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// Centre de droit comparé du travail et de la sécurité sociale //

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L'OIT à l'épreuve de la mondialisation financière. Peut-on réguler sans contraindre ?

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Judicious adaptation of ILO normative action might more effectively achieve its constitutional objectives in today's global economy. This task does not entail calling the organisation's 100-year-old underlying institutional framework into question. To the contrary, it requires a rediscovery of the *raison d'être* of ILO normative action and of a functional logic that has been forgotten over time. While the Constitution is largely devoted to normative action, nowhere does it explicitly spell out this *raison d'être*. A careful, holistic reading of the text, however, reveals that the ILO serves two essential and complementary functions. Its magisterial function first provides authoritative and well-defined content to the objectives that are otherwise stated only in very general terms in the Constitution's Preamble and in the Declaration of Philadelphia. Second, its regulatory function serves to overcome the 'prisoner's dilemma' that arises with global economic interdependence, which would otherwise inhibit the willingness of each member State to promote social progress for fear of losing its competitive edge. These functions have overwhelmingly been pursued by means of international labour conventions and their relevant supervisory procedures, most notably so-called 'regular supervision'. But the effectiveness and credibility of ILO normative action has been disrupted by its own failure to properly internalize the duality of its normative functions and to accordingly adjust the production, form, and supervision of related instruments. Two parallel paradigmatic shifts would thus be required in order to addressing the resulting situation. The first required shift is in relation to the conception of and approach to the social regulation of the global economy. The second is in the approach to supervision and 'compliance' in the discharge of the ILO's magisterial function.

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