



Governing Body

318th Session, Geneva, 21 June 2013

GB.318/INS/4

Institutional Section

INS

Date: 7 June 2013

Original: English

FOURTH ITEM ON THE AGENDA

Follow-up to the resolution on the trade union situation in Fiji, adopted by the Governing Body at its 316th Session in November 2012

Purpose of the document

The Governing Body is invited to take note of the information and consider the draft decision in paragraph 5.

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

Policy implications: None.

Legal implications: None.

Financial implications: Financing of the direct contacts mission.

Follow-up action required: Determination of dates and follow through of the direct contacts mission.

Author unit: International Labour Standards Department (NORMES).

Related documents: Report of the Committee on the Application of Standards, International Labour Conference, 102nd Session, 2013.

1. In follow-up to the resolutions adopted at the 15th Asia–Pacific Regional Meeting and at the 316th Session of the Governing Body (November 2012), the Governing Body, at its 317th Session (March 2013), adopted the following decision:

In light of the absence of cooperation on the part of the Government of Fiji, the Governing Body:

- (a) expressed its strong disappointment at the failure of the Government of Fiji to respond to the Director-General’s letter of 21 December 2012;
 - (b) urged the Government to be cooperative with the ILO and its procedures in the future, and in particular as regards the Governing Body’s previous request that, together with the social partners, it find appropriate solutions to bring the law and practice into conformity with freedom of association principles;
 - (c) urged the Government of Fiji to accept the direct contacts mission as set out in the resolution adopted by the Governing Body in 2012 so that it may take place prior to the June 2013 International Labour Conference; and
 - (d) decided to include this item on the agenda of the 318th Session of the Governing Body in June 2013.
2. The Director-General wrote once again to the Prime Minister on 5 April 2013 informing him of this decision and encouraging the Fiji Government to confirm dates that would enable the direct contacts mission to take place prior to the 102nd International Labour Conference.
 3. In a communication dated 26 May 2013, the Prime Minister provided his Government’s response to the March 2013 Governing Body decision, referring to significant progress that has been made to improve the livelihood of all Fijians and indicating: “we look forward to receiving the direct contacts mission, on the terms of reference which was provided to the previous ILO direct contacts mission by the Fijian Government in September 2012”. The Prime Minister adds that, given the current time schedule, the “Government considers it necessary that the visit of the ILO direct contacts mission be deferred to a date later in the year, which is convenient to both the ILO and the Fijian Government. The Government will inform the ILO in due course of a suitable date.” A copy of the letter is attached for information.
 4. The Government of Fiji, including the Minister for Labour, Industrial Relations and Employment, attended the International Labour Conference, along with Felix Anthony, National Secretary of the Fiji Trades Union Congress, and Reverend Poate Mata, Board Member of the Fiji Commerce and Employers’ Association.

Draft decision

5. *The Governing Body decides, in the light of the discussions held in the Conference Committee on the Application of Standards concerning the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), to:*
 - (a) urge the Government to accept the return of the direct contacts mission before its next session in October 2013 to assist the Government and the social partners in finding solutions to the outstanding matters in relation to freedom of association; and*
 - (b) place this item on the agenda of its 319th Session.*

Appendix



PRIME MINISTER
SUVA, FIJI



26 May 2013

Mr. Guy Ryder
Director-General
International Labour Organisation
Geneva
SWITZERLAND

(Fax No: 41 22799 8533)

Dear Director-General

Fijian Government Response to the Decision of the ILO Governing Body at its 317th Session:

1. I refer to my 9 November, 2012 letter which conveyed the Fijian Government's response for consideration at the 316th Session of the ILO Governing Body ("ILOGB") in November 2012, in which the Fijian Government was represented by the Minister for Labour, Industrial Relations and Employment ("Minister").
2. I also note from a 4 March, 2013 letter from the ILO to the Minister stating that a follow-up to the resolutions adopted by the ILOGB in November 2012, was to be discussed at the 317th Session of the ILOGB on 26 March, 2013.
3. Given the fact that the Fijian Government was informed very late about this follow-up at the 317th Session of the ILOGB, it was not able to send the Minister to represent Fiji at the ILOGB.
4. I also refer to your 5 April, 2013 letter informing the Fijian Government about the decision adopted by the ILOGB at its 317th Session in March 2013. I note that the ILOGB has urged the Fijian Government to accept the direct contacts mission and has decided to include this item on the agenda of its 318th Session in June 2013.
5. The Fijian Government reiterates its commitment to protecting and promoting the rights of all Fijian workers.
6. I am pleased to inform that in March 2013, the Fijian Government published the Draft Constitution of Fiji, and provided all Fijians with full opportunity to make submissions on the Draft Constitution in April and May of this year. During this period, over 1,000 written submissions were received. Numerous public consultations forums were also held throughout Fiji, in which Fijians from all walks of life participated in and freely expressed their views.
7. After a thorough consideration of all the submissions and after making such improvements as may be necessary, the Draft Constitution will be promulgated at the latest by August 2013.
8. I am pleased to inform ILO that the Draft Constitution contains an extensive chapter on fundamental rights, including the freedom of association, and the right to fair employment practices and to humane and proper working conditions.

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2.

It also includes new provisions prohibiting unfair discrimination on the basis of culture, marital status, pregnancy and social status.

9. The Draft Constitution also, for the first time in Fiji's constitutional history introduces comprehensive socio-economic rights for all Fijians, including the right to economic participation, the right to work and to a just minimum wage, the right to housing and sanitation, the right to adequate food and water, the right to social security schemes, the right to health and the right to free education at all levels.
10. With a clear process for the implementation of the Constitution, the Fijian Government remains firmly committed to holding the first truly democratic parliamentary elections by September 2014.
11. In light of the significant progress made to improve the livelihood of all Fijians, including all Fijian workers and employers, we look forward to receiving the direct contacts mission, on the terms of reference which was provided to the previous ILO direct contacts mission by the Fijian Government in September 2012.
12. In light of the time schedule for the promulgation of the new Constitution, the need for further harmonisation of our numerous laws after the promulgation of the Constitution and the fact that there is a state of transition leading to elections for parliamentary representation in which old and new political parties will contest, the Fijian Government considers it necessary that the visit of the ILO direct contacts mission be deferred to a date later in the year, which is convenient to both the ILO and the Fijian Government. The Government will inform the ILO in due course of a suitable date.
13. I am sure that the ILOGB is appreciative of the transitional stage in Fiji's socio-political and constitutional circumstances. I am also sure that the ILO will work together with the Fijian Government and people to facilitate a conducive environment for holding free, fair and transparent elections under a constitutional framework for the long-term peace, stability and economic progress for Fiji and all Fijians.

Thank you.

Yours sincerely



Josia V. Bainimarama
Prime Minister

- cc:
1. *Mr. Jone Usamate, Minister for Labour, Industrial Relations and Employment, Fiji*
 2. *Mr. Aiyaz Sayed-Khaiyum, Attorney-General and Minister for Industry and Trade, Fiji*
 3. *Mr. David Lamotte, Director, ILO South Pacific*