unions. In reply to a query as to the need for the artificial construction of restricted bargaining units in order to organize and negotiate at enterprise level, when workers apparently had the right to create enterprise unions and could choose whether or not to keep

the membership in-house or to affiliate to a national trade union, the Attorney General indicated that the main operational difference between trade unions and bargaining units was the legislative denial of external support to the latter. This was linked to the need for safeguards in Fiji at this point of its economic development. He added that there was an issue of trust in view of past experiences – if trust was rebuilt among the tripartite partners the need for bargaining units would vanish and the situation could rapidly change. In the event that bargaining units were removed from the ERP and the complaint was resolved, he expressed the strong hope that, for the sake of Fiji’s economic well-being, not all industrial relations issues would be brought to the ILO before seeking resolution at national level. As regards check-off, the Government had already decided to restore this facility in essential national industries; however, as wages were the property of the worker, the authorization to deduct remained necessary. Lastly, the Attorney General underlined that labour law reform was a national issue and that the matrix, which was to be dealt with through dialogue in the ERAB, had a much broader scope than the article 26 complaint.

Meeting with the Employment Relations Advisory Board (ERAB)

6. The mission attended a lively tripartite discussion in the expanded ERAB where various parties debated several of the outstanding matters in the complaint. The ERAB reaffirmed that the matrix would serve as the basis for future discussion of labour law reform and decided to circulate the latest CEACR observation to assist in terms of prioritization.

Meeting with the Parliamentary Standing Committee on Justice, Law and Human Rights

7. The Chairperson of the Standing Committee on Justice, Law and Human Rights (SCJLH) recalled that Fiji was a young democracy with a new Parliament elected in 2014 and that the SCJLH, composed of three members of the Government party and two members from the opposition, had the mandate to review all draft legislation. Regarding the 2015 ERP amendment, he expressed the view that workers in Fiji now enjoyed a greater freedom of association, being able to decide to join trade unions or bargaining units. Many workers felt that bargaining units enabled them to pursue their interests better due to a more acute understanding of the issues and priorities at the workplace. The opposition party members disagreed, stating that bargaining units had been a tool for Government to dilute trade unions, and that, as emanating from the submissions to the SCJLH, employers had voiced a preference for bargaining units as they could more easily exert pressure on workers mindful of their employment. More generally, the SCJLH pledged that there would be no obstacles from Parliament’s side on any legislative proposals concerning these issues that the Government might submit to it.

B. Trade unions

Meeting with the Fiji Trades Union Congress (FTUC)

8. The FTUC National Secretary expressed deep concern about the carrying over of elements of the ENID into the ERP via the 2015 amendment, in particular through the introduction of bargaining units into the framework of the ERP. He considered that denying by law the right of workers in bargaining units to seek external support at the bargaining table was a means of weakening their bargaining power. The FTUC executives believed that bargaining units under the ENID were intended, and indeed had been used, to undermine trade unions, and they continued to be promoted in unionized publicly owned industries to that end. In their view, the right of workers now also to form trade unions remained theoretical in view of the pressure and intimidation still prevailing at the workplace, the excessive registration fee for newly formed trade unions and the majority requirement for conversion of bargaining units into unions. The FTUC felt that the ENID continued to have a negative impact on trade

unions even after its repeal. Whereas in the public service check-off facilities had been restored swiftly and without administrative burden, in public enterprises, unions had been requested to provide new individual sheets to be filled out by workers reconfirming their union affiliation and consent to wage deduction. They strongly opposed this practice, stating that such forms had already been presented and were recognized until the ENID had led to the unjust withdrawal of this facility. The FTUC further denounced that the disputes terminated under the ENID had still not been effectively reinstated, the annulled collective agreements had not been reactivated and the deregistered trade unions had yet to be re-registered. The 2015 ERP amendment had even expanded the list of essential services under the ENID and made the right to strike almost impossible due to excessive compulsory arbitration. Collective bargaining was almost non-existent. Moreover, the FTUC executives criticized the adverse effects of the POAD on legitimate union activities, including meetings, and the general prohibition for union members to engage in political activities under the Political Parties Decree. Concerning the labour law reform, the FTUC National Secretary was confident in the work undertaken in 2013 on the matrix, and he stressed that 90 per cent of the issues had been agreed upon by the ERAB and requested that the matrix serve as the basis for moving forward on necessary legislative change.

Meeting with the Fiji Islands Council of Trade Unions (FICTU)

9. The FICTU General Secretary echoed the same concerns in relation to the 2015 ERP amendment. He urged that measures be taken to remove the ill effects of the ENID and restore justice, for instance via the effective reinstatement of disputes terminated under the ENID as well as under other decrees. The difficulty of entering into collective bargaining negotiations also made it all the more important to reactivate the collective agreements negotiated prior to the ENID as base documents, with variations in terms and conditions to be renegotiated. The FICTU executives further requested that the list of essential services which, at present, included the whole public sector be reduced to the restricted list identified in the 2007 ERP. While the bargaining unit system was disliked by workers, employers liked it because of the absence of external support. The attempts currently being made by bargaining units to register as unions were hampered by a considerable confusion among both employers and workers concerning the establishment requirements and registration procedures of the two entities.

Meeting with the Fiji Public Service Association (FPSA)

10. The FPSA General Secretary supported the position of the FTUC. As regards the situation in practice, he denounced the Government's refusal to engage in collective bargaining, although a few negotiations had taken place just prior to the mission's arrival. The FPSA executives also highlighted the difficulties currently experienced in getting check-off restored in a variety of essential national industries and in certain local municipalities and statutory authorities, and opposed the requirement for trade union members to sign new authority forms, in particular against the prevalent background of intimidation, duress and fear.

C. Employers' organizations

Meeting with the Fiji Commerce and Employers' Federation (FCEF)

11. The FCEF Chief Executive considered that the repeal of the ENID at issue in the complaint represented important progress and recognized that the Decree had restricted the freedom of association rights of workers. He confirmed that trade unions could now be formed in any enterprise in essential services, and indicated that employers were happy to engage with whatever representation the workers freely chose. Bargaining units had been created to

ensure proximity to the workplace but there were only a handful of bargaining units in Fiji so far, and national law neither prevented trade unions from recruiting members of bargaining units nor workers from forming or joining trade unions. Many employers had traditionally dealt with unions and continued to engage, as harmonious labour relations represented a positive asset for business. The FCEF executives also referred to the agreed reduction of strike notice to 14 days in essential national industries and signalled their readiness to review the current list of essential services with ILO assistance, bearing in mind the particularities of the needs of a small island economy and the critical importance of tourism to its economy and employment growth. The FCEF Chief Executive felt that the work carried out on the matrix identifying necessary amendments to the labour laws was a demonstration of how government, labour and business could achieve consensus around a majority of issues. The FCEF remained committed to working on the matrix in the ERAB.

Meeting with the Fiji Chamber of Commerce and Industries (FCCI)

12. The FCCI executives supported the position of the FCEF. As regards check-off facilities for union dues, they felt that it was only natural, after the period of time that had elapsed since the ENID had been issued, for enterprises to require individual consent notices in order to be assured of the workers' continued intent to remain union members and have dues deducted from their wages. Subject to this condition, they pledged that private sector companies in essential national industries would restore check-off expeditiously. The practical examples shared concerning bargaining units generally illustrated that there were a variety of views as to how the requirements set out in the amendment for establishing bargaining units interacted, the manner in which they were to register and the clear differences between trade unions and bargaining units or the necessity for such a distinction.

Meeting with the Fiji Manufacturers Association (FMA)

13. The FMA echoed the views expressed by the FCCI and the FCEF. In addition, the FMA expressed concerns about due process in respect of a particular enterprise which was facing a challenge that could lead to the unilateral withdrawal of a quality certification due to purported freedom of association breaches.

III. Conclusions

14. On its last day in Fiji, the mission met with the signatories to the tripartite agreement and welcomed the recent development whereby they had agreed to work together on a joint implementation report that bore in mind concerns that had been raised in the complaint and subsequently by the Committee of Experts on the Application of Conventions and Recommendations, as well as the practical obstacles which the trade unions said they had encountered. The mission was encouraged by the true engagement shown by all three parties to find a way forward on the outstanding matters.
15. The mission then gave a debriefing session to all the partners met during its stay and expressed the hope that this recent breakthrough in dialogue between the parties would bear fruit and that they would be in a position to present a joint implementation report to the Governing Body in March.

IV. Postscript

16. The mission welcomed the news of the signing of the joint implementation report by all three signatories on 29 January 2016. The report committed to a number of steps that, once fulfilled, would bring to a close the outstanding article 26 complaint. The mission was thus

especially pleased to learn that the legislative steps committed to in the joint implementation report were taken upon the reconvening of Parliament and that the amendments agreed to were adopted on 10 February.

- 17.** While greatly appreciative of these important developments, the mission observes that there are a number of matters raised by the social partners and the supervisory bodies that have yet to be addressed and expects that ILO technical assistance will be provided to enable the Government and the social partners to find appropriate solutions.

Appendix II



**PERMANENT MISSION OF THE REPUBLIC OF FIJI TO THE UNITED NATIONS
OFFICE AND OTHER INTERNATIONAL ORGANISATIONS AT GENEVA.**

Avenue de France 23, 1202 Geneva.

Phone : +41 22 733 07 89

Fax : +41227330739

Email: mission@fijiprunog.ch

4.16

Ref : 1/10/1

The Permanent Mission of the Republic of Fiji to the United Nations and other International Organisations at Geneva presents its compliments to the International Labour Organisation and has the honour to refer to the tripartite agreement signed by the Government of Fiji and its social partners on 25th March 2015 and the decisions of the Governing Body at 323rd Session in March 2015, the Governing Body at its 324th Session in June 2015, and the Governing Body at its 325th Session in November 2015 which decided to send a Tripartite Mission to Fiji in January 2016 to ascertain the difficulties in submitting a single joint implementation report by Government and its social partners.

In this respect, the Permanent Mission of the Republic of Fiji has the further honour to advise that the Fijian Government, the Fiji Trade Union Congress (FTUC) and Fiji Commerce and & Employers Federation (FCEF) have jointly agreed on the enclosed Joint Implementation Report (JIR), which was signed by the representatives of the Fijian Government and its social partners on 29th January 2016, subsequent to the visit of the Tripartite Mission to Fiji. This Joint Implementation Report is submitted for the consideration of relevant ILO bodies.

The Government of Fiji thanks the ILO particularly the Tripartite Mission to Fiji in January 2016 for its constructive contributions in facilitating the process towards the joint implementation report signed by the Fijian Government and its social partners.

The Permanent Mission of the Republic of Fiji avails itself of this opportunity to renew to the International Labour Organisation the assurances of its highest consideration.

Geneva, 1 February 2016



To: International Labour Organisation
4 route des Morillons
CH-1211 Genève 22.

Appendix III

JOINT IMPLEMENTATION REPORT

Background

1. A Tripartite Agreement was signed by the Minister for Employment, Productivity & Industrial Relations, the Chief Executive Officer of the Fiji Commerce and Employers' Federation, and the General-Secretary of the Fiji Trades Union Congress ("**Parties**"), at the International Labour Organisation ("**ILO**") Head Quarters on 25 March 2015, in Geneva, Switzerland ("**Agreement**").
2. The Agreement stated that the Employment Relations Promulgation 2007 ("**ERP**") shall form the primary basis for labour management relations in Fiji.
3. The Agreement acknowledged that there should be compliance with those core ILO Conventions which were subject of the Article 26 Complaint. To ensure compliance with those core ILO Conventions, the Agreement anticipated amendments to the law. These amendments were to be presented to Cabinet and then to Parliament, and once approved by Parliament, were to be implemented no later than the end of October 2015.
4. The Agreement also acknowledged that any other on-going review of labour laws including ERP shall be conducted through Employment Relations Advisory Board ("**ERAB**") mechanism.
5. Furthermore, the Agreement stipulated that Government restore the check-off facilities.
6. The Agreement stated that the Parties submit a Joint Implementation Report to the June 2015 session of the ILO Governing Body.
7. In May 2015, ERAB comprising of only the Parties conducted a series of meetings to deliberate on a draft Bill, after which it was referred to the Minister for Employment, Productivity & Industrial Relations for his consideration.
8. On 22 May 2015, the Employment Relations (Amendment) Bill 2015 ("**Bill**") was tabled in Parliament. The Bill was referred by Parliament to the Parliamentary Standing Committee on Law, Justice and Human Rights, with directions that the report of the

Parliamentary Standing Committee be presented back to Parliament in the July sitting of Parliament.

9. The Parliamentary Standing Committee met and heard submissions on the Bill from all stakeholders, including Government, Workers and Employers, as well as ILO.
10. In the July sitting of Parliament, the Parliamentary Standing Committee submitted its report on the Bill and Parliament considered the report of the Parliamentary Standing Committee and after debating the Bill, Parliament approved the Bill. On 14 July 2015, His Excellency the President provided his assent to the Bill, and the Bill was enacted as the Employment Relations (Amendment) Act 2015 ("**Act**").
11. At the June 2015 session of the ILO Governing Body, a single Joint Implementation Report was not agreed to by the Parties which resulted in the Government and FCEF submitting a Joint Implementation Report, whilst FTUC submitted a separate Implementation Report.
12. In its decision at the June 2015 session, ILO Governing Body reiterated its request for a Joint Implementation Report executed by the Parties before the November session of the ILO Governing Body.
13. Upon the commencement of the Act on 11 September 2015, ERAB (with the expanded membership duly appointed by the Minister and without the attendance of FTUC) met again in October 2015 and deliberated on the on-going review of labour laws. As a result of the deliberations, ERAB unanimously agreed to the following:
 - (a) reduction of the notice period for strike from 28 days to 14 days;
 - (b) reinstatement of individual grievances which were discontinued by the Essential National Industries (Employment) Decree 2011 ("**ENI Decree**"); and
 - (c) invite ILO to provide technical assistance and expertise to assist ERAB to consider, gauge and determine the list of essential services and industries.
14. At the November 2015 session of the ILO Governing Body, the Parties could not submit a single Joint Implementation Report which resulted in the Government, Employers'

representatives and one Worker representative submitting a Joint Implementation Report, whilst FTUC submitted a separate Implementation Report.

15. In its decision at the November 2015 session, the ILO Governing Body decided that a Tripartite Mission was to be sent to Fiji to ascertain the difficulties in submitting a single Joint Implementation Report to the ILO.

16. In January 2016, the Tripartite Mission visited Fiji and conducted a series of meetings with the following stakeholders:

- (a) Honourable Prime Minister;
- (b) Honourable Minister for Employment, Productivity and Industrial Relations;
- (c) Fiji Trades Union Congress;
- (d) Fiji Chamber of Commerce and Industry;
- (e) Fiji Islands Council of Trade Union;
- (f) Fiji Commerce and Employers' Federation;
- (g) Fiji Manufacturers Association;
- (h) Fiji Public Service Association;
- (i) Solicitor-General;
- (j) Employment Relations Advisory Board;
- (k) Chairperson of the Public Service Commission;
- (l) Parliamentary Standing Committee on Justice, Law and Human Rights;
and
- (m) Attorney-General.

17. In accordance with the Agreement and with the assistance of the Tripartite Mission, the Fiji Trades Union Congress, the Fiji Commerce and Employers' Federation and the Fijian Government wish to submit this Joint Implementation Report.

Agreement

18. The Parties agree that a number of achievements and concessions have resulted subsequent to the signing of the Agreement, including the following:

- (a) restoration of Check-Off facilities;
- (b) reduction of the notice period for strike from 28 days to 14 days;
- (c) reinstatement of individual grievances which were discontinued by the ENI Decree as well as the ERP Amendment Decree 2011 shall be reinstated and determined by the Arbitration Court for expeditious adjudication;
- (d) invitation to ILO to provide technical assistance and expertise to assist ERAB to consider, gauge and determine the list of essential services and industries;
- (e) removal of all references to Bargaining Units in the ERP (as amended by the Act), and allowing workers to freely join or form a trade union (including an enterprise trade union) under the ERP;
- (f) removal of sections 191X and 191BC of the ERP (as amended by the Act);
- (g) any worker who was employed in an essential national industry or a designated corporation/designated company under the ENI Decree and whose employment was terminated during the operation of the ENI Decree, has the right to make an application to the Arbitration Court for compensation. Any such application must be made to the Arbitration Court within 28 days and the jurisdiction of the Arbitration Court for such applications shall be limited to compensation not exceeding FJ\$25,000.00. No applications shall be made for:
 - (i) terminations of appointment on the basis of established, proven or admitted corruption, abuse of office, fraud and theft; or
 - (ii) terminations of appointment whereby the facts and situation which led to the termination has resulted in the worker being convicted for an offence; and
- (h) any trade union which was deregistered as a result of the ENI Decree shall be entitled to apply to be registered again in accordance with the ERP and shall not be required to pay any registration fees which may be applicable, provided however that that trade union must apply for registration within 7 days.

Result of this Joint Implementation Report

19. Subject to the implementation of the paragraph 18 and in light of the achievements and concessions, the Parties agree that there is no need whatsoever for the ILO to pursue the Article 26 Complaint any further, as the Parties agree that all relevant issues are resolved.

Way Forward

20. The Parties agree that ERAB will continue its work in reviewing labour laws including the ERP Matrix, to ensure compliance with ILO Conventions ratified by Fiji.
21. In accordance with the Agreement, the Parties hereby submit this Joint Implementation Report.

Dated this 29th day of January 2016, Suva, Fiji.


Fiji Commerce &
Employers' Federation


Fijian Government


Fiji Trades Union Congress