

**Expert Group Meeting on
“Full Employment and Decent Work for All”
2 - 4 October 2007**

Background Note

“Standards and regulatory policies”

Introduction

Core labour standards is one the four strategic goals of decent work. The most basic labor rights have been codified by the ILO in the 1998 Declaration on Fundamental Principles and Rights at Work, which outlines four “core labor standards” that labor markets should strive to meet: freedom of association and the right to collective bargaining; abolition of forced or compulsory labor; elimination of child labour; and freedom from discrimination. Progress on its implementation remains problematic.

With growth in trade and investment, workers rights and core labour standards are often seen as labour market rigidities, which prevent investment and labour mobility. Indeed, hiring and firing regulations need to be less restrictive in order to facilitate the reallocation of labor across sectors.

Certain limitations have been imposed on the application of the core labour standards and regulatory interventions. For instance, freedom of association and collective bargaining are weakened by limiting the participation of trade unions, while curtailing labour inspections, to attract foreign direct investment.

However, the protection of workers rights is not necessarily incompatible with economic competitiveness, as the core labour standards and their implementation can have positive economic effects. Better worker rights in general, can boost long-term commitment and labour productivity, and induces employers to plan their employment more carefully. It can result in a better distribution of income among people and between workers and firms. Therefore, by simply responding to firms’ need for competitiveness, without taking care of the worker’s needs for security, the liberalization process would be socially inefficient and would have negative effects at the individual as well as at the macroeconomic level.

In addition, different types of discrimination in the labour market are emerging. Apart from the most common forms of discrimination based on sex, race and religion, there is an increasing awareness of discrimination against young and older persons, persons with disabilities and those with HIV/AIDS. This is often a source of social and economic disadvantages, leading to inefficiency and political instability. There is therefore an urgent need to combat more effectively discrimination in the labour market.

In sum, there is a need for well-functioning labour market with appropriate policy regimes that ensure the respect of core labour standards, while lowering the barriers of adjustment for firms.

Instead of transferring responsibilities for regulations from the state to the markets, many countries should review their laws in order to ensure a better respect for internationally recognized labour rights, especially those contained in the 1998 ILO Declaration on Fundamental Principles and Rights at Work, including non-discrimination and equality.

Policy response

The respect for the fundamental principles and rights at work should be a foundation of development strategies and a central objective of national and international policies. The core labour standards are absolute and can be implemented in all countries, while other components of the decent work agenda, such as fair minimum wages and social protection, are more relative and should be adjusted to national circumstances.

In the context of global competition, countries cannot act alone. International harmonization of labour standards is crucial in order to prevent a “race to the bottom”. For instance, imposing core labour standards may raise factor prices and limit firms’ competitiveness. Therefore, an individual country may have to choose between raising labour standards and keeping its competitive advantage, although suboptimal outcomes may occur with a reduction of workers’ rights.

In recent years, the current system of multilateral trade regulations has introduced a “social clause”. The social clause would allow trade sanctions to be directed at countries in which substandard labour practices exist and would prevent a “race to the bottom”. However, the proposal for the introduction of a social clause has been considered by many countries as disguised protectionism, affecting the export sector and workers of developing countries. In that case, it would have made workers worse off than they would have been without a social clause.

Development finance institutions have also begun to examine the social impact of their lending. For instance, the International Finance Corporation has recently adopted Performance Standards and Guidance Notes on environmental and social standards which include a commitment by International Finance Corporation to apply ILO core labour standards.

Another approach, promoted by the ILO, combines regular reporting on respect for the fundamental principles and rights with technical cooperation programmes to assist countries to put them into effect. This approach supplements States’ formal commitment where the conventions have been ratified and bring together member States, business and union representatives to assess compliance.

A tripartite social dialogue involving governments, workers and employers organizations is considered necessary for designing and implementing effective labour market policies. Tripartism will aid the acceptance of strong and efficient public institutions, as well as the achievement of good economic and social results. It will also help to change and improve the design of regulations and policies, and ensure sustainable financing.

More recently, there has been a movement towards diminishing the role of statutory proactive regulations. Instead, greater emphasis has been placed on other forms of regulations, such as self-regulation, fiscal regulation and privatized regulation. Self-regulation has been done through the promotion of “voluntary codes of conduct” and “corporate social responsibility” schemes. Fiscal regulation includes the use of taxes, tax credits and subsidies to guide labour-market behaviour, by providing incentives or penalties for some type of actions. With a privatized regulation there is a growing role of private and commercial organizations in exerting regulatory pressure on firms, local authorities and governments, and determining their labour and social practices and policies.

These market forces are supposed to encourage enterprises to ensure the respect for the core labour standards. For instance, the Global Compact, proposed to the international business community in early 1999, has adopted the four categories of the Declaration and its labour principles, without enforcing the behaviour of the companies, but rather relying on public accountability, transparency and enlightened self-interest of companies. At the same time, a growing number of investors are engaged in Socially Responsible Investment, evaluating companies also on their social performance, including respect for core labour standards.

Many countries have ensured that the four sets of fundamental principles and rights at work, including non-discrimination and equality, are embodied in national labour laws. This has often imposed a labour law reform process. Special legislations focusing on specific issues are also increasing. For instance, specific laws prohibiting discrimination based on disability can be expected in coming years, as a result of the adoption of the United Nations Convention on the rights of persons with disabilities, in December 2006.

As for sex discrimination, there has been considerable progress across regions in the scope of protection provided by law. Experience has shown that proactive laws are particularly effective in revealing and addressing problems of sex discrimination in remuneration.

In order to implement the core labour standards, the conditions for implementation need to be addressed simultaneously. For example, children should not only be removed from labour, or prevented entering it, but alternatives must be offered, including education and future job opportunities, employment for the parents, and better incomes. A growing informal sector places downward pressure on standards in the formal sector by weakening bargaining power of formal sector workers. It would be more effective if employment conditions were improved simultaneously in the formal and informal sector.

Suggestions for discussion

The meeting may wish to consider the following questions:

- Based on national experience what are the critical challenges in implementing international labour standards and anti-discrimination laws, including gender equality, wages, and protecting immigrants’ workplace rights?
- What policy recommendations would you suggest to overcome some of the key barriers?