

Direct Contacts mission
Egypt, 13-16 November 2017

I. Background

At the 106th International Labour Conference held in June in 2017, the Committee on the Application of Standards discussed the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87 and called upon the Government to: ensure that the draft Law on Trade Union Organisations, presently before the House of Representatives for adoption, was in conformity with the Convention, in particular with respect to the concerns relating to the institutionalization of a single trade union system; transmit a copy of this draft legislation to the Committee of Experts; and ensure that all trade unions in Egypt are able to exercise their activities and elect their officers in full freedom, in law and in practice, in accordance with the Convention.

The Committee called on the Government to accept an ILO direct contacts mission to assess the progress in respect of the abovementioned conclusions and requested that this information, as well as a detailed report from the Government, be transmitted to the Committee of Experts for examination before its next session in November 2017. The Government's detailed report to the Committee of Experts on the Application of Conventions and Recommendations transmitting the draft legislation was received by the Office on 30 August 2017.

The Government accepted the Direct Contacts Mission and above terms of reference in a letter received on 2 November 2017. The mission was carried out from 13 to 16 November, led by Corinne Vargha, Director of the International Labour Standards Department, accompanied by Karen Curtis, Chief of the Freedom of Association and Wael Issa from the office of the Deputy Director-General for Policy.

II. Persons met

The mission met with the Ministers of Manpower, Trade and Industry, Justice, Investment and International Cooperation, and Parliamentary Affairs, the Deputy Minister of Planning, the Ministry of Foreign Affairs, as

well as various ministry officials. The mission also met the Chairperson and Vice-Chairperson of the Federation of Egyptian Industry and members of its board. Finally, the mission met with members of the Egyptian Trade Union Federation (ETUF), the Egyptian Democratic Labour Confederation (EDLC), the Egyptian Federation of Independent Trade Unions (EFITU), the Egyptian Democratic Trade Union Congress (EDTUC) and the National General Union. A full list of persons met can be found in the Annex.

III. Conduct of mission

A. Government

Ministry of Manpower

Upon arrival, the mission had a preliminary briefing with the Minister of Manpower and his colleagues, including the head of labour relations, the head of foreign relations, the legal adviser, the director of organizations and conferences and the media advisor. The Minister welcomed the mission and recalled the good cooperation that his Ministry has had over time with the ILO. He looked forward to this present phase which would enable an exchange on what remains to be done.

He expressed his government's keenness to implement the timeframe it had set in the action plan provided to the ILO in May. The Government emphasized its sincere commitment and desire for a law that would clearly make the space for trade unions and leaders that are freely chosen and elected. They had already adapted the drafts to those ILO's comments that were transmitted by the Director-General on 1 November 2016, but there were some agencies and actors that were resistant to changes to the status quo. The draft law tabled by the Government aims at enabling all organizations to be freely elected by the workers and the Minister hoped that new elections would be held in early 2018.

The Minister explained that several sessions had been held with the Parliamentary Manpower Committee, including meetings with social partners. It had however proven very difficult to achieve a consensus on the text. Nevertheless, the Government was committed to applying the law in a matter that was in conformity with Convention No. 87 in particular as regards the possibility of pluralism. The Ministry shared with the mission the latest version

of the draft Trade Union as amended by the Parliament and dated ... November 2017. Given that the law is in application of the Egyptian Constitution and therefore needs to be confirmed by 2/3 of the Parliament, it would be necessary to wait for a quorum in the Parliament for its adoption. It was hoped that this would also give time for further consideration of the articles that were the subject of controversy.

In this regard, the Minister referred to the amendment voted in the Parliament to increase the number of workers necessary to form a trade union committee at the enterprise level from 50 to 250. He affirmed that the Government was committed to maintaining the number at 50 workers as he was convinced that this was necessary for creating an enabling environment for freedom of association at the enterprise level.

The Minister further assured that the intention of the draft law is to ensure equality in the process of registration for the obtaining of legal personality. To this end, all unions would have to regularize their status within 60 days. As for the further concern raised in respect of the ban on receipt of financial assistance from foreign entities, the Minister stressed the current context in the country and the critical importance of controlling any type of funding that could eventually be misused for terrorist activities. On the other hand, it was clarified that this ban did not prohibit unions from benefiting from support for workshops, seminars, etc. The Minister stated that the government's efforts to provide a compliant law should not be undermined by parties whose only interest was to criticize and misrepresent the situation. He highlighted that much work had been done to bring the draft law on trade unions as close to fully compliant with the Convention as possible in the current context and was a critical opportunity for the workers of Egypt which should not be lost in the pursuit of perfection.

The Minister indicated that the draft once adopted would be referred to the President for endorsement. The Executive Regulations called for in the text would be issued rapidly so that trade unions elections could be held without delay.

Ministry of Trade and Industry

The Minister provided a global overview of the strategic vectors identified in the country with baselines and indicators to measure the results for

sustainable economic and social progress. The effectiveness of this strategy was dependent on political stability, economic restructuring, vocational training, a focus on the development of small, medium and micro enterprises, industrial growth and trade enhancement. It was essential to provide an enabling business environment for a sustainable inclusive economy based on enhancing competitiveness, diversity, knowledge, innovation and generating decent and productive job opportunities.

The country's infrastructure was expanding at an unprecedented pace. They had developed an investment map for industry, were targeting unemployment and had embarked upon skills mapping. It was equally important to provide a conducive legal environment so that the private sector can deliver on the competitiveness factors of quality, time, price and social compliance. They had identified the following key strategic industries for import rationalisation and increasing exports: chemical, textile and clothing, engineering and building materials. In certain parts of the country they were developing industrial clusters in which small industries could be accommodated and facilitated. Finally, he referred to the institutional reform that the government had embarked upon which included re-structuring ministry departments, the establishment of an export development authority, the establishment of a unified entity for small and medium enterprise (SME) development, quality assurance and control systems and an Industrial Development Authority. Social compliance standards have been set for Egyptian enterprises and labour-management relations were of prime importance. This would be coupled by capacity building and the bolstering of a communication system.

As regards the issues of concern raised in relation to the draft Trade Union Law, the Minister indicated that the Cabinet has been clear that financing from foreign entities cannot be allowed in view of the impact that this would have on the social, political and security environment of the country. This matter could possibly be addressed at a later stage but in the current context a transition was necessary. The other matters did not seem to create major difficulties but would be dependent upon the outcome of the democratic process in the Parliament. In any event, he understood that the draft Law was in conformity with the country's international obligations with the exception of the financing issue.

The ministry colleagues assured the mission that the government had embarked upon an irreversible reform process but it would take time to

change the mind-sets of all partners. The Ministry of Manpower held stakeholder meetings which were highly valued and the Government was working as fast as it could on these long-standing issues. The executive regulations for the implementation of the law could be issued in December 2017 with union elections to be held in January-February 2018. Advocacy, awareness-raising, capacity building, training, workshops, etc. would be key and the ILO's support in this period of transformation was critical.

As regards the question of foreign funding, it was indicated that the receipt of such funding for Government entities or non-governmental organizations (NGOs) was dependent on the maturity of the organization. While the idea of allowing approval of such funds for legitimate means is an ambitious aspiration, they observed that it had already been very difficult to change a law that had been around for forty years. In their view, the draft in its current state was quite an achievement.

As regards the status of the independent organizations at the time of the entry into force of the new law, a Ministry of Manpower official explained that they would only have to reconcile their status with the new legislation and they would be registered. All organizations whether recognized under the 1976 Act or not would have to go through this process. It was not possible however to provide legal personality to all trade unions, including those that had not been recognized under the 1976 Act, as they were not granted "legal" personality by law and Convention No.87 could not be invoked under the Constitution due to the fact that it was not published in the official gazette at the time of ratification.

Ministry of Justice

The Minister highlighted the importance attached by the government to its international commitments. He stated that there was no difference in law amongst the various trade unions and all would have to regularize in accordance with the law. There would be a grace period of 60 days for those that had not been registered under the 1976 Law so that they could meet the requirements of the new law. As for the receipt of financial assistance from foreign entities, he indicated that there were specific procedures that had to be followed and conditions met in the country for NGOs and other entities,

while trade unions were different and had to be regulated by the trade union law. He nevertheless considered that the receipt of technical assistance as supported by organizations such as the ILO and others would definitely remain possible.

Ministry of Planning

The Deputy Minister of Planning stressed the current challenging circumstances in the country. She referred to the country's commitment to the Sustainable Development Goals (SDGs) and its medium and short-term strategies in this regard. A major challenge was the prevalence of the informal economy. The country had embarked upon a legislative reform agenda to deliver on jobs and decent work.

She deferred to the Ministry of Manpower as regards the technical matters relating to the draft trade union law but considered that the matter of legal personality was not an issue as all unions would have to regularize their status. She highlighted that all partners needed to come to the table with a minimum of trust for the reform to be effective. The country was moving in the right direction and a certain degree of patience was called for. The challenge was great and work needed to be undertaken to change the mind-set for the appropriate transformation.

Ministry of Investment and International Cooperation

The Minister indicated that she had met with the independent unions and the private sector and was aware that there were a number of diverging viewpoints that needed to be accommodated. This might call for a nuanced and transitional approach to the reform to ensure its effectiveness.

The President of the FEI who joined the meeting had expressed the private sector's concern over the impact that the law could have on the informal economy if the minimum membership requirement of 50 workers to form a trade union committee at the enterprise level were maintained. For this reason, he thought that a transitional gradual approach maintaining the figure proposed in Parliament of 250 workers (500 apparently having been proposed by the Industry Committee) might be the best solution while providing for a review of the impact of the legislation and the possibility of lowering this

number after a few years. He observed however that there were several articles of the draft that had not yet been finalised and it might therefore be appropriate not to rush the draft in its current form through parliament.

Ministry of Foreign Affairs

The Director for International Specialized Agencies recalled the challenges in the region and those for the country given its 110 million population. It was therefore necessary that the government also be accountable to security concerns. It was good to note that the Parliament was now fully functional but this meant that a diversity of interests often had to be accommodated. The draft law remains a work in progress and everyone was engaged in the process. The members of Parliament need to understand how the issues are relevant to them and affect the people they represent. At the same time, the government also needs to explain how it affects their interests and this may take some time. It was probably better to take a little more time to make sure that they get it right.

He stated that the question of legal personality was only a technical/legal issue and it was important to have the Ministry of Justice on board to find the right equation. As for the funding issue, the Government has an obligation to ensure that there are no security concerns, so such funds should be supervised by the competent authorities. While convinced that freedom of association was a human right, he thought that it might be best to progress step by step.

Ministry of Parliamentary Affairs

The Minister explained that his role was to ensure the link between the government and the Parliament. The drafting of the trade union law was almost finished and was aligned as much as possible with international commitments. The last word would be with the Parliament.

As for defining the threshold for trade union recognition, he stressed that there was no ideal number and the circumstances of the country should be taken into account in that regard. He stated that the increase had been proposed by ETUF in the parliament and they should know best what would be a reasonable number for unions to achieve. He added however that the government would come back to this question in Parliament.

As to the queries related to the language in section 11 which appeared to call for only one union per enterprise, he stated that this was a misunderstanding based on a syntactical use of the word “the” but which was not intended to limit the number of trade unions that could be established in a given enterprise. He suggested that this could be further clarified in the executive regulations to be issued for the implementation of the regularization process.

He highlighted that despite these stated shortcomings, the law had made important achievements in the light of a system that was sixty years old. It was therefore necessary to take a phased approach to transformation.

B. Trade unions

Egyptian Trade Union Federation (ETUF)

The ETUF President welcomed the ILO and expressed his great appreciation for the guidance and support it had provided to the federation. He welcomed and positively received the important remarks from CEACR and the advice provided by the ILO in May in relation to the revision of the trade union draft law. This had been the subject of full discussion amongst the social partners.

After the June Conference, further amendments had been made to the law in light of the CAS discussion. The ETUF vice president and member of the parliamentary Manpower Committee stated that he could confirm that the draft had already been tabled with Parliament so as to comply with the deadline that had been set. The social partners had been able to express their views in Parliament hearing sessions and many remarks were made to the Manpower Committee. The final draft had been adapted to ensure conformity in relation to three axes: ILO remarks, ILO Conventions, and the Egyptian constitution. The national security of the country was also an important element for consideration, while bearing in mind the provisions of Conventions Nos. 87 and 98. The draft was then presented to the parliamentary plenary and each article was fully discussed. The final word was therefore with the Parliament and it was expected that the law meet the ambitions and expectations of the Egyptian workers, freedom of association, and trade union power.

The draft represents a shift in labour relations of great magnitude. It is the first time since 41 years that there is no mention of ETUF in law. Thus it was clearly

for workers to choose freely how they wish to affiliate. The pyramid trade union structure has been made null and void in the draft with no particular hierarchy established. While some members of Parliament had pushed for a minimum membership requirement of 250 at enterprise level, the ETUF preferred 50 and hoped to be able to reduce this figure again to pave the way for newcomers.

As regards section 3 on legal personality, all trade unions would be assured of acquiring legal personality through the process of regularization. All unions will have to regularize their status, including ETUF. Nationality was no longer a requirement for trade union office and there is the intention to delete the supervision authority of the General Audit office once the corresponding legislation has been changed. This would enable unions to develop their own auditing commissions within the framework of their by-laws which could then be simply subject to an oversight agency. Finally, another important change was to ensure that any trade union dissolution appealed to a judicial body would have suspensive effect until the final determination.

He explained that judicial review of elections was necessary to ensure transparency, especially as it is the first time that trade union committees will have legal personality. As for the sanction of imprisonment, he confirmed that the current draft law does not subject any trade unionists to imprisonment; it only targets violent or criminal acts, such as committing fraud or making false statements, which is also penalised under the penal law. While the sanction of imprisonment remained in the draft, this would only be relevant to association with terrorism and not to union activities. While understanding that the question of funding from foreign entities remained an important issue, he highlighted the importance of ensuring that financing from any source was not interfering in trade union affairs as could be the case where an employer was funding a trade union. While noting that assistance for carrying out union activities such as seminars and workshops would not be understood as funding prohibited by this section, he considered that this restriction could be revisited at a later time when the security concerns were not so high. He concluded that 90 per cent of the remarks made by the ILO during the review of the various drafts had been addressed.

The ETUF asserted that it wanted to set the stage for a strong trade union movement with voluntary unity. Unions would no longer be required to report to ETUF or to affiliate with them. They may carry out their activities freely as

approved by the union to which they are affiliated. But the country needed strong unions, not unions on paper only, which he stated was the case for the independent unions. In his view, many unions formed after 2011 were just fake unions. He stated that the ETUF general union for agricultural workers had 400,000 union members and queried the veracity of one union's pretension that it represented 3.5 million workers.

Once the law is adopted, all trade unions will have to regularize their status in accordance with the executive regulations issued with the participation of social partners within 60 days of the laws issuance.

Egyptian Democratic Labour Confederation (EDLC)

The EDLC hosted a meeting with the gathering of several of its general union heads. This included the free trade union confederation, real estate tax union, drivers, land transportation, education, as well as a number of regional unions. The EDLC president indicated that, since the last time he met with the ILO when they had about 10 observations on the draft law no social dialogue had taken place. Meanwhile, the current draft had been tabled in the Parliament without responding to their concerns. It would destroy the nascent independent trade union movement if it were adopted in its current form. He expressed the hope that there would be another round of dialogue on the draft so that further amendments could be considered.

He highlighted that the current draft does not recognize EDLC, while it recognises the ETUF executive board that was elected in 2006 with their term continuously extended since 2011 even though the 2006 elections had been nullified by court decision.

All of the EDLC general unions had certificates of registration from the Ministry of Manpower but they were no longer being recognized. This was further exacerbated by the minimum membership requirements and the ambiguous meaning of the current drafting of section 11, which could be understood as meaning only one trade union was allowed per enterprise. Moreover, the Parliament's raising of the minimum membership requirement for enterprise unions to 250 would eliminate all possibility of freedom of association given that statistics from 2017 demonstrate that only 0.3 per cent of Egyptians workers can be found in enterprises of over 50 workers. With the current challenges they had faced as an organization, it would be impossible for them

to meet the requirement of 20,000 members to form a general union for all their member federations. Without the space to reach out to workers and build their base on an equal footing with all unions, it was difficult to see how they could regularize their status if the law as drafted were to be adopted. While the draft law did not prohibit pluralism, its provisions were manipulated so as to ensure that this would not be possible in practice. Unions will come together because they are desirous of unity not because it is imposed.

After many years of struggle 1,700 independent unions had deposited their by-laws and were formed in accordance with Convention 87. If the law were to go ahead in its current form, they would all disappear. It was therefore critical for the Government to halt its consideration until these matters were addressed. In its current state, it would seem that the objective of the draft is to have only one union. There were more than 10 provisions under which unionists can be imprisoned. Many sections intervened in the right of unions to draft their constitutions freely.

They were also concerned that the ban on receipt of funds from foreign entities would interfere with their relations with the international organizations to which they were affiliated. The government had been trying to delegitimize the EDLC, claiming that they were being financed by outside sources, while this was not true. Nevertheless, they considered that they should be able to receive support for their legitimate trade union activities. Currently, one of the real stumbling blocks was the stopping of the transfer of their membership fees. Additionally, workers who had chosen EDLC to represent them found their dues still being transferred to the ETUF.

Some members also raised concerns that there was no scope for pensioners to form a union and that it was not clear whether federations could be formed on a regional occupational basis. Another member considered that the provisions imposing a quota for the number of female officers should be stronger. Further concern was raised in relation to the definitions in section 1 which appeared to continue the imposed pyramidal form for organizing from top down.

The President emphasized his concern at seeing his country in a situation where it would be considered to be in violation of a fundamental Convention. He did not want Egypt to be called before the International Labour Conference, but wanted to have an equal chance to represent workers. There were 30 million workers in the private sector who needed to be represented, the huge

majority in the informal economy. There was a need to raise the awareness of employers in labour relations.

He considered that it was critical that the Government enter into real dialogue with the independent unions so as to ensure that the law and practice are in full conformity with its international commitments. This would also imply ensuring the recognition of the EDLC unions at the time of the entry into force of the law, in accordance with Convention No. 87, along with the expectation that elections be held in a reasonable period. In order to ensure a level playing field for workers to choose freely the organization they wish to join, it would be important to clarify that they would retain any acquired rights to provident funds to which they may have contributed during their previous membership. The same is true for the distribution of occupational licences which currently are also under the sole authority of the ETUF.

In practice, since the ILC in June, they stated that they have not been able to collect fees, engage in bargaining or freely carry out their activities. Security can barge into their meetings and arrest them at any time. They referred to some cases where police have entered and sealed off their premises.

Egyptian Federation of Independent Trade Unions (EFITU)

The President of EFITU welcomed the ILO and its presence in the country to ensure respect for international labour standards. He indicated that there had been efforts over the last year and a half to evolve the situation of the trade union movement in Egypt. While some trade unions have been called government trade unions, in the interest of the country, his federation had been discussing with ETUF to see how a consolidation would be possible. While they are still discussing, several issues remain. While the situation needs to evolve, they cannot lose sight of the main aim which is the protection of workers and their rights. A new law for new trade unions in this regard was critical.

The Government has been very cooperative in accompanying this transformation, yet his federation's contacts with the ministry and others have been misinterpreted and they have been accused in this regard by the regional structure of the International Trade Union Confederation which has frozen its relations with them. Unions have been fragmented across the country since 2011 and it is now time to find a way to be unified under a law while bearing in

mind the heavy burden the country has suffered from terrorism, instability, the Muslim brotherhood, etc.

As regards the draft law on trade unions, they indicated that many articles had met with consensus. While there were differences in the status of each organization, each would be required to regularize its status. In their view, 60 to 90 days would not be enough for this process and it would be more appropriate to give the unions 6 months to bring themselves into conformity with the law. On the minimum membership requirement, they were speaking with the ETUF which also presides over the Manpower Committee to lower the enterprise requirement back down to 50 from 250. Maintaining such a high requirement would create obstacles for workers to form unions. Additionally, the requirement to form a general union and for a confederation are also too high.

Other issues raised by the EFITU concerned the financial burden on unions having to publish their registration in the official gazette and permitting retired persons to hold union office, which in their view should be restricted to those in the workplace. Elections should be supervised by the judicial authorities rather than the government and full time unionism should be determined by the trade union itself and not the minister. There is also excessive intervention in the content of the by-laws and sanctions of imprisonment for the violation of the law's provisions. Such sanctions were excessive and should simply be handled under other legislation like the civil code or penal code. On the other hand, while other unions did not want a general auditor to review the financing, they felt this was important to ensure that the workers' dues are being responsibly utilized for their purpose. Additionally, they supported the ban on receipt of funds from foreign entities.

National Union of Egypt

The general unions present represented workers in Youth and Sports, coaches, fishers, judges and informal arbitrators. The President explained that the National Union was made up of 30 general unions with 3 Million 200,000 members. They were registered after 2011, were not affiliated with the ETUF and had never gone on strike.

They recalled the context of the country which was moving towards a renewed statehood. They had welcomed the opportunity to attend two hearings with Minister of Manpower about the draft law. Having been a member of the

Constitution drafting committee in 2013, the President affirmed that Convention No. 87 did have the force of law in Egypt and this was discussed during the drafting as it was felt that this was the only way that trade unions could exist. These minutes were publicly available.

The President recalled that Egypt was in a transitional stage. There had only been one union view expressed in the Parliament through the ETUF as chair of the Manpower Committee. The National Union had discussed with them the various problems with the law, such as the question of legal personality and the apparent exclusion of fishers, and this is why it had not been adopted in its current state. They expressed the hope that a new classification of sectors could be established with the executive implementing regulations to address the concerns around scope. Other issues are however related to concerns for the national security and this must be understood in the current context.

Egyptian Democratic Trade union Congress (EDTUC)

The EDTUC was set up as an umbrella structure launched by unions in different industries in October. They were accompanied by the Center for Trade Union Workers' Services (CTUWS), the head of which is a member of the national council for human rights. They recalled that many unions had come into existence over recent years, but their base had remained firm to its principles.

They had had the opportunity to present their views to the parliamentary joint committee (Manpower and Legislation) as a member of the human rights council. Already in May, the Manpower Committee had invited people to hearing sessions, but they did not consider this to be a true dialogue. While the Committee was very welcoming during the hearing, their views made no impact and the final report was turned around in 24 hours. The parliament had approved 40 articles in 3 hours and by the second day, the remaining articles were approved with only 30 parliamentarians present. A last minute request for re-deliberation gave rise to the increase in number of workers for enterprise committees to 250, approved by the Parliament over the government's objection. The EDTUC consider that even if the number is brought down to 50 in a pretence of being concerned for workers' interests, even 50 was too high a threshold to form a union at enterprise level given the prevalence of micro and small enterprises in the country. They felt that the threshold should rather be set at 10 workers to form an enterprise union.

They recalled that the Egyptian constitution recognized the right of independent unions to be formed under article 76, while section 3 of the latest draft of the law would only provide legal personality to ETUF while all others would have to re-register. Combined with article 11 which refers to a single trade union committee and the minimum membership requirements, the pre-existence of ETUF committee at the enterprise level would make it impossible for independent unions and would challenge their overall existence. In their view, all independent unions should also be able to retain the legal personality they acquired under the Egyptian Constitution.

The pensioners' union raised concern about the exclusion of pensioners from the law as their members would lose their right to a union. Other members of the EDTUC questioned the hierarchical union structure which appeared to have been retained even though it had been criticized by CEACR. They contested the possibility for retired persons to maintain trade union office while there was a legal opinion in the country which had held to the contrary. The draft law also interfered in the trade union by-laws setting out numerous conditions. While they acknowledged that judicial review of elections could be allowed, they considered that this should only be in cases where it was requested by the unions themselves and not imposed by force of law. In their understanding, only the new unions would have to meet all these requirements. In any event, they considered that more than two months would be necessary for the regularization process and suggested that six months would be more appropriate.

As to the restriction on unions receiving financing support from foreign entities, they felt that this restriction would infringe on their capacity to benefit from international affiliation or technical support from international organizations. They also raised concerns about the previous practical effect of compulsory membership to ETUF in order to benefit from the provident fund and the fact that this restricted workers' ability to withdraw freely from the organization unless their acquired rights were assured.

One of the general unions in the general union for textile, ready-made garments and leather that stated that they had 13,000 members associated to 11 trade union committees. This would not enable them to register under the current minimum membership requirements although they were clearly the most representative in that sector. Similar concerns were raised by the representatives from the telecom industry. It was highlighted that regional

formations should also be recognized by the Ministry during the regularization process.

C. Employers' organizations

Federation of Egyptian Industries (FEI)

The Vice-Chairperson of FEI affirmed that the country was moving in a positive direction. He was positively overwhelmed with the transition taking place. There had been an accumulation of over 60 years with no governance which had become entrenched in the culture of the country. Even the business community had been part of this inaction. Special interests group had existed both inside and outside of government. The shaking of the establishment since 2011 has been a tremendous challenge and had significantly transformed the country. While businesses were previously protected and subsidized by the government, this was no longer the case and the business community was now paying the price. Salary scales have tripled. Those companies that have survived are those gearing more towards exports than the local market.

It was the best year for some food and agriculture enterprises because the business model was in place. SMEs represent the majority of their members. These have been restructuring and it is expected that, with a new business model in place, the results will be seen in two years. The framework for this transformation is not yet stable though and the strongly entrenched institutions working with their own mind-set will need time to evolve. As a result, it is not yet possible to measure the impact of the decision-making.

The country is in a phase of nascent democracy. For the first time there is no ruling party but only a majority coalition filled with independent individuals and plenty of space for disagreement. This will need time to mature.

The consensus within the government is that the law that was drafted complied with international commitments. In the old scenario, with government backing, this would have rapidly become a fait accompli. In the current context however space needs to be given for all these different views and accommodated. If the law once adopted is not perfect, changes can still be made. Consideration will be given to what is in the overall interests of the country and not just the vested interests which may have been played out during the debate.

He emphasized that the business community was committed to international norms and recognized their clear link to foreign direct investment. The President of the country currently has the political capital for reform and there is a sense of urgency and accountability in that regard. This also comes with challenges, especially in a contentious and turbulent region where Egypt is the key to stability. There is thus a high sense of apprehension amongst security stakeholders. While restoring security is necessary for economic stability and restoring those most affected after 2011, the priority commitment to reform the trade union law in response *inter alia* to the international market is evident.

As regards the amendment to the minimum membership requirement, he recognized that there was a rationale for raising the figure from 50 to 250 as there were arguments against. It may be necessary however to leave a space for an evolutionary process and not hold the country to standards of those more advanced. The final determination should take into account what is best for the whole country and it may be appropriate to consider this figure as a transitional phase, evaluating the impact after one or two years. While the private sector constitutes 70 per cent of the economy, ETUF only exists in the public sector. He considered it important to have a space for the legalization of a number of the independent unions because of the international attention to this matter. He understood the concerns raised by these unions but strongly felt that the balance of the cost-benefit analysis would result in this matter moving forward positively. In this regard, he highlighted the importance of mapping the trade union movement to be clear about levels of representativeness and who represents whom. Capacity building for social partners to engage in mature labour relations, with professional and responsible unions, was also critical.

He stressed that the progress since April on the law had been great. It was important that this not be approached with an all or nothing mind-set, including in the ILO. He observed that it was more constructive in many cases to work with the government on a confidential basis to discretely address concerns.

He recalled that the regulatory law will enable first a review of the economic impact of any law, from a global perspective. This should create more space for conformity with international standards. He highlighted the importance of the Better Work pilot project to small sized companies, which, along with their

workers, would lose significantly should certain companies and FDI withdraw from engagement with the country.

IV. Stakeholder meeting

The mission welcomed the Minister of Manpower's engagement and the invitation to the DCM, as well as the manner in which the Government has assured the mission full and unhindered access to all the stakeholders, including at the highest level of the Ministries.

The Mission further appreciated the full and frank discussions it has had with all stakeholders that has facilitated its task to produce an objective and impartial report on their views and the status at present of the process of elaboration and the content of the draft trade union law.

A. General appreciation

All stakeholders recognized that the path to reform needed to take into account the challenges faced by the country but that nevertheless reform was essential, inevitable and irreversible. This reform was necessary to bringing the law and practice into line with Egypt's international commitments and all agreed that the manner in which it was implemented was critical to ensuring this transformation. The Mission observed that there were a number of aspects in the current draft that went a long way to meeting this call for transformation.

All sectors of the Government have recognized that the draft does not represent a perfect law. They observe the need to further fine-tune the draft but note that it also responds to the needs of the country and its current context in a period of transition. They have highlighted that a reform that is not carefully managed could imperil the social fabric of the country. They have however clearly stated their commitment to ensure that the law and its practical implementation are in line with the ILO Freedom of Association Convention.

This view was largely shared by the employers who have emphasized that the country has embarked upon wide-ranging reforms touching all aspects of the social economic life and, while this reform may need to go in stages, it is inevitable.

The trade unions have expressed differing views as to the degree of conformity of the draft in its current form with the ILO Convention but there was consensus that the aim was to bring about a major transformation in the legislative framework assuring the right of all workers to belong to the organization of their own choosing. Nevertheless, several unions expressed concern about the current articulation in the draft which would not in their view create the foundation necessary to achieve this in fact.

B. Specific issues

The articulation of a number of provisions including amendments through the Parliamentary process raise concern as to their effect on the full realization of freedom of association in the country. The mission has fully heard and is mindful of the general and specific concerns raised by various sectors of the need to take steps for reform in a phased approach. The mission is nevertheless concerned about the impact that certain of these provisions taken together might have on the very foundation for freedom of association in the country.

1. Legal personality

The mission observes that the ETUF and its affiliates have been formed under Act No. 35 of 1976 but also that new unions have been registered at the Minister of Manpower over recent years and have engaged in union activities. All stakeholders have affirmed the view that the law should provide all these unions with an equal footing for their formation and regularization.

In order for this to be assured in practice, it is important that all these unions – recognized by the Ministry and the International Labour Conference – acquire legal personality or its equivalent (meaning the capacity to function freely in preparation for their regularization) upon the adoption of the law. The time period to be defined for regularisation of their status should bear in mind the hefty task involved as mentioned by all unions. This point is also linked to the requirements for forming unions set out in the law.

2. Minimum membership requirement at enterprise, sectoral and national level combined with the apparent imposition of a trade union monopoly at the enterprise level.

While some stakeholders referred to these requirements as a potential first phase that could be further fine-tuned, it is critical that they are not such as to hinder the formation of unions at all levels and that they truly ensure the possibility of pluralism in a historical context of monopoly. Similarly, it must be possible to form more than one union at enterprise level and while taking due note of the assurances that section 11 in no way restricted workplaces to single union representation, the ambiguity in that section may need clarification. Furthermore, concerns were raised about the amendment of the number of workers to form an enterprise level from 50 to 250 especially in light of the high number of SMEs in the country. The office has already provided advice in this respect, as well as for the minimum requirements set for forming a general union and trade union federation. The ILO remains happy to continue to engage with the government on this point on the basis of previous considerations of the CEACR.

3. Apparent unequal treatment for receipt of foreign funding and assistance to support the legitimate objectives of trade unions.

The Government has highlighted the critical importance of ensuring the national security. Nevertheless, it would appear that the intention of the prohibition of receipt of funds from a foreign entity may not actually be an outright ban on receipt of foreign assistance but rather ensuring that such assistance is used for legitimate purposes. It is suggested that the wording of this section may be adapted in this respect.

C. Stakeholder feedback

All stakeholders expressed their deep appreciation for the feedback provided by the ILO Direct Contacts Mission and emphasized that they would do everything possible to bring a law for adoption that would be as compliant as possible with the relevant international labour standards. They observed that it might be necessary to leave some more time for further discussion and debate in parliament to assure the best result.

V. Final debriefing with the Minister of Manpower

The Minister expressed the expectation that the transparency with which this process was undertaken would be fully appreciated and trusted that light was now brought to a number of areas of concern. He had given his approval to re-open the discussion around a number of articles in parliament and hoped to see the results of that debate soon. His ministry was doing its best to overcome the concerns and fears expressed by some sectors and expected that consensus could soon be achieved.

He stressed that the whole process of elaboration of the draft law has created a better climate for mutual dialogue and understanding with the trade unions. His ministry was committed to helping all trade unions to overcome any obstacles to their regularization and suggested that the ILO also provide support to the new trade unions.

The mission then had the opportunity to discuss the major concerns with the ministry officials to find language to address section 3 on legal personality, section 4 concerning acquired rights, section 11 concerning the ambiguity in language around the possibility of pluralism at the enterprise level, section 12 related to minimum membership requirements at all levels, including the possibility for a transitional period requiring a lower number to assure the space for the budding trade union movement, the deletion of higher level control over trade unions set out in new article 17(b), ensuring the possibility of foreign technical assistance and support under section 54 and the deletion of sanctions of imprisonment in chapter 10, et suite, with the knowledge that the penal code may be invoked for the commission of any crime. As to a query from several unions in respect of the scope of the Convention and whether it covered those working as fishers, the Government affirmed that this category of workers was indeed covered whether it be as seasonal or regular workers and that they could file for registration as soon as the law comes into force.

VI. Concluding remarks

The mission wishes to express its gratitude for the maximum engagement of so many ministries to ensure its effective realisation and the full participation of all the stakeholders met permitting as comprehensive a view as possible of the issues involved. The mission wishes to emphasize that it fully understands the challenges involved in implementing the important transformation in the

framework for freedom of association upon which the government has embarked. The mission is encouraged by the government's pledged commitment and wishes to assure it and the social partners of the ILO's full availability to accompany Egypt throughout this process in order to ensure that this transformation is positive and constructive for all Egyptians and the nation as a whole.

The mission extends its deep appreciation to the Minister of Manpower and his staff as well as to the ILO Cairo Office for all the background work and arrangements for a successful agenda in Egypt. In particular it wishes to thank the Director, Peter van Rooij and his programme assistant, Yasmine Elessawy, the accompaniment and facilitation with the social partners provided by the ACTRAV specialist, Waafa Abdel-Kader and the ACTEMP specialist, Eric Oechslin, the logistical arrangements assured by Marwa Salah-Abdou, and the long nights in duty by our accompanying driver, Salah Imam.