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筹备委员会

第三届实质性会议

临时议程项目 2

安 排 工 作

秘书长的说明

国际劳工组织的意见

国际劳工组织(劳工组织)提交筹备委员会的书面意见载于本文件附件。*

* 附件不译，原文照发

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Annexe

Durban Review Conference
Preparatory Committee

Questionnaire prepared pursuant to decision PC.1/19 adopted by the Preparatory Committee for the Durban Review Conference at its first session

Contribution of the International Labour Office

The Director-General of the ILO submitted reports on the outcomes of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to the ILO Governing Body in November 2001 and March 2002.[1] The reports highlighted the aspects of the Durban Declaration and Programme of Action (DDPA) of particular relevance to the ILO's mandate and identified areas of ILO action to promote the implementation of the DDPA through its Decent Work Agenda.

Promoting access to decent work for all men and women, irrespective of race, colour, sex, religion, political opinion, national extraction and social origin is a principal objective under the ILO's *Decent Work Agenda*. The promotion of the ratification and effective implementation of *ILO Conventions addressing equality and non-discrimination* at work and the promotion of the 1998 *Declaration on Fundamental Principles and Rights at Work* is at the heart of the action taken by the ILO to promote the DDPA's implementation. The 2008 *Declaration on Social Justice for a Fair Globalization* provides a strong institutional platform to deepen the implementation of the Decent Work Agenda at the national and international levels. It reaffirms that gender equality and non-discrimination are cross-cutting issues in all ILO work.

Ratification of relevant ILO Conventions: progress since Durban

The DDPA urges those States that have not yet done so to consider ratifying the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Minimum Age Convention, 1973 (No. 138) and the Worst Form of Child Labour Convention,

[1] GB.282/14/1 and GB.283/LILS/11.

1999 (No. 182).[2] Since the 2001 World Conference, the ILO has registered 16 new ratifications of Convention No. 111, six of Convention No. 169, six of Convention No. 97, five of Convention No. 143, 37 of Convention No. 138 and 72 of Convention No. 182 (see detailed table in Annex 1).

In addition, since the 2001 World Conference 13 countries have ratified the Equal Remuneration Convention, 1951 (No. 100)， and 32 countries have either ratified Convention No. 29 or Convention No. 105 on forced labour, which are also of crucial importance for addressing racial discrimination. Conventions Nos. 87 and 98 concerning freedom of association and collective bargaining now have the lowest level of ratification among the ILO's fundamental human rights Conventions. This is a matter of concern, given the crucial role of workers' and employers' organizations in addressing discrimination in the world of work.

Key findings and recommendations of the ILO supervisory bodies

The ILO supervisory bodies have continued to examine the application of relevant ILO Conventions by the countries that have ratified them and issued comments and recommendations with a view to ensuring further progress in the elimination of discrimination. In addition to the comments made by the Committee of Expert on the Application of Conventions and Recommendations (CEACR)， the Committee on the Application of Standards of the International Labour Conference has examined a number of cases concerning Conventions Nos. 111 and 169 since 2001. Further, six representations under article 24 of the ILO Constitution concerning Convention No. 169 have been dealt with by the Governing Body.

Since 2001, the CEACR has been able to note progress made in a considerable number of countries in adopting legal provisions on equality and non-discrimination, including on the basis of race or ethnicity. While some countries have opted for comprehensive anti-discrimination legislation or have addressed discrimination in broader human rights legislation, others have introduced new anti-discrimination and equality provisions into the existing labour laws. The CEACR has also welcomed the adoption in a number of countries of initiatives such as codes of practice or guidelines which provide further guidance concerning the prohibition and prevention of discrimination at work, to complement legislation.

Anti-discrimination legislation needs to be carefully designed in order to ensure that it has the desired protective and remedial effects. The CEACR considers provisions providing for the shifting of the burden of proof in discrimination cases as an important feature of effective anti-discrimination legislation. It is also important to ensure that the legislation covers all workers, including groups of workers that are particularly vulnerable to discrimination (e.g. domestic

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[2] DDPA, para 78.

workers, casual workers or rural workers) and that discrimination is prohibited at all stages of the employment process, including selection and recruitment.

Overall, effective implementation in practice and enforcement of national and international equality and non-discrimination standards continues to be a major challenge that needs to be addressed. The CEACR has systematically pointed out that practical measures are needed, including at the workplace, to ensure that legislative provisions and policies on equality are widely known and understood. They also need to be effectively implemented and enforced by the competent authorities, including the labour inspectorate and the courts. The CEACR has consistently stressed the need to collect and publish information on the nature and outcome of discrimination cases addressed by the competent bodies, as a means to raise awareness of the legislation and as a basis for examining its effectiveness.

Another major challenge is the need to address structural disadvantage and discrimination along ethnic and racial lines in a more proactive manner. This requires approaches going beyond the prohibition of discrimination and the creation of rights enforceable by individuals. A first step in this regard must be an adequate analysis of the situation of the affected groups in education, employment and occupation. The reports of the CEACR since the Durban Conference have continued to stress that further action with regard to the collection and analysis of appropriate statistical data, disaggregated by sex, is required. With a view to addressing structural inequalities and deeply rooted discrimination it is also necessary to review, on a continuing basis, the impact of laws, policies and administrative measures on men and women from the different ethnic or racial groups, including indigenous peoples. The CEACR has welcomed the establishment of national equality bodies in various countries and stressed their important role in combating discrimination. Affirmative action is also a key element of national policies aiming at the elimination of discrimination at work.

The ILO Global reports on discrimination

In the context of the Follow-Up to the 1998 Declaration on Fundamental Principles and Rights at Work, the ILO issued two Global Reports on discrimination (in 2003 and 2007)， both of which paid particular attention to racial and ethnic discrimination. The Global Reports analysed the prevalence of racial discrimination in the labour market, current measures and interventions to address them as well as ways to move forward towards eliminating racial and ethnic discrimination.

The Global Reports have particularly highlighted the link between poverty and racial discrimination and examined in detail the situation of ethnic minorities, indigenous peoples, migrant workers, people of African descent, the Roma and religious minorities. The effects of multiple discrimination, particular discrimination faced by women on the basis of race and sex,

were stressed. The 2007 report presented findings of a comparative study of affirmative action policies and programmes in Brazil, Canada, India, Malaysia, Namibia, South Africa, the United Kingdom and the United States. It also examined trends in institutional and policy responses since 2003, including the use of procurement policies, active labour market policies and workplace policies. Major recommendations of the 2007 Global Report related to the need to mainstream non-discrimination in the ILO's Decent Work Country Programmes (DWCP)， the need for better laws and better enforcement, supplemented by effective non-regulatory initiatives, and the need to equip social partners better to enable them to make equality a reality at the workplace.

The Global Reports were discussed among the ILO's tripartite constituents at the 2003 and 2007 sessions of the International Labour Conference which led to the adoption by the Governing Body of two action plans on the elimination of discrimination.

ILO action to promote implementation： recent examples

The DDPA encouraged the ILO to carry out activities and programmes to combat racism, racial discrimination, xenophobia and related intolerance in the world of work and to support actions of States, employers' organizations and trade unions in this field.[3] The Director-General has included information on ILO activities in this regard in his annual *General status reports on ILO action to combat discrimination* which are discussed by the Governing Body. Central aspects of ILO support to governments, employers' and workers' organizations were assistance to strengthen the national legal and policy frameworks, as well as national institutions, the promotion of workplace measures to combat discrimination, and measures to expand the knowledge base, which are essential in order to ensure effective action against discrimination. The information below presents some selected examples of ILO initiatives carried out since 2001.

Training and capacity building

Capacity building and training continued to be an important means to promote the implementation and enforcement of national laws and policies and to stimulate concrete action. A number of workshops and roundtables for government officials and social partners on the Equal Remuneration Convention, 1951 (No. 100) and Convention No. 111 were held, including in Egypt, Eritrea, Mongolia and Viet Nam. In China, two workshops on discrimination were held for labour inspectors. In Brazil, the ILO supported the strengthening of national mechanisms and

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[3] DDPA, para. 155.

policies on gender and racial equality, as well as programmes addressing the situation of domestic workers, a majority of whom are women from disadvantaged social and racial groups. Discrimination is a main subject covered by the ILO's training courses for judges, and there are plans to expand such courses to also cover labour inspectors. The International Training Centre of the ILO, Turin, in cooperation with relevant headquarters units, continued to develop and offer a wider range of training courses and modules addressing equality and non-discrimination, including its courses on gender equality, indigenous and tribal peoples, and corporate social responsibility (CSR)， as well as the training courses for judges and lawyers.

Practical tools and guidance

The ILO has elaborated and published several guides and tools to support the development of national policies and legislation addressing discrimination. These tools are available to constituents and are also used in the context of the regular training activities of the ILO on equality and non-discrimination, including the programmes offered by the International Training Centre of the ILO, Turin. Recent publications include *Eliminating discrimination against indigenous and tribal peoples in employment and occupation： Guide on Convention No. 111,* which is intended to serve as a source of information and as a tool for policy-makers and decision-makers and indigenous peoples, and *International labour standards on migrant workers： Guide for policymakers and practitioners in Asia and the Asia.* A new ILO web site offers knowledge, tools and practical guidance to prevent ethnic discrimination and facilitate integration in the context of migration, focusing on action at the workplace. It is intended to be a resource particularly for employers' and workers' organizations.

Migrant workers

The general discussion on migrant workers during the 92nd session of the International Labour Conference (2004) highlighted the need to prevent discrimination and xenophobia in the context of labour migration. Following the Conference, the *ILO Multilateral Framework on Labour Migration： Non-binding principles and guidelines for a rights-based approach to labour migration* was published in 2006. The Multilateral Framework highlights that special attention should be given to the multiple disadvantages and discrimination often faced by migrant workers on the basis of gender, race and migrant status. It sets out a wide range of principles and guidelines concerning action to address discrimination against migrant workers, as well as a number of examples of best practice. The ILO has continued to carry out discrimination testing surveys in several European countries, most recently in France and Sweden, to capture and show the extent of discrimination against migrant workers and workers of migrant origin in access to employment. These surveys have been successful in making visible ethnic bias and discrimination in the labour market. They have also stimulated further measures to address such discrimination at the national level.

Indigenous peoples

A series of activities have been carried out concerning discrimination faced by indigenous and tribal peoples. In addition to the above-mentioned Guide on Convention No.111, Guidelines on child labour and indigenous peoples were issued. A practical guide to promote the better application of Convention No. 169 is under preparation, as well as a report on the access of indigenous women to opportunities in the world of work. Country studies concerning the experience of indigenous and tribal peoples in Bolivia, Cambodia, Cameroon and Guatemala relating to the implementation of the Millennium Development Goals (MDGs) were published. An ethnic audit of 14 Poverty Reduction Strategy Papers (PRSPs) evidenced a lack of participation of indigenous peoples in these processes, and subsequently a practice guide on the inclusion of indigenous peoples in poverty reduction strategies was published. Household surveys and focus group discussions were conducted in three regions of Peru to obtain further insights regarding the manifestations and scale of discrimination in employment facing indigenous women and men. Comparative research into legislation in Africa protecting indigenous and tribal peoples has been initiated, in cooperation with the African Commission on Human and Peoples' Rights. Following the ratification of Convention No. 169 by Nepal in 2007, the ILO has been providing continuing support to the Government's inter-ministerial task force overseeing implementation.

Workers' and employers' organizations

ILO tripartite constituent attention, action and results in addressing discrimination, racism and xenophobia have significantly increased since 2001. Trade unions in all world regions have generally taken up anti-discrimination work, ranging from putting in place internal procedures to joining national public campaigns to including anti-discrimination provisions in collective agreements. Employers and employers' organizations have also taken up explicit action on discrimination and equal opportunities, notably through the elaboration of codes of conduct, implementation of diversity management and training activities in a considerable number of countries.

In October 2006 the ILO, in cooperation with the City of London, convened the UN Global Compact policy dialogue "Combating Discrimination and Promoting Equality for Decent Work" during which a wide range of equality and discrimination issues, and ways to address them at work, were discussed. The International Trade Union Confederation (ITUC) and the ILO jointly held a seminar in Geneva in December 2007 aimed at developing a trade union strategy to fight racial discrimination and xenophobia which assisted in the development of action programmes in Nepal, Brazil, South Africa and Romania. The ILO is also preparing a toolkit on eliminating

racism to provide trade unions with required information and knowledge to develop and implement effective action plans and polices within their own organizations.

Cooperation with other international organizations

The ILO has also sought to promote the principle of non-discrimination through its cooperation with other international organizations. Close cooperation with the Committee on the Elimination of Racial Discrimination, the Committee on Migrant Workers, the Committee on the Elimination of Discrimination against Women, the UN Forum on Indigenous Issues, and the relevant special procedures and mechanisms of the Human Rights Council has been maintained. A number of contributions were made to the work of the UN mechanisms charged with the follow up to the DDPA. The Asian Development Bank (ADB) and the ILO jointly published the Core labour standards handbook, which provides information on how ADB staff and government officials should take international labour standards, including those concerning equality, into account in project design and implementation. In 2006 the International Finance Corporation (IFC) issued a guidance note elaborating on its performance standards concerning labour and working conditions, and a good practice note on non-discrimination and equal opportunity, both of which reflect the relevant ILO standards. The Office also provided advice to IFC regarding the information document on Convention No. 169 and the private sector for IFC clients. A Handbook on Effective Labour Migration Policies was published jointly by ILO, IOM and OSCE.

Suggestions for consideration by the Preparatory Committee

- Progress has been made by numerous countries with regard to putting in place legislation prohibiting racial discrimination in all aspects of employment and occupation. ***The Review Conference may wish to note that further efforts are necessary to achieve such results in a greater number of countries in all regions. The Review Conference may also wish to call for the adoption of improved anti-discrimination laws and their better implementation and enforcement, stressing the importance of capacity building for the relevant public officials, trade unions and employers' organizations and awareness-raising. In order to assess the effectiveness of legislation, the importance of collecting, analyzing and publishing information on the outcome of cases dealt with by the competent authorities could also be stressed.***

- In order to address existing structural disadvantage, discrimination and exclusion along racial and ethnic lines, anti-discrimination legislation has an important role, but is not sufficient. ***The Review Conference may wish to call for laws and polices that allow for the collection of appropriate sex-disaggregated statistical data as a means to identify social and economic gaps between different groups of the population such as ethnic minorities, migrant workers and indigenous peoples. The Review Conference may also***

wish to stress the need to regularly assess the impact of existing laws policies in the areas education, training and employment on the situation of racial and ethnic groups including indigenous peoples, migrant workers and ethnic minorities. The role of national equality or human rights bodies in this process could also be stressed. Inequalities should be addressed through proactive and targeted approaches, including affirmative action. Measures to promote the right to decent work of indigenous peoples, including their right to exercise their traditional occupations, should be developed and implemented with the participation and consultation of the peoples concerned.

- Policies and practical measures at the level of the enterprise are important tools to promote diversity and equality at work. ***The Review Conference may wish to call on Governments and workers' and employers' organizations to promote the development and implementation of workplace polices and measures to ensure equality of opportunity and treatment and promote diversity at work, and call on relevant international organizations to support such measures.***

- Workers' and employers' organizations play a crucial role in the elimination of racism, racial discrimination, xenophobia and related intolerance in the world of work and society at large through their participation in the development and implementation of anti-discrimination laws and polices at the national level and in supporting the adoption and implementation of workplace policies. ***The Review Conference may wish to highlight the crucial role played by workers' and employers' organizations in the fight against racism and racial discrimination in the world of work, call for further measures to support their efforts in this regard, and stress the need for full respect for freedom of association as a precondition to enable them to carry out their important functions. Migrant workers should fully enjoy their right to freedom of association, in accordance with international freedom of association standards and principles.***

- The ILO believes that UN and ILO instruments relevant to addressing racial discrimination should be promoted and implemented in an integrated manner. During the 2008 International Labour Conference, the Director-General called for universal ratification of the ILO's eight fundamental human rights Conventions by 2015.[4] ***The Review Conference may wish to support the universal ratification of the ILO's fundamental Conventions by the target date of 2015 and encourage States to renew their efforts in this regard.***

- 2009 will mark the 20th anniversary of the Indigenous and Tribal Peoples Convention, No. 169 (1989) which is the international community's dedicated international treaty to

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[4] The ILO's fundamental human rights conventions are the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Minimum Age Convention, 1973 (No. 138) and the Worst Form of Child Labour Convention, 1999 (No. 182), the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

promote and protect the rights of indigenous peoples. ***The Review Conference may consider renewing the DDPA's call for States that have not yet done so to consider ratifying Convention No. 169, following-up on their commitment to promote and protect the rights of indigenous peoples as expressed in the Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in 2007.***

- The non-binding ILO Multilateral Framework on Labour Migration is a comprehensive and practical tool to address labour migration issues from a rights-based perspective. ***The Review Conference may wish to welcome the ILO Multilateral Framework on Labour Migration and invite governments, employers' and workers' organizations and other relevant stakeholders to take it into account in the development, strengthening, implementation and evaluation of national, regional and international labour migration policies and practices. The Review Conference may also wish to reiterate the DDPA's call on States that have not yet done so to consider ratifying ILO Conventions Nos. 97 and 143 concerning migrant workers***.

Annex 1 – Ratifications of relevant ILO Conventions since 7 September 2001

Instrument	New ratifications	Ratifying countries	Total number of ratifications as of 1 Oct. 2008[i]
Convention No. 100	13	Fiji, Lao People's Democratic Republic, Mauritania, Mauritius, Montenegro, Pakistan, United Republic of Tanzania, Saint Vincent and the Grenadines, Samoa, Singapore, Uganda， Vanuatu	166
Convention No. 105	16	Armenia, Democratic Republic of the Congo, Equatorial Guinea, Kazakhstan, Lesotho, Madagascar, Mongolia, Montenegro, Nepal, Oman, Qatar, Samoa, Serbia, Sri Lanka, The former Yugoslav Republic of Macedonia, Vanuatu.	171
Convention No. 111	16	China, Comoros, Djibouti, Estonia, Fiji, Grenada, Lao People's Democratic Republic, Mauritius, Montenegro, Namibia, Nigeria, Saint Vincent and the Grenadines, Samoa, United Republic of Tanzania, Uganda, Vanuatu	168
Convention No. 138	37	Armenia, Bahamas, Chad, Comoros, Côte d'Ivoire, Czech Republic, Djibouti, Estonia, Fiji, Grenada, Guinea, Jamaica, Lao People's Democratic Republic, Latvia, Lebanon, Mali, Mauritania, Mongolia, Montenegro, Mozambique, Nigeria, Oman, Pakistan, Paraguay, Peru, Qatar, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Sao Tomé and Principe, Singapore, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, Vietnam,	150
Convention No. 143	5	Albania, Armenia, Montenegro, Philippines, Tajikistan	23
Convention No. 169	6	Brazil, Chile, Dominica, Nepal, Spain, Bolivarian Republic of Venezuela	20
Convention No. 182	72	Antigua and Barbuda, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia, Bosnia and Herzegovina, Brunei Darussalam, Burundi, Cambodia, Cameroon, Cape Verde, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Djibouti, Egypt, Estonia,	169

Instrument	New ratifications	Ratifying countries	Total number of ratifications as of 1 Oct. 2008[i]
		Ethiopia, Fiji, France, Georgia, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Islamic republic of Iran, Israel, Jamaica, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Lithuania, Madagascar, Mauritania, republic of Moldova, Montenegro, Mozambique, Nepal, Netherlands, Nigeria, Pakistan, Peru, Poland, Russian Federation, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Serbia, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uzbekistan, Vanuatu, Bolivarian Republic of Venezuela, Zambia	
Convention No. 29	16	Armenia, Bolivia, Equatorial Guinea, Ethiopia, Kazakhstan, Latvia, Mongolia, Montenegro, Mozambique, Nepal, Philippines, Rwanda, Samoa, San Tome and Principe, Vanuatu, Vietnam, .	173
Convention No. 87	14	Angola, Armenia, Bahamas, Democratic Republic of the Congo, El Salvador, Equatorial Guinea, Fiji, Mauritius, Montenegro, Saint Vincent and the Grenadines, Samoa, Uganda, Vanuatu, Zimbabwe.	149
Convention No. 97	6	Albania, Armenia, Kyrgyzstan, Moldova, Montenegro, Tajikistan	48
Convention No. 98	10	Armenia, El Salvador, Equatorial Guinea, Kazakhstan, Kuwait, Mauritania, Montenegro, New Zealand, Samoa, Vanuatu.	159

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[i] Universal ratification requires ratification by all ILO members (currently 182).