



## Governing Body

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**Policy Development Section**  
*Employment and Social Protection Segment*

**POL**

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FIRST ITEM ON THE AGENDA

## Follow-up to the Tripartite Meeting of Experts on Working-time Arrangements

### Purpose of the document

In the present document, the Governing Body is invited to authorize the Director-General to publish the conclusions of the Tripartite Meeting of Experts on Working-time Arrangements and to request the Director-General to bear them in mind in proposals for the future work of the Office (see the draft decision in paragraph 18).

**Relevant strategic objective:** Enhance the coverage and effectiveness of social protection for all.

**Policy implications:** None.

**Legal implications:** None.

**Financial implications:** None.

**Follow-up action required:** None.

**Author unit:** Conditions of Work and Employment Branch (TRAVAIL).

**Related documents:** None.



## Executive summary

This paper provides some highlights of the Tripartite Meeting of Experts on Working-time Arrangements and an overview of the conclusions of the Meeting.

### I. Background

1. The issue of working time occupies an important place in the history of the ILO. The establishment of maximum daily and weekly working hours was the subject of the very first ILO Convention: the Hours of Work (Industry) Convention, 1919 (No. 1). In the following decades, standard-setting activities in the area of working time continued with the adoption of instruments relating to hours of work, covering specific branches of economic activity or particular aspects of the issue, such as weekly rest, night work, paid annual leave and, later on, part-time work. After a period during which working time ceased to be a primary focus of the ILO's work, the recent global economic crisis and the resulting Global Jobs Pact of 2009 have placed working-time issues back on the international agenda.
2. In December 2004, the ILO Committee of Experts on the Application of Conventions and Recommendations completed its *General Survey of the reports concerning Convention No. 1, and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)*.<sup>1</sup> Based on the conclusions of the General Survey and a subsequent discussion by the Committee on the Application of Standards at the 93rd Session (2005) of the International Labour Conference, the Governing Body, at its 294th Session (November 2005), agreed in principle to the recommendation of the Committee on Legal Issues and International Labour Standards to convene a Tripartite Meeting of Experts on Working-time Arrangements. At its 306th Session (November 2009), the Governing Body approved the recommendation of the Programme, Financial and Administrative Committee to fund the Meeting from the Technical Meetings Reserve of the Programme and Budget for 2010–11. Finally, at its 309th Session (November 2010), the Governing Body agreed on the composition and agenda of the Meeting and fixed the dates of 17–21 October 2011.
3. The purpose of the Tripartite Meeting of Experts on Working-time Arrangements was to review and advise on modern working-time arrangements, which included identifying the main policy issues that would need to be addressed to develop future ILO guidance for advancing decent work in the area of working time.
4. The Meeting was convened from 17 to 21 October 2011 as planned, and was attended by 18 experts. Six of these experts were appointed by the Governments of Brazil, Bulgaria, Germany, Japan, South Africa and Tunisia, six were appointed after consultation with the Workers' group and six were appointed after consultation with the Employers' group.
5. The Office had issued a report: *Working time in the twenty-first century: Report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements (17–21 October 2011)*,<sup>2</sup> to serve as a basis for the Meeting's discussions. The report drew on the most recent literature and statistical data available from a variety of sources

<sup>1</sup> ILO: *Hours of work. From fixed to flexible? Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution)*, Report III (Part 1B), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>2</sup> TMEWTA/2011.

throughout the world to outline contemporary trends, developments and effects with regard to different aspects of working time, such as hours of work and work schedules.

## II. Highlights of the discussions

6. A summary of the Meeting's discussions is provided in the final report of the Tripartite Meeting of Experts on Working-time Arrangements.<sup>3</sup>
7. The debates were wide-ranging, with intensive and complex discussions on a broad array of issues regarding working time in the twenty-first century. The experts took to heart the Chair's emphasis on the importance of striving for consensus. A few highlights of the discussions are provided below.
8. During the Meeting, the experts began by reviewing the most important recent trends and developments with regard to hours of work and their implications for working-time policies, both for the protection of workers and for the promotion of sustainable enterprises. After examining statistical data on working hours, the experts highlighted the need to further explore what lies behind differing distributions in hours of work in developed and developing countries. The effects of new information and communication technologies on the organization of working time and work-life balance were also intensively debated, as were the incidence of hours of work and its effects on: occupational safety and health; work-life balance; productivity; and firm performance.
9. There was a wide-ranging discussion on ILO standards relating to working time, with an extensive debate among the experts on the extent to which the changes that have taken place since the adoption of ILO Conventions Nos 1 and 30 have affected the validity of those Conventions today. In the conclusions (see Part III below), the experts recognized that the provisions of existing ILO standards relating to daily and weekly hours of work, weekly rest, paid annual leave, part-time and night work remain relevant in the twenty-first century, and should be promoted in order to facilitate decent work.
10. The experts reviewed the most important recent developments with regard to work schedules and their implications for working-time policies, both for the protection of workers and for the promotion of sustainable enterprises. There was an extensive discussion on issues related to part-time work, notably on barriers to access to part-time work and conditions of employment equivalent to those of comparable full-time work. There was considerable debate on different types of work schedules and their effects, including both the potential benefits of new and innovative forms of working-time arrangements and their potential for negative effects.
11. The experts reviewed the use and effectiveness of working-time crisis-response measures to preserve jobs and maintain functioning enterprises, and the implications of the crisis experience for future ILO work. The experts underlined that such measures should include work-sharing but should also include other possible responses that could benefit both workers and employers, including in small and medium-sized enterprises.
12. The experts extensively debated the use of, and the relationships between, legislation, social dialogue and collective bargaining in the regulation and organization of working time.

<sup>3</sup> TMEWTA/2011/6.

13. There was a general agreement among the experts that public policy and infrastructure issues, such as childcare and transportation, can have an impact on individuals' organization of their working and non-working life, which also has consequences for employers and the organization of work.

### III. Overview of the Meeting's conclusions

14. The experts were all in favour of keeping the conclusions of the Meeting concise, in order to provide clear guidance to the ILO on moving forward in the area of working time. The objective was to reach consensus on what concrete proposals the Meeting should submit to the Governing Body regarding the ILO's actions on working time.
15. The Meeting unanimously adopted a set of conclusions on working time in the twenty-first century, which clearly outline a future course of ILO action in the area of working time.<sup>4</sup>
16. The conclusions focus on both the main policy issues that the ILO should address in its future work in the area of working time and the specific means of action which are envisaged. Moreover, there was a general consensus among the experts that the Meeting should not be viewed as an end, but rather as a starting point for a renewed emphasis and discussions on working time.
17. The Office is already taking into consideration the conclusions of the Tripartite Meeting of Experts on Working-time Arrangements in its ongoing work. For example, working time adjustments and organization are being considered in the activity on productivity growth, wages and collective bargaining funded by the Special Programme Account. Activities have also been launched to improve the quality of available international data on working time by collecting sex-disaggregated working-time data on the distribution of weekly hours of work by standardized hours bands in the new ILO annual data collection instrument and indicators.

### IV. Draft decision

#### 18. *The Governing Body:*

- (a) *takes note of the final report of the Tripartite Meeting of Experts on Working-time Arrangements and authorizes the Director-General to publish the conclusions of the Meeting; and*
- (b) *requests the Director-General to bear in mind, when drawing up proposals for the future work of the Office, the wishes expressed in the conclusions for follow-up action by the ILO.*

<sup>4</sup> TMEWTA/2011/6.





## **Final report**

**Tripartite Meeting of Experts on Working-time Arrangements**  
(Geneva, 17–21 October 2011)



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INTERNATIONAL LABOUR ORGANIZATION

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**Conditions of Work and Employment Branch  
(TRAVAIL)**

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**TMEWTA/2011/6**

## **Final report**

**Tripartite Meeting of Experts on Working-time Arrangements**  
(Geneva, 17–21 October 2011)

INTERNATIONAL LABOUR OFFICE, GENEVA

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## Introduction

1. At its 294th Session (November 2005), the Governing Body agreed in principle to the recommendation of the Committee on Legal Issues and International Labour Standards to convene a Tripartite Meeting of Experts on Working-time Arrangements. At its 309th Session (November 2010), the Governing Body finally fixed the composition, agenda and dates of the Meeting, which was held in Geneva from 17 to 21 October 2011.
2. The purpose of the Meeting was to review and advise on modern working-time arrangements, which included identifying the main policy issues that would need to be addressed to develop future ILO guidance for advancing decent work in the area of working time.
3. The Office had issued a report, *Working time in the twenty-first century: Report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements (17–21 October 2011)*, to serve as a basis for the Meeting's discussions. The report, available in English, French and Spanish, drew on extensive research carried out throughout the world to outline contemporary trends, developments and effects with regard to different aspects of working-time organization such as hours of work and working-time schedules. The report also suggested points for discussion for the Meeting.

## Participants

4. The Meeting was attended by 18 experts. Six of them were appointed by the Governments of Brazil, Bulgaria, Germany, Japan, South Africa and Tunisia, six after consultation with the Workers' group and six after consultation with the Employers' group.
5. The Meeting was also attended by representatives of the International Trade Union Confederation (ITUC), the International Organisation of Employers (IOE), the European Commission, the European Foundation for the Improvement of Living and Working Conditions (Eurofound) and the Government of the Republic of Korea.
6. A full list of participants is attached to this report.

## Session 1: Opening of the Meeting

### Opening addresses and election of the Chairperson and Vice-Chairpersons

7. The meeting was opened by Ms Manuela Tomei, Director of the ILO's Labour Protection Department and Secretary-General of the Meeting. Ms Tomei welcomed the participants and introduced the members of the Meeting secretariat.
8. Mr Gregory Vines of the Government of Australia was unanimously elected as an independent Chairperson for the Meeting. Mr Vines thanked the experts for electing him and emphasized the importance of working-time issues. He pointed out the objectives of the Tripartite Meeting of Experts on Working-time Arrangements, and stressed the importance of striving for consensus.

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9. Mr Sandro Blanke (Germany) from the Government group, Mr Kevin Coon (United States) from the Employers' group and Mr Yves Veyrier (France) from the Workers' group were nominated by their respective groups as Vice-Chairpersons.
  10. Ms Manuela Tomei, Director of the ILO's Labour Protection Department and Secretary-General of the Meeting, recalled the importance of working time in the history of the ILO. She pointed out that the establishment of maximum daily and weekly working hours had been the subject of the very first ILO Convention: the Hours of Work (Industry) Convention, 1919 (No. 1). The recent economic crisis, as well as the Global Jobs Pact of 2009, had put working-time issues back on the agenda, and the Meeting was crucial in order to enable the ILO to respond to increased demands for guidance and technical assistance from its constituents. Despite the long-standing importance of working-time issues, the Meeting was the first policy discussion on working time at the ILO in nearly two decades. Ms Tomei emphasized that the starting point for the discussion was the acknowledgement that certain minimum standards regarding working time were human rights and thus not subject to economic considerations. Moreover, the focus should lie on finding an appropriate, widely acceptable balance between female and male workers' needs and the requirements of enterprises, while also considering the needs of the community.

## **Introduction by the Office**

11. Mr Jon Messenger, senior researcher with the ILO's Conditions of Work and Employment Programme, gave a brief introductory presentation in which he highlighted some of the main points of the meeting report. Mr Messenger pointed out that the twentieth century had witnessed a gradual reduction of annual hours of work in most developed countries; from levels around 2,600 annual hours or more down to levels generally around 1,400–1,800 hours in the end of the century. Globally speaking, 85 per cent of the world's countries provided for a 48-hour legal working week or less (41 per cent providing for a 40-hour week), 97 per cent provided for a minimum period of paid annual leave, and 80 per cent had an established maximum limit of weekly hours, thus limiting overtime work.
12. In developed countries, long hours (hours exceeding 48 working hours per week) appeared to be declining, whereas long hours continued to be frequent in developing countries, with the exception of transition countries. In both developing and particularly in developed countries, self-employed persons were more likely to work long hours than workers in paid employment. Mr Messenger also noted that short hours (less than 35 working hours per week) were increasing in developed countries whereas the report had shown no clear trend with regard to such hours in developing countries.
13. The data in the report showed that, although declining, the traditional 9 a.m. to 5 p.m. "standard workweek", with fixed working hours each day for a fixed number of days, usually Monday to Friday (for a 40-hour normal workweek) or Monday to Friday (for normal workweeks longer than 40 hours), remained the dominant work schedule in the formal economies of most countries. At the same time, flexible working-time arrangements were becoming increasingly frequent. The term "flexible working-time arrangements" encompassed both "traditional" forms of working-time flexibility such as overtime, the most common deviation from the standard workweek and shift work. However, newer forms of working-time flexibility such as compressed working weeks, staggered hours, flexi-time arrangements, time-savings accounts and annualized hours were also in many cases becoming more widely practiced.

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14. The recent crisis experience had demonstrated the potential of using forms of working-time adjustments as a job-preservation strategy. Notably, the implementation of work-sharing; a reduction of working time to spread a reduced volume of work over the same number of workers to avoid lay-offs, had shown positive results in both developed and developing countries such as Germany and Turkey. Mr Messenger emphasized that work-sharing provided for a potential “win-win-win” situation; where workers could keep their jobs, employers retain a skilled workforce and thus be prepared to immediately respond to increasing demands once the economy recovered, and governments could minimize the social and economic consequences of increased unemployment.
  15. Mr Messenger concluded his presentation by drawing the participants’ attention to the points for discussion defined in the report around which the agenda of the Meeting had been structured, and pointing out that the results of the Meeting would guide future ILO work in the area of working time in upcoming years.

## Opening statements

16. The Employer Vice-Chairperson, speaking on behalf of the Employers’ group, stressed the importance of working-time issues, which lay at the fulcrum of labour laws and industrial relations throughout the world. This was thus an essential but very challenging issue for tripartite discussions. Effectively channelling hours worked into outputs ensured that enterprises were productive and sustainable. According to him, the ILO could play different roles here; for example, providing outputs such as standards and codes of practice that can influence national policy agendas. However, many issues related to the organization of working time were successfully dealt with at the local level, where there were good chances for productive agreements between workers and employers. On the other hand, reaching consensus in high-level discussions focusing on the overall regulation of working time would be far more challenging. Consequently, the Employers’ group would strive to provide a clear identification of what employers do and do not view as main policy issues that should be taken forward in future ILO work, and why. In doing so, the Employers’ group was mindful that the Meeting would not have an at-large discussion on working time, or seek a general, academic-style commentary on recent developments.
17. The Worker Vice-Chairperson, speaking on behalf of the Workers’ group, emphasized the effects of the recent crisis in terms of rising unemployment, particularly affecting groups such as youth, women and older workers. In this context, the reduction of working time remained an important issue. For the Workers’ group, the ILO Conventions on working time continued to be of vital importance both as global references and guidelines, but also for the protection of workers’ health and safety. Any discussion on working-time arrangements thus had to take place within the framework of existing Conventions; this included Conventions Nos 1 and 30. Many countries still maintained a norm of working weeks longer than 40 hours, even longer than 48 in some cases. Several categories of workers, such as those working within the agricultural sector or in restaurants, were not covered by the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), and thus needed improved protection. Legislation was essential for protecting workers’ health and safety and could only to some extent be replaced by, or coupled with, collective bargaining. Another issue important for workers was protection against local unfair practices, where employers threatened workers with delocalization in order to gain acceptance for more flexible forms of working time organization. Also, the consequences of new technology should be looked at more closely, as this was something that potentially could challenge the definition of working time. The reason for this was that workers, although not in their workplace and thus technically not “working”, might still be required to, for example, respond to emails. The Vice-Chairperson concluded by declaring that in the twenty-first century, the

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regulation of working time was still necessary in order to enable a good work–life balance, and thus a good life.

18. The Government Vice-Chairperson complimented the Meeting report and the social partners. He also pointed out that in Germany, the eight-hour day had been introduced in 1919 together with the democratization, and instruments for working-time flexibility had then been introduced in 1921.
19. The Chairperson thanked the previous speakers for their statements and added that although they seemed to be more or less on the same page, there were still significant differences that would need to be overcome during the course of the Meeting.

## **Session 2: Trends, developments and effects with regard to hours of work**

### **Presentation by the Office**

20. Mr Jon Messenger, senior researcher with the ILO's Conditions of Work and Employment Programme, opened the session with a brief presentation concerning the current situation around the world with regard to hours of work. Mr Messenger pointed out that whereas long hours were declining in developed countries, the proportion of the workforce in developing countries working long hours over 48 hours per week remained significant, except in transition countries. In general, men were also more likely than women to work long hours in paid work.
21. Regarding short hours under 35 hours per week, the data outlined in the report showed that an increasing number of workers were working short (part-time) hours in developed countries, whereas there was no clear trend in developing and transition countries. Overall, women were more likely than men to work short hours in both developing and developed countries.
22. In terms of effects of hours of work, Mr Messenger pointed out that whereas long daily hours were associated with the acute effects of fatigue, such as increasing safety risks, long weekly hours tended to be associated both with acute and chronic fatigue, potentially resulting in health problems such as cardiovascular diseases. Studies had also identified regular long working hours as an important predictor of work–life conflict. Mr Messenger noted that hourly productivity did not necessarily increase with longer hours, whereas shorter hours were associated with higher output per hour. Moreover, reductions in excessive hours, gradual or accelerated reductions in standard hours and individualized options for reducing work hours could all have positive impacts on individual and enterprise productivity.

### **Trends and developments with regard to hours of work**

23. The Employer Vice-Chairperson, speaking on behalf of the Employers' group, argued that workers and employers around the world were effectively managing working time issues at the local level. Changes in the organization of working time were a crucial tool for employers to enable them to meet changing customer demands, but at the same time there were also increasing demands from employees to individualize their working hours to better suit their personal situations. Consequently, a new relationship between a new generation of employers and employees, particularly in the developed world, was

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emerging. It was characterized by increased trust, reduced monitoring of working hours, greater flexibility and devolution in the management of working time.

- 24.** The Employer Vice-Chairperson also emphasized that the data on working hours outlined in the Meeting report told an ongoing story of success with a long-term trend with decreasing regular and excessive hours. Consequently, the reduction of hours was not a contemporary policy priority in general, and in particular not for the ILO. Arrangements of hours of work needed to be devolved both to the enterprise and individual level to best meet the needs of employers and employees. In other words, collective bargaining had a role to fulfil, but it could not be the only measure for managing working time. Given the rising frequency of more individualized arrangements regarding working hours, limits or “caps” on working hours or overtime were outdated as they complicated the management of working time. Modern working-time regulation needed to be more flexible in order to meet work requirements by agreement.
- 25.** Concerning part-time work, he noted that women often used part-time work for balancing work and family demands; this was thus partially a question of personal choices. He argued that the ILO should promote the benefits of part-time work, in order to review and remove barriers to this arrangement, particularly in developing and transition countries.
- 26.** The Worker Vice-Chairperson, speaking on behalf of the Workers’ group, emphasized that international labour standards as well as national legislation clearly identified social dialogue and collective bargaining as essential tools to address working-time issues in a manner suited to both the enterprises and the workers’ needs, although there was a difference between developed and developing countries in terms of the potential role that these instruments could play. Similarly, there were also differences between large and small and medium-sized enterprises, and between the formal and informal sector in terms of the possibilities of using collective bargaining. In general, collective agreements were increasingly being replaced by local or individual negotiations. This was problematic, as these kinds of negotiations might pressure workers to accept certain arrangements with regard to hours of work in order to preserve their jobs. In general, the self-employed was one of the categories of workers that worked the most hours. Consequently, for the Workers’ group it was important to ensure that self-employed people really were self-employed out of their own free will, and that their status had not been forced upon them. The situation with part-time workers was similar, as much part-time work could be involuntarily with the workers having a preference for a full-time job to ensure a decent income.
- 27.** The Government Vice-Chairperson, speaking on behalf of the Government group, argued that the trends and developments with regard to hours of work pointed out in the report were in line with what had been observed in the countries represented in the Government group. According to him, collective bargaining was an important safeguard for workers and the preferred method compared to negotiating agreements on an individual basis.
- 28.** The representative of the Government of Japan pointed out that her country had a history of long hours, and that the Japanese Government had made extensive efforts to reduce them. Legislation on working time was important in Japan, in particular the legislation which reduced the working week from 48 to 40 hours. However, she affirmed that long hours still remained unchanged for certain groups of workers, such as workers in the transport and construction sectors.
- 29.** Experts from all groups acknowledged that the use of new technological tools for performing work tasks away from the workplace was becoming increasingly frequent, particularly in developed countries.

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- 30.** The Employer Vice-Chairperson responded to the comments by workers and governments. He argued that factors such as globalization and the recent economic crisis had affected traditional views on working time. The fact that business operated in an international environment with a 24-hour cycle of customer demands made increased flexibility with regard to working time an urgent issue. From this perspective, “caps” on daily and weekly hours were counterproductive and an obstacle to locally negotiated deals between employers and employees. The extent to which collective agreements could be an effective method for regulating working time depended on the local conditions; in instances where workers were unorganized or when small and medium-sized firms had to negotiate with trade unions, this was not a practical method. Whereas enterprises wanted increased flexibility for business reasons, workers also benefited from this development as it could make it easier for them to combine work with family life.
- 31.** The Worker Vice-Chairperson responded to the Employer Vice-Chairperson’s observations, insisting that the regulation of working hours had been an important issue ever since the founding of the ILO. He questioned the extent to which the ILO had succeeded in effectively reducing excessive hours, and argued that there was a need for more research in the area. As for the question of flexibility, he pointed out that a way to address the need for some variation in terms of working hours was flexi-time, i.e. where workers had some core hours but providing room to start and finish at different hours.
- 32.** The Worker expert of Germany pointed out that in Germany, there were effectively two kinds of labour markets: one for full-time workers and one for part-time workers. Consequently, there was a need for ensuring that part-time workers received the same hourly wage and benefits on a pro-rata basis as full-time workers.

### **Effects with regard to hours of work**

- 33.** The Worker Vice-Chairperson, speaking on behalf of the Workers’ group, insisted that there were clear linkages between different working-time patterns and the consequences for workers they implied. Given these consequences, having legal ceilings on working time could not be considered as obsolete. This was shown by the fact that many countries had ratified ILO Conventions on working time, and even among the countries that had not done so parts of the framework of the Conventions had been implemented in national legislation. Notably, the G8 countries had not ratified the Conventions that establish ceilings, but their own national legislation had ceilings in line with what was prescribed in them. He added that there was a need for further research into the health and safety dimensions of working time, especially the effects of long hours of work.
- 34.** The Employer expert of South Africa, speaking on behalf of the Employers’ group, expressed doubts about the correlations between hours of work and different effects, such as worker health outcomes, outlined in the Meeting report. She argued that it was not uncomplicated when researchers strayed into scientific and medical analysis beyond their expertise, and based on this analysis made broad generalizations. For example, sleep and fatigue were particularly complex areas where generalizations are hard to make, as different people experienced fatigue in different ways. She also stressed that paternalism needed to be avoided, and that it was inappropriate to tell workers what was in their interest, while ignoring how they wished to organize their time. Flexibility needed to flow both ways to enable both employees and employers to benefit from it.
- 35.** With that said, the Employer expert nonetheless acknowledged that there clearly was an intuitive association between long hours of work, fatigue and increased safety risks. However, she argued that there was no irrefutable scientific evidence proving the linkage between different working-time patterns and negative health outcomes. This was the case because it was difficult to disaggregate negative effects as a result of a particular working-

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time arrangement from negative effects stemming more from coping mechanisms used by workers engaged in certain types of schedules, such as excessive caffeine, smoking and drinking. More research on the effects of long working hours on health and safety was thus needed.

- 36.** The Government Vice-Chairperson, speaking on behalf of the Government group, agreed with the Worker Vice-Chairperson that legal ceilings on working hours were not obsolete. As a response to the previous intervention by the Employer expert of South Africa, he emphasized that there were credible and comprehensive empirical findings linking certain types of working-time arrangements, such as shift work and night work, with negative health outcomes.
- 37.** As for the ratification rate of existing standards, he argued that although many countries around the world that had not ratified several of the existing Conventions on working time, for example Germany, they had still used them as a guideline when developing national legislation and often complied with what was prescribed in them. With that said, there was a need for increased flexibility within the framework of national laws to enable workers and employers to negotiate working hours.
- 38.** The representative of the Government of Tunisia agreed with the comments from the Government Vice-Chairperson, and pointed out that although his country had not ratified working-time Conventions, national legislation still complied with them.
- 39.** The Employer Vice-Chairperson requested clarification from the Executive Secretary (Mr Messenger) about the correlation between working hours and productivity, and he added that more research on this topic was still needed. He also pointed out that when discussing a possible reduction of working hours, the Meeting also had to keep the issue of wages in mind. Work-sharing, for example, had only been possible to implement as the governments had subsidized wages in order to enable a reduction in working time.
- 40.** The Executive Secretary explained that the available research indicated that reductions in long hours were likely to produce the largest increases in hourly productivity, although the literature was not clear on the specific threshold. This suggested that it lay in enterprises' own interests to push down excessively long hours. He also confirmed that government funding for work-sharing programmes was essential in order to reduce the financial losses for workers.
- 41.** The Worker Vice-Chairperson argued that if a general reduction of working time was not going to be discussed, then at least the reduction of excessive hours should be a main priority of the ILO, as this issue was clearly connected to the Decent Work Agenda.
- 42.** The Worker Vice-Chairperson also raised the issue of the potential effects of the increasing use of new technologies to perform work tasks when away from the workplace. He emphasized that due to globalization, customers could well be located on the other side of the planet. This situation, coupled with the increased use of modern technologies, also contributed to the fact that the distinction between the normal working day (or night) and non-working time was becoming increasingly blurred and replaced by a grey area. Consequently, this created pressure for workers, particularly those with family responsibilities, as work requests thus could be made at any time, without the workers being present on the undertaking's premises. New technological tools could thus lead to negative effects in terms of increases in excessive hours when workers worked more from home during their spare time. The question of the effects of new technology was a major issue for the Workers' group, and was something which the ILO should look at more closely.

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43. The Employer Vice-Chairperson insisted that new technology did not necessarily have a negative impact on workers and work–life balance. On the contrary, it was becoming increasingly easier for workers to combine work with family responsibilities, as new technologies enabled them, for example, to work parts of their working days from home.
  44. The Government Vice-Chairperson noted that in Germany the impact of technology on working time had not been subject to much attention from researchers, and he questioned whether this was really an issue of high interest for all countries or just limited to a particular group of countries or workers.

### **Chairperson’s summary**

45. The Chairperson concluded the session, pointing out that the discussion had shown a large variety of different views and suggested a complicated matrix where for example some workers worked long hours and wanted to work less, whereas other workers worked few hours and wanted to work more. When it came to the regulation of working hours, there seemed to be some agreement over the necessity of some forms of minimum standards. However, at the same time there was a disagreement over how and where to negotiate agreements on working time: at local, national or international level.
46. The discussion around flexibility and vulnerability had illustrated inequalities in bargaining relations. In some cases, employers were more powerful and could impose certain arrangements on workers, but on the other hand, the opposite could also be true in situations where small and medium-sized enterprises had to negotiate directly with powerful national unions.
47. The discussion had pointed to numerous drivers behind the recent changes with regard to working hours, for example the recent economic crisis, and the change in demands and global development like 24-hour operations. The role of technology could be looked at more closely by the ILO, and the relevance of “caps” needed to be discussed further.
48. Caution had to be taken when dealing with studies on the effects of hours of work on health and safety. However, most empirical findings appeared to suggest a relationship in which excessive hours and arrangements such as shift work had a measurable negative impact on workers’ health.
49. There seemed to be a general acknowledgment of what the issues were and what would have to be discussed during the upcoming days. The challenge was to find a way to balance employers’ need for increased flexibility against both certain employees’ requests for increased flexibility and other employees’ resistance against such flexibility.

### **Session 3: Existing standards on working time**

50. The Executive Director of the ILO Social Protection Sector, Mr Assane Diop, began the session by addressing the meeting participants. Mr Diop stressed the relevance of the topic of the Meeting, which lay at the heart of the actions carried out by the ILO. He noted that working time was a topic which implicates not only workers and employers, but also governments. Mr Diop also emphasized the importance of reaching consensus and keeping an open mind. At the same time, he expressed his understanding of the delicacy of the discussions surrounding working time, and affirmed his support for the Meeting.

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## Presentation by the Office

51. Mr George Politakis of the ILO's International Labour Standards Department, speaking on behalf of the Director of the Department, Ms Cleopatra Doumbia-Henry, gave an introductory presentation regarding ILO standards on working time. He emphasized that the synopsis of existing international labour standards presented in the meeting report was necessarily descriptive in nature and did not offer any analytical insight as to how these instruments had been applied in practice or any conclusions as to their effectiveness and relevance. He explained that, due to the time constraints, he wished to focus his remarks on three points that would hopefully provide a helpful contribution to the discussions.
52. Firstly, Mr Politakis gave a brief overview of the history leading up to the Meeting. In 2004, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) had made a General Survey on Conventions Nos 1 and 30, as the lack of consensus regarding the status of these Conventions had suggested that more information was needed. The conclusions of the CEACR had then been discussed by the Conference Committee on the Application of Standards and Recommendations in 2005, and the discussions had confirmed the sensitivity of the topic. Since 2005, the Office had been exploring in consultations with its tripartite constituents ways to move forward in this area. The Governing Body's decision in November 2010 to convene the Meeting of Experts was thus part and parcel of the ongoing debate on ILO standards on working time and the search for consensual solutions regarding the way forward.
53. Secondly, Mr Politakis commented on the existing body of working-time standards. These standards had been adopted over a 90-year period on interrelated issues such as hours of work, weekly rest, annual leave, night work and part-time work, and their ratification record varied. Some of these standards had been revised, and some had been determined to be either outdated or up-to-date by the Governing Body. All had benefited from hundreds of comments made by the ILO's supervisory organs, including a series of General Surveys. All had also been the subject of informal opinions given by the Office on delicate issues of interpretation. All had also given rise to individual cases that had been examined by the tripartite Conference Committee on Application of Standards and Recommendations. Mr Politakis emphasized that there was thus a significant accumulated wealth of experiences, practices and normative statements reflected in these instruments, and an extraordinarily rich and valuable source of information was sparked by their very existence. Consequently, when their relevance became an issue, the question was whether it was certain provisions or formulations that were being questioned, or the core principles of the standards themselves. He added that in his opinion, the challenge would be to find the line separating "flexibility" from deregulation and to move to less "rigidity" without softening legal rules too much. These questions were connected to broader issues of standards policy that were not limited to the area of working time.
54. The final point raised by Mr Politakis was stocktaking: the need to identify the key concepts and elements on which any future discussion on working time should be based. For instance, workers' right to regular and uninterrupted weekly rest or paid annual leave in the interest of protecting their health and well-being and ensuring work-life balance; the need to define the conditions under which and the limits within which overtime might be authorized; the need to fix limits on working hours as a prerequisite to authorizing exceptions; and the role of labour inspection and mechanisms for compliance. Some gaps in existing standards regarding, for example, rest breaks and standby hours could also be identified. A consolidation effort or a new packaging of existing standards might also be envisaged. Mr Politakis emphasized that in his opinion it was necessary to start by searching for agreement on specific principles concerning minimum levels of protection in terms of working time. He noted that an attempt to list such principles had been made in paragraph 37 of the meeting report.

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## Discussion – Existing standards on working time

55. The Chairperson emphasized that the aim of the discussion was not to review or recommend changes to existing Conventions, but rather to provide guidance and suggestions to be used for consideration at a later date by the Governing Body. A distinction should also be made between issues to be covered by standards determined at the international level through the ILO, and other standards more appropriately discussed at the national or enterprise levels.
56. The Worker Vice-Chairperson, speaking on behalf of the Workers' group, expressed his hopes for a willingness from all parties to have an open-minded dialogue. Despite the existence of labour legislation, grey zones such as the informal economy still existed. In these grey zones, governments had the important role to ensure that existing standards were respected. He also emphasized the importance of Conventions Nos 1 and 30 and suggested that the ILO should promote the ratification of these instruments, as many countries that had not ratified them still complied with their provisions in their national legislation.
57. The Worker Vice-Chairperson also highlighted several gaps which existed in the existing working-time standards in regard to: (i) the organization of working time; (ii) worker coverage; (iii) the definition of working time; and (iv) certain kinds of work schedules such as part-time and night work. In regard to the organization of working time, he highlighted the issue of limiting excessive hours. As for worker coverage, he stressed the need for extending the coverage of existing instruments to certain groups of workers such as those in the informal economy and the self-employed. When it came to the definition of working time, he argued that, for example, staggered work hours at the end of the day were not necessarily considered as night work under the current standards. He also raised the issue of new technologies, which according to him had a negative impact on work-life balance and could infringe upon workers' rest time. Finally, in regard to part-time and night work, he mentioned the importance of recognizing particularities associated with these types of schedules. For example, part-time workers may have less access to training or full-time employment. The temporal aspect of night work was also unaddressed in the standards. This was an important issue as doing night work for five, ten or 30 years could have different negative impacts on, for example, the life expectancy of these workers due to the associated health risks.
58. The Chairperson pointed out that the Worker Vice-Chairperson had addressed the first six points in paragraph 37 of the meeting report, and wondered if he would like to address also the remaining three, or allow the Employers to respond beforehand.
59. The Worker Vice-Chairperson responded, pointing out that in regard to point (vii) of paragraph 37, i.e. taking into account the needs of enterprises, measures had already been taken and that enterprises should have minimal standards in place. In regard to point (viii), he stated that he had already in previous sessions pointed out the importance of both collective bargaining and a legal framework.
60. The Employer Vice-Chairperson, speaking on behalf of the Employers' group, highlighted the mandate of the Tripartite Meeting of Experts. He argued that Conventions Nos 1 and 30 had both relevant and irrelevant sections for particular countries and for the discussion. The chapter on standards in the meeting report had reflected differences in the regulation of working time at a global level. He stated that there was a contradiction between the low levels of ratification of relevant Conventions and the high levels of adoption of their provisions in national legislation. He argued that the reason for this was the inflexible "caps" on daily and weekly hours of work established in the Conventions, and the restrictive limits on overtime hours. In general, the low ratification rates of the Conventions on working time, with the exception of the widely ratified Weekly Rest

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(Industry) Convention, 1921 (No. 14), raised questions regarding the utility of these instruments. Moreover, the Conventions relied too heavily on government regulation, not providing sufficient space for collective bargaining, a founding principle of the ILO.

- 61.** The Employer Vice-Chairperson argued that any instrument on working time needed to be flexible, current and up to date. Without widespread ratification, the ILO would have limited possibilities of assisting countries that had not ratified the Conventions. Even ILO advisory bodies had difficulties in implementing Conventions and were critical of aspects of some of them, as evidenced by the 2004 ILO General Survey report. In light of reviewing Conventions Nos 1 and 30 and the standard review mechanism to be adopted by the Governing Body in November 2011, he stated that the Governing Body should consider the option of shelving these Conventions. With that said, ILO standards could still play a role in defining broad principles, but not in defining specific maximum or minimum limits on hours of work. Shifting to other mechanisms besides Conventions, such as codes of practice and handbooks, would be useful for the discussion at the Meeting and for the ILO. Another option could be to define a broad framework of standards for countries to adopt, which would be confined to broad principles instead of focusing on specific details. This would make it easier to accommodate the diversity of countries and enterprises.
- 62.** The Chairperson pointed out that the objective of the Meeting was not to revise existing standards, but to review and provide expert advice to the Governing Body regarding the balance between flexibility and regulation of working time. He then asked the Employer Vice-Chairperson to clarify what specific issues he had concerning the revision of existing standards.
- 63.** The Employer Vice-Chairperson responded that he did not have the intention to prejudge the ongoing process regarding the revision of standards. He expressed hope that the mechanism for doing so would come up with appropriate and dynamic revisions. As for paragraph 37 of the meeting report, he asked to reserve his group's response for another time.
- 64.** The Chairperson requested that the Employers' group take into account the opinions expressed by the other groups in an effort to expedite the discussion. He also pointed out that nothing prevented the ILO from providing assistance to countries that had not ratified certain Conventions.
- 65.** The Employer Vice-Chairperson emphasized that not addressing the issues in paragraph 37 of the meeting report did not diminish their importance, and that he would take account of the comments provided by the experts of the other groups.
- 66.** The Worker Vice-Chairperson raised the issue of the meeting agenda that had been agreed upon prior to the Meeting. He pointed out that the Meeting had to remain within its mandate of examining standards on working time, while taking into account the health and safety of workers. Neither the number of ratifications nor the quality or the relevance of the Conventions on working time was thus supposed to be a subject of the discussion. Social dialogue and collective bargaining were appropriate instruments for dealing with problems between work and the economy, and there was a commitment to protect the social dialogue framework.
- 67.** The Government Vice-Chairperson, speaking on behalf of the Government group, emphasized that the existing ILO Conventions on working time represented an accumulated wealth, with significant value also for governments that had not ratified them. For example, these standards were an important point of reference for Germany, even though the country had ratified very few of them. Nevertheless, the Government group recognized that there might be a need to go beyond existing standards to achieve additional flexibility. Referring to paragraph 37 of the meeting report, he added that within the

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Government group, representatives from developed and developing countries had different perspectives on what such flexibility would entail. For example, the representative of the Government of Germany had argued in favour of deviations from existing ILO Conventions on working time in order to incorporate increased temporal flexibility, whereas the representative of the Government of Brazil had pointed out that in developing countries collective bargaining might be difficult to achieve under equal terms, thus making a strong legal framework necessary. The Government Vice-Chairperson then argued that the Meeting should discuss daily and weekly limits on working time, but that should not necessarily suggest that such limits were needed. For example, legal frameworks considering weekly rest periods would naturally encompass some limits to working hours, as certain days would be reserved for rest where working was thus not possible. Another issue that the Meeting could discuss was the annualization of working time. He concluded by declaring that as an independent expert not representing his country, he could not personally see why there should not be a goal to have an overall global instrument on working time, possibly less detailed than existing instruments but still addressing the key issues.

- 68.** The representative of the Government of Brazil argued that, although his country had not ratified Conventions Nos 1 and 30, the Conventions had still to a large extent been implemented in national legislation. More flexible types of working-time arrangements were desirable; however these had to be regulated and could not compromise factors related to, for example, workers' safety and health. He then concluded that his Government had noticed significant problems with the implementation of national labour legislation, creating a need for powerful labour inspectors to protect workers. In general, in South American countries there was a need for regulating working-time flexibility. Moreover, as working-time issues could only to some extent be dealt with by the social partners, national legislation still had an important role to play.
- 69.** The representative of the Government of South Africa emphasized that although her country had not ratified Conventions Nos 1 and 30, the national legislation was still in line with the provisions of these Conventions. She also stressed the need to balance regulation with flexibility, and the crucial role of labour inspectors.
- 70.** The representative of the Government of Tunisia argued that the Meeting should acknowledge the need to give space for introduction of instruments of working-time flexibility through collective bargaining within national legislative frameworks. In line with several ILO Conventions dealing with different specific groups of workers, and given the technological advances of the past decades, the ILO should discuss the protection of remote workers and how to achieve a proper work–life balance for these workers.
- 71.** The Employer Vice-Chairperson argued that the session should focus on the points for discussion raised in paragraph 153 of the meeting report, instead of discussing the more extensive list of issues in paragraph 37.
- 72.** The Chairperson responded that it was not problematic to discuss the issues raised in paragraph 37, as these were related to the points for discussion in paragraph 153.
- 73.** The Worker expert of Australia insisted that the Meeting needed to take national realities and practices into account. With reference to the statistics outlined in the meeting report, he noted that most workers in developed countries had weekly hours below the 48-hour limit established in Conventions Nos 1 and 30. However, this should not suggest that there was not a need to establish maximum limits, particularly when taking into account the situation in the developing countries. He added that there did not appear to be any resistance against the norm of a paid annual leave of at least three weeks per year. This norm was well-implemented in developed countries, but the ILO should assist developing countries with regard to this issue. He concluded that the situation in the field, as shown by

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the statistics in the meeting report, did not appear to create significant problems for existing Conventions on working time, which could thus not be seen as outdated.

- 74.** The Employer Vice-Chairperson, speaking on behalf of the Employers' group, argued that the Meeting needed to be careful about data and could spend a lot of time discussing a range of different examples from around the world; however, this approach would not lead anywhere in the end. He argued that national laws were one thing and practice was another. In daily life there were many deviations from the national legal frameworks, often negotiated through collective bargaining, due to the rising need for increased flexibility.
- 75.** The Worker Vice-Chairperson declared that, although the Conventions on working time were not widely ratified throughout the world, this did not suggest that they were not relevant. He also noted that the general tendency seemed to be to comply with minimum standards and emphasized that the continued need for such minimum standards still provided space for flexibility.
- 76.** The representative of the Government of Germany responded to the intervention by the Worker representative of Australia and argued that, although Conventions Nos 1 and 30 had been successful at large, the question of the ratifications of these instruments was still an issue. He insisted that if there were to be modern ILO instruments on working time, the Meeting needed to make the point that Conventions Nos 1 and 30 had many parts that indeed remained relevant, but also had other parts that were outdated. The ILO needed standards that could be ratified.

### **Chairperson's summary**

- 77.** The Chairperson concluded the session, stressing the need for balancing flexibility with regulation, and the need for minimum standards in some areas of working time, while recognizing that collective bargaining within a national legal framework could also make significant contributions in the area. The issue of establishing a broader general framework on working time had been raised by the Employers, and there was a need to search for a middle ground on that issue.
- 78.** He concluded that there could not be unlimited work. There was a necessity of having some form of limits on hours of work; the question was where to draw the line. There also seemed to be a general acknowledgement that the review of standards was not an issue for the Meeting, but that it would perhaps be possible to provide the standard review mechanism of the Governing Body with some suggestions.
- 79.** The Worker Vice-Chairperson insisted that his group did not approve of any measure that might call into question the relevance of existing standards, as the Workers' group firmly believed that they remained relevant and could provide a sufficient basis for working-time flexibility.
- 80.** The Chairperson concluded that the focus should not only be Conventions Nos 1 and 30, but rather on the full range of international labour standards regarding working time. He then closed the session.

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## Session 4: Trends, developments and effects with regard to work schedules

### Presentation by the Office

81. Mr Jon Messenger, senior researcher with the ILO's Conditions of Work and Employment Programme, opened the session with a brief presentation about the current situation around the world with regard to work schedules. Mr Messenger opened the presentation by pointing out some key definitions of the following work schedules/working-time arrangements: overtime work, shift work, staggered hours, compressed work weeks, flexi-time arrangements/time-savings accounts, annualized hours/hours averaging arrangements, and "atypical" or "precarious" working-time arrangements.
82. Mr Messenger pointed out that work schedules had both advantages and disadvantages for workers as well as employers, and he highlighted some of these advantages and disadvantages for different working-time arrangements. For workers, both shift work and overtime could mean increased earnings and/or longer periods of compensatory leave, but these schedules could potentially have negative effects on occupational safety and health and on work-life balance. Staggered hours made commuting easier, as public transport was less overburdened during the peak hours, but the new hours could also be inconvenient for some workers. Compressed workweeks were advantageous for workers in the sense that they resulted in longer weekends and reduced time spent commuting, but the longer working days could also lead to increased fatigue and accidents. Flexi-time arrangements and time-savings accounts gave workers increased influence over their working hours, which was beneficial for their well-being and work-life balance; at the same time the degree of "time sovereignty" could be limited by, for example, overloaded time accounts. Annualized hours and hours averaging, finally, meant stable income regardless of hours worked; however, working hours could also be irregular and workers' earnings from overtime work might be reduced or completely eliminated.
83. For employers, overtime and shift work enabled increases in production and longer operating hours, but also meant potentially increased costs for overtime and some administrative costs and difficulties. Staggered hours meant extended operating or shop opening hours and more intensive use of facilities and equipment; at the same time, the "overlapping" starting and finishing times of employees could potentially cause overlapping administrative difficulties. Compressed workweeks reduced costs for starting-up operations and energy, increased productivity and lowered levels of absenteeism; at the same time, the longer working days could also increase fatigue and the risk of accidents. Flexi-time arrangements and time-savings accounts could increase workers' motivation and performance, but the work scheduling was complex and direct supervision of hours was lost. Annualized hours enabled rapid adaptations to increases in market demands and reduction of overtime costs, but the systems were very complex and often difficult to administer. This working-time arrangement was of particular interest to seasonal industries.
84. Mr Messenger also highlighted some of the effects of work schedules that researchers had observed. Empirical findings had found strong correlations between some work schedules, such as shift and night work, and certain physical health problems such as cardiovascular diseases and digestive disorders. The correlation was particularly strong for night work. Research also seemed to indicate increasing problems with work-family incompatibility when it came to so-called "non-standard" work schedules, for example night work and weekend work. However, he argued that it was important to remember that there were an infinite number of possible shift schedules and their health effects may take years to become apparent. Mr Messenger also noted that flexi-time arrangements and compressed

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working weeks had shown positive effects on productivity, reduced levels of absenteeism and increased employee job satisfaction. Research also indicated that providing workers with some degree of choice regarding their work schedules resulted in positive outcomes on workers' health and job satisfaction, as well as firm performance.

## Discussion

- 85.** The Employer expert of South Africa, speaking on behalf of the Employers' group, emphasized the increasing pressure for varying work schedules, and the employers' need to render this pressure compatible with both the productive needs of companies and the legal frameworks in place. In regard to the research conducted by the Office, she addressed the change in the understanding and nature of overtime and the agreed-upon scope for innovation within the legal overtime framework. As for the Employers' view on flexibility, she stressed the importance of context, acknowledging the willingness of employers to adapt and implement more flexibility, while pointing out the impossibility for some firms to implement certain types of work schedules. She concluded by stressing the need to conduct more research on different types of work schedules, using methodological tools such as factual reportage and case studies.
- 86.** The Employer expert of Malaysia, speaking on behalf of the Employers' group, emphasized the importance of promoting mutually agreed part-time work, as this was an important tool for employers to adapt to changes in demand. He further noted the importance of distinguishing between part-time work and casual, ad hoc or on-demand work not based on a continuing contract of employment. He stressed that there were limitations regarding the OECD report on the quality of part-time jobs, and suggested that the Office investigate the barriers or causes for countries which do not provide equivalent entitlements to part-time workers.
- 87.** The Employer expert of Malaysia also pointed out that part-time work was increasing throughout the world. This was driven by employee demands, particularly from those who for different reasons were not able to work full-time. Part-time work also promoted continuity in employment and attachment to the workforce. According to him, trade-offs between flexibility and reduced hours for employees in return for reduced remuneration and reduced opportunities for advancement were acceptable. Moreover, workers' choice of working part-time should be respected instead of paternalistically ignored for fixed minimum numbers of hours. There were problems that part-time work might not lead to sufficient income, especially for men. The possibility to work additional hours might also be dependent on contextual factors, such as care responsibilities. These kinds of mismatches could partially be addressed by governments, for example by making child-care facilities more widely available and flexible to suit employees' working hours. In general, part-time work was good for the community and could be reinforced by governments through, for example, access to social security systems. As for problems related to part-time work, the ILO could raise awareness of the issues and suggest how to address them.
- 88.** The Employer Expert of Malaysia also emphasized that the Employers' group rejected the characterization of new and emerging forms of working-time arrangements as "precarious" or "atypical". According to him, such labels served the political purposes of "othering"; that is, of de-legitimizing and discrediting lawful, mutually agreed and mutually beneficial working-time arrangements. The ILO should not use the politics of "the other" in its research and treatment of changing forms of work. The Employers also rejected the paternalism inherent in the discussion of such arrangements in the meeting report. For instance, the less than 15-hour definition of "marginal" part-time work noted in the report was arbitrary and might not suit some employees.

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- 89.** The Worker expert of Australia, speaking on behalf of the Workers' group, discussed a number of working-time practices, some of them being "new" and "emerging" and some "old" and deserving to be labelled as "abusive". These abusive practices existed in both developed and developing countries and were sometimes provided for by national legislation. He addressed the issue of so-called "zero-hour" contracts, under which workers might be required to be present at their workplace at a particular time only to see if work would be assigned to them and without any guarantees regarding the number of working hours. This could potentially lead to negative wages, as the costs of, for example, childcare and transportation might outweigh the earnings. This was not an issue isolated to developing countries. For example, about 25 per cent of Australian workers worked as casual workers. This kind of arrangement could de facto be described as "atypical" or "precarious". More research should be done here to further outline the extent of this practice. With that said, he stressed that not all part-time arrangements were abusive.
- 90.** The Worker expert of Australia argued that it would be important for the ILO to look not only at maximum, but also at the guaranteed minimum hours of work. This was a crucial issue for workers in order to increase the predictability and stability of work. In Australia, for example, workers were often only guaranteed a minimum of three-hour shifts, which does not provide for an adequate income. Split shifts, during which workers work one shift in the morning and another later in the afternoon, were less of a problem when workers did not commute, but became increasingly inconvenient and costly the longer the distances they were required to travel to get to work. He emphasized that travel time in general was an issue that needed to be discussed. Travel time was not considered as working time in the Conventions previously discussed at the Meeting, despite it being done for the purpose of work and the fact that much work is often carried out when travelling. This was particularly problematic for positions where travelling between multiple sites was common. In general, any work done for the benefit of the employer should be considered when designing appropriate working-time arrangements. "On-call" work was a situation where workers might attend to personal matters to some degree, but this was also an arrangement largely at the behest of the employer. Given the fact that more and more workers were performing work tasks away from the workplace, the definition of working time should be discussed and possibly redefined, and the ILO should be at the forefront of this effort.
- 91.** The Worker expert of Germany, speaking on behalf of the Workers' group, argued that time-savings accounts and practices of annualization could be interesting but were also inherently risky. Time-savings accounts could be considered as a loan that the workers give to the employers, without guarantees. For example, workers had lost enormous savings on their time-savings accounts when companies had gone bankrupt or merged with other companies. There should therefore be guarantees for workers using time-savings accounts and practices such as annualization that the time will be compensated. This practice became especially risky when workers worked over 60 hours per week on average.
- 92.** Work-sharing was interesting as a crisis-response measure, but it had only limited temporal applicability. If the crisis would have continued for a longer period, wages would keep decreasing and it would be infeasible for governments to compensate for this situation. He stressed that part-time workers still faced discrimination, particularly women. Consequently, it was essential to continue the work to improve the conditions for part-time workers. The core problem with part-time work in general was not the workers who worked a significant amount of hours per week, for example between 30 and 35, but rather those who worked the fewest hours. The economic necessity for new schedules of work did not justify practices such as "zero hours" contracts, which were discriminatory and disadvantageous for women in particular. He concluded by emphasizing that certain activities performed outside of the workplace using technological tools such as laptops and

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Blackberries should be considered as work. This issue required increased attention from the ILO.

- 93.** The Worker expert of the Philippines, speaking on behalf of the Workers' group, reaffirmed the previous statements and gave some practical examples of problems related to working-time practices. In the banking industry, arriving half an hour early and leaving late was expected from the employees, and no compensation was provided for this time. In the transport industry, drivers were often paid purely on commission, and they were expected to arrive at their workplace at a certain time based on particular route schedules or to remain on standby. The only remuneration given for this standby time was compensation for the use of public transportation to and from work.
- 94.** The representative of the Government of Germany, speaking on behalf of the Government group, complimented the meeting report and the way that it had outlined the range and diversity of different work schedules. This diversity was one of the main reasons behind the low ratification rate of existing Conventions on working time, as some arrangements like time-savings accounts might be hard to reconcile with the provisions of Conventions Nos 1 and 30. The report also outlined existing problems of "precarious" and "atypical" work schedules such as "zero hours" contracts; this was an issue that the Meeting should try to address. He added that he agreed with the Worker representative of Germany that the issue of equal treatment of part-time workers was also a question of gender discrimination, as more women worked part time than men. A general problem with part-time work from governments' point of view was that part-time workers received lower salaries and thus lower pensions, which might render state-sponsored assistance necessary. He concluded by declaring that, in order to enable more part-time workers to work full-time, provisions such as childcare must be put in place to enable especially female workers to work longer hours. In order to address the issues related to part-time work, there was a need for policy responses both at national and international level, and the ILO should also be a focal point for these discussions.
- 95.** The Chairperson noted that there would always be "good" and "bad" employers. Those who respected the choices and interests of their workers did not necessarily need to be regulated, whereas regulation would primarily serve the purpose of restraining the practices of "bad" employers.
- 96.** The Employer Vice-Chairperson insisted that flexibility was not the same thing as abuse. ILO Conventions did not adequately address problems with "bad" employers, as those employers would simply just ignore them. The regulation and supervision of "bad" employers was an issue best dealt with by national regulation.
- 97.** The Employer expert of Malaysia argued that some workers preferred to work part time and that the Meeting should not attempt to put even more issues on the ILO's plate. In a response to the intervention by the Worker expert of Germany, he declared that the regulation of part-time work would be discriminatory to women and that the goal should be to remove barriers to part-time work.
- 98.** The Employer expert of South Africa emphasized that discussing the impact of new technology should not be a priority for the Meeting. This was not a relevant issue at all for low-skilled workers and other large groups of workers.
- 99.** The Employer Vice-Chairperson argued that given the ILO's scarce resources, the Meeting needed to identify specific areas where the Office should concentrate its efforts. The focus, he argued, should be on weak groups of workers and these workers did not work with modern technology like laptops and Blackberries. He added that although technological tools were frequently used for work outside of the normal working hours, they were also used for things other than work during working hours.

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- 100.** The Worker Vice-Chairperson stated that the discussion had shown that there was some common ground for agreement over specific issues. International labour standards had an important role to play to encounter unfair practices, but collective bargaining was also an important tool to compliment standards and national legislation. He added that in the same way as there were “bad” employers, there were also “bad” workers who did not fully comprehend the long-term health consequences of certain types of working-time arrangements in general, and excessive hours in particular and thus needed to be protected from themselves. Moreover, in many cases workers de facto have no other option but to accept certain types of work schedules, which made the question of an overall regulation important.
- 101.** The Worker expert of Australia insisted that new technologies did have an impact on many types of workers also in developing countries, an example being the rise of call centres in countries such as India. It was thus important that the ILO did not underestimate the impact of new technologies and should aim at staying up to date with modern realities. He then asked whether experts advocating hourly contracts for workers would also be prepared to accept contracts by the minute.
- 102.** The representative of the Government of Germany argued that it would not be productive for the Meeting to focus too much on the impact of modern technology. He noted that work was in many cases becoming increasingly dense, and this was an issue with, for example, call centres where the work might be very intense with few breaks. Taking this situation into account, the quality of working time should be an important subject of debate.
- 103.** The Chairperson pointed out that the goals of ILO standards were both to provide protection for the most vulnerable, but also to inform national legislation while not aiming at taking its place. The ILO would have to be careful with any possible new standards, and particularly not to make them too detailed as this would complicate ratification.
- 104.** The Worker expert of Germany insisted that the Meeting needed to try to find some kind of agreement regarding modern technology, as this had become an increasingly important issue during recent years. He added that as for the question of time-savings accounts, there was a possibility for achieving increased flexibility as long as the maximum limit of any given week did not exceed the 48-hour limit as provided by Conventions Nos 1 and 30.
- 105.** The Worker expert of Australia argued, as a response to the intervention by the representative of the Government of Germany, that the interaction between technology and working time was interesting, but that the time was not yet right for a new ILO Convention on this matter. He added that this was a fundamental issue and connected to the definition of working time itself. This could not be left only to national legislation to define.
- 106.** The Employer Vice-Chairperson declared that he did not see the need for the ILO to deal with issues around the impact of new technology on working time. What should be discussed instead was the issue of vulnerable workers. He concluded by insisting that new technologies could also in many cases have a positive impact on workers and work–life balance.
- 107.** The Worker Vice-Chairperson argued that the Meeting was not likely to reach an agreement on what should count as working time. When defining working time, it was necessary to take into account new forms of working-time arrangements, which had the potential of improving work–life balance but also the potential of damaging it.

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## Chairperson's summary

108. The Chairperson concluded the session, stressing that the discussion had pointed to many different areas regarding work schedules where the ILO could potentially make an impact, but given the scarce resources of the Organization, it would be necessary to identify and reach consensus on what the key priorities for the ILO's work should be.

## Session 5: The recent crisis experience

### Panel discussion

109. The session opened with a panel discussion on working-time arrangements as crisis-response measures. The discussants were Dr Steffen Lehndorff of the Institut Arbeit und Qualifikation of the University of Duisburg-Essen (Germany); Dr Erinc Yeldan of the Department of Economics of Bilkent University, Ankara (Turkey); and Ms Susan Hayter of the ILO Industrial and Employment Relations Department (DIALOGUE) in Geneva.
110. Dr Lehndorff noted that the main working-time issue in the twentieth century had been standard setting intended to reduce the number of working hours. He used two examples to illustrate that standards remained relevant also in the twenty-first century: in Turkey, some 40 per cent of workers continued to work usually more than 48 hours a week, while in the United Kingdom the share of workers usually working over 48 hours per week had declined over time with actual practice increasingly matching the standard. This showed the continuing value of standards for the future. However, he argued that it was time to add "negotiated flexibility" as a new component on working time. In the area of working time, there were overlapping interests of workers and employers and, hence, negotiations were an option. The State had an interest to support such negotiations as a means of safeguarding employment.
111. During the 2008–09 recession, employment in Germany had remained remarkably stable, coupled with a sharp decrease in the number of hours worked and productivity. Working-time reduction was achieved through a short-time working scheme, *Kurzarbeit* (work-sharing), and individual working-time reductions negotiated locally. This enabled companies to maintain their skilled workforces and to regain previous levels of productivity rapidly, while workers benefited from continued employment. As an example of innovative work-sharing beyond the crisis scenario, Dr Lehndorff referred to a large industrial company in the steel sector which, through collective bargaining, had reduced working time for staff on shift work while hiring some 2,000 new apprentices, as a means to satisfy the enterprise's projected future needs for skilled workers.
112. Dr Yeldan presented the Turkish case of coping with the crisis by the reduction of working time aided by a work-sharing scheme established under the Turkish Labour Code. Employers facing difficulties related to factors external to the enterprise could apply to the Turkish Employment Agency for permission to implement a period of reduced working time. Under this programme, workers were paid out of the unemployment insurance fund at a rate of 60 per cent of gross monthly earnings capped at 150 per cent of the gross legal minimum wage, while two-thirds of the health and maternity premiums were paid by the Turkish Social Security Institute. However, the employees concerned had to have worked continuously for at least 120 days prior to the implementation of the programme, and had to have accumulated at least 20 months of unemployment insurance premiums. The Turkish programme helped to moderate the increase in unemployment during the crisis and to rapidly bring down unemployment to pre-crisis levels. Trade unions viewed the

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experience generally positively, while employers were also quite positive but would have wished for greater flexibility in the application of the programme.

- 113.** The Turkish work-sharing programme was very small at its start in 2005. However, the programme grew rapidly following the outbreak of the crisis, and by the end of May 2011 in total 268,081 workers from 3,532 enterprises had benefited from the scheme. It was estimated that 100,353 jobs could have been preserved by the programme at a cost of 207 million Turkish lira (approx. \$125 million, \$727 per job preserved). Without the programme, the 2010 unemployment would have been 3,147,000 (12.3 per cent) instead of 3,046,000 (11.9 per cent). An assessment of the scheme found that jobs were preserved at relatively low fiscal cost; that there was increased formalization; and that all parties involved showed a positive interest in the programme. However, strict constraints on management decisions and concerns from larger enterprises regarding how their use of the scheme would be viewed by the market were issues to be dealt with in the future.
- 114.** Ms Hayter emphasized the role that collective bargaining had played during the crisis, particularly to avoid lay-offs, and detailed the differences between the concerns and objectives of both employers and workers. For employers there were concerns regarding maintaining liquidity, reducing productivity, reducing costs, and retaining qualified staff. For workers, there were concerns regarding job security, protecting incomes, and promoting fairness in cost-saving measures throughout the enterprise. She detailed and illustrated a number of aspects that influenced negotiation responses to the crisis, including the economic situation, the strategies of the social partners, existing public policies, and industrial relations systems. Factors that shaped collective bargaining included tripartite consultations, the introduction or extension of support for short-time working-time arrangements (work-sharing), a reliance on company or sectoral collective agreements for implementation, and an increased incidence of collective bargaining. The outcomes of negotiations were a trade-off between adjustments to compensation (in the form of, for instance, wage cuts, freezes, or even increases), measures to secure employment and importantly, working-time negotiations. These outcomes were tailored to the interests of individual employers and workers, and could encompass issues such as the introduction of flexible working time, limiting overtime, shortening the regular working week, or temporary lay-off schemes. These measures were generally implemented with the understanding that they were temporary adjustments to the crisis, and were not to be used as an excuse to undermine employment standards.
- 115.** Ms Hayter insisted that the outcomes of most collective bargaining led to the preservation of jobs, and bought time for enterprises to bridge the crisis. An example of successful sectoral bargaining took place in the French chemical industry, where statutory provisions for *chômage partiel* (work-sharing) were extended along with improved compensation of 80 per cent of reduced wages. Examples of successful bargaining at the enterprise level included Argentina, where production workers of Deutz Agco Motors were suspended for five months in 2009 and received 70 per cent of their basic salaries, while companies continued to pay social security contributions. Overall, the lessons learned from the crisis were that collective bargaining institutions could be flexibly responsive to a crisis, and that there was a key role for the State in supporting collective bargaining (particularly in terms of short-time work arrangements or training). Moreover, there was a need to increase knowledge regarding potential alternatives to lay-offs that were not being extensively used, and to strengthen the role of collective bargaining as a valuable tool to enable social partners to find solutions.

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## Discussion

- 116.** The Employer expert of the United Kingdom, speaking on behalf of the Employers' group, pointed out that in his home country, the impact of the crisis had been more dramatic than originally expected. He emphasized the importance of discussing working-time arrangements. Due to increasing financial pressure on governments, and the fact that employers were still trying to recover from the previous recession, there were more limited capacities to actively encounter economic downturns in order to limit job losses. The best crisis-response measure for governments was to allow more flexibility during times of economic growth, as this would allow employers to grow and be more adequately prepared to encounter economic downturns. He added that the ILO should consider a range of possible responses that were beneficial to workers and employers in individual workplaces, and not look only at work-sharing arrangements. Other responses could, for example, be changes in the shift schedules and even promoting voluntary career breaks with reduced salaries. This latter approach had been tried in the United Kingdom and had proven very popular among workers. He also emphasized that collective bargaining was not the only method available, as bargaining between the employers and individual workers had proved to be effective as well.
- 117.** He also stressed the long-term limitations of work-sharing. Taking the example of the United Kingdom, he pointed out that although employers had been able to minimize job losses using work-sharing, this had also led to a subsequent decline in output per worker and an increase in labour costs per unit of output. While output per worker remained at levels below those in 2006, unit labour costs were 13.3 per cent higher, thereby straining the resources of employers. In this regard, he questioned the long-term viability of work-sharing. He then pointed out that with regard to the Global Jobs Pact, the Employers did not believe in putting any option on or off the table, it was necessary to consider a fuller range of crisis-response measures.
- 118.** The Chairperson responded to the Employer expert of the United Kingdom's request to pass the floor to his German colleague in the Employers' group, pointing out that he hoped that the subsequent speaker for the Employers' group would not focus exclusively on work-sharing. He also emphasized his reluctance to permit further discussion regarding the ILO Global Jobs Pact, particularly since the Employers provided strong support for the Pact in other contexts.
- 119.** The Employer expert of Germany addressed two aspects of the German work-sharing programme, *Kurzarbeit*: (i) the importance of social partnership; and (ii) the long-term viability of work-sharing. As of the first point, he argued that the reason why the German work-sharing programme had largely been a positive experience was mainly because of the strength of social partnerships in Germany. The contextual factors were thus crucial, and the German experience should consequently thus not be considered as a one-size-fits-all solution for other ILO member States. As for the second point, he insisted that work-sharing was a costly venture for employers, workers and governments, and that such schemes should only be used for short periods, as laying off workers became more cost-efficient if the economy did not recover quickly.
- 120.** The Worker Vice-Chairperson, speaking on behalf of the Workers' group, argued that he agreed with the Employers' group that work-sharing programmes needed to be considered as a strictly temporary measure. The long-term use of work-sharing programmes would fuel an austerity cycle which could be damaging for the larger economy. He also addressed the root cause of the global economic problems, which according to him was due to a drift in the financial system. Policies directed at the financial sector needed to be considered. In a response to the Employer expert of the United Kingdom, he argued that flexibility would allow companies to accumulate more money, but it would not create jobs. For example,

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thanks to increased flexibility, companies would be able to change working hours more easily, thus limiting the need to hire new workers.

- 121.** The Worker Vice-Chairperson also addressed several items about which the social partners should be cautious. Referring to the use of training to give workers new skills during the recent crisis, he suggested that it had been of very limited use. He also emphasized the need to make a distinction between firms whose problems were due to the economic crisis, and firms whose problems were mainly a result of poor management or organization that could use the crisis as a pretext to receive assistance from the government. He concluded by stressing the importance of tripartite social dialogue and collective bargaining in crisis management.
- 122.** The Worker expert of Germany argued that, although the overall cost for an employer to implement a work-sharing programme vis-à-vis lay-offs of employees might not be lower, work-sharing benefited employers in the sense that it was positive for the employment relationship and enabled them to retain skilled workers. This places them in a better position to rapidly respond to increasing market demands when coming out of the crisis.
- 123.** The Worker expert of Australia highlighted some examples from his country. Firstly, he emphasized the importance of social partnership through an example of two industries: mining and manufacturing. The mining industry had de-unionized during the past decades, whereas the manufacturing industry was still strongly unionized. In light of the crisis, employment fell by more than the output in the mining industry, whereas the opposite was the case in the manufacturing industry. Secondly, he stressed the importance of concentrating policies and assistance to those areas of the economy most adversely affected. He also reaffirmed the importance of viewing work-sharing as a temporary solution and argued that a clear distinction needed to be made between policies used to address the crisis and those used to address more structural changes in the economy.
- 124.** The Government Vice-Chairperson commented on the Turkish example, noting that the Turkish programme showed well that small and medium-sized enterprises could also benefit from work-sharing measures and not just larger companies. Although the programme implemented in Turkey was not as large as its German counterpart, there were thus nonetheless lessons to be learned from both examples, as well as from the collaboration among social partners during the crisis, including that the applicability of work-sharing was not limited to Germany alone.
- 125.** The Government representative of Japan pointed out that the Japanese work-sharing programme had encompassed about 2.5 million workers in 2009. As with several of the previous speakers, she reiterated the importance of viewing work-sharing as a temporary measure and stressed the crucial role of tripartite cooperation regarding this measure.
- 126.** The Government representative of Tunisia provided insight into the case of Tunisia. He stated that in light of the financial crisis and subsequent to the 14 January revolution, certain policy measures had been taken. For example, the Tunisian State had paid a portion of employers' share of social benefits, and there was a reduction of weekly working hours by eight hours. He also pointed out that in Tunisia, collective negotiations occurred once every three years, thus allowing workers to have more certainty regarding their wages, and employers more certainty regarding their costs.
- 127.** The Employer representative of South Africa described how the South African textile industry had recently implemented a programme allowing young people to be hired at a reduced wage rate. The unions had initially opposed the programme, but negotiations between employers and workers had resulted in an agreement. At the same time, she also mentioned wage subsidies for young people which the Government made available, but which was yet to be accepted by the unions.

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128. The Chairperson pointed out the time constraints and asked Ms Hayter to respond to questions regarding training.
  129. Ms Hayter responded that training was not extensively used, and added that training was concentrated in certain sectors.
  130. Dr Lehndorff pointed out that the previous presentation by Dr Yeldan regarding the case of Turkey had shown that work-sharing was also applicable to small and medium-sized enterprises. He also emphasized the importance of creating institutional arrangements which align with the context in a given country.
  131. The Chairperson thanked the participants and closed the session.

## **Session 6: Contemporary policy issues with regard to working time**

### **Introduction**

132. The Chairperson opened the session, inviting the experts to start contemplating the draft conclusions of the Meeting. Preliminary discussions had indicated a consensus for keeping the conclusions concise in order to provide clear guidance to the ILO for moving forward in the area of working time. He emphasized that the Tripartite Meeting of Experts should not be viewed as the end, but rather as a starting point for a renewed emphasis and discussions on working time, and the identification of key issues for the ILO to address in the upcoming years, for example at the recurrent item discussion at the International Labour Conference in 2015.

### **Discussion**

133. The Worker Vice-Chairperson, speaking on behalf of the Workers' group, outlined a number of issues that his group believed that the ILO should focus on. These were:
  - (a) the fact that many workers continued to work excessive hours, thus exceeding the norm of a maximum 48-hour working week established by international labour standards;
  - (b) promoting the ratification and understanding of the Night Work Convention, 1990 (No. 171), as there were many problems related to the implementation of the provisions contained within this instrument;
  - (c) reaffirming the importance of collective bargaining, while still acknowledging the role of national legislation;
  - (d) examining the divergent national definitions of maximum and minimum working hours, and focus on making sure that those definitions take the health and safety of workers appropriately into account;
  - (e) drawing attention to different aspects of part-time work, such as informal work in which the application of standards was often ignored, in developing as well as in developed countries;
  - (f) highlighting problems related to different working-time arrangements such as staggered hours, "zero hours" or "on-call" contracts and the remuneration thereof, as

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well as problems with supervisory staff and the disparity between classical conceptions of working time and newer forms of working-time arrangements;

- (g) the ILO should also contribute to research on the boundaries of the workplace and the associated encroachment of work into private life.

**134.** The Worker expert of Australia, speaking on behalf of the Workers' group, summarized a number of related issues that should also be taken into consideration for investigation in due time. These issues were the impact of technology on working time (for example in terms of recording working hours), notice periods for working-time arrangements and roster issues (which were usually considered at the national level), split shifts, the ratio of travel/preparation time in relation to "actual" working time, the position of interns and volunteers in terms of working time, and finally, finding a modern definition of the term "working time".

**135.** The Employer expert of Colombia, speaking on behalf of the Employers' group, emphasized that the Employers' group did not consider that the 14 policy issues proposed in Part V of the meeting report were the main contemporary working-time issues, nor that they should be the priority for the ILO's future work in the area of working time. He argued that Part II of the meeting report had suggested that most of the issues later listed in Part V were already to a large extent dealt with by national legislation. Instead, the discussion should focus on in what way the regulation and organization of working time could best contribute to desired labour market outcomes in terms of productivity, employment and the sustainability of enterprises. He then listed the priorities identified by the Employers' group. These were:

- (a) regulatory frameworks to vary the organization of work in order to suit both employers and workers;
- (b) understanding how employers and workers were agreeing to vary default working-time arrangements, including agreeing to make them more flexible;
- (c) understanding how temporal and functional flexibility were being used to meet changing customer demands and social changes;
- (d) understanding how temporal and functional flexibility were being used to meet employee demands regarding changing the organization of their work;
- (e) understanding how businesses were aligning the organization of work with their human resource and remuneration strategies;
- (f) understanding how businesses were adjusting the organization of working time to respond to crises;
- (g) understanding how the organization of working time was being managed by individual or workplace-level agreements, as well as collective options;
- (h) Understanding how working time was being organized and managed in SMEs, and the needs and preferences of SMEs and their employees regarding working time. This was an important issue for the Employers' group;
- (i) improved understanding of informal, ad hoc accommodations regarding working time;

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- (j) Improved understanding of whether pressures on employers and employees were ultimately due to different contextual factors such as dysfunctional childcare services, poor public transport and protracted commuting times.
- 136.** The Employer Vice-Chairperson noted that the core ILO working-time standards were not being challenged in the discussions of the Tripartite Meeting of Experts, but that this discussion would come further down the road. He argued that what the Office should do was to monitor developments and promote materials globally. With regard to working time, this should include monitoring patterns of work, gathering data on working time, and gathering data on working-time provisions in collective agreements. This information should be monitored at the national and international level. The ILO should also aim at becoming the world leader in client-focused research for effective policy-making on working time.
- 137.** The Employer Vice-Chairperson pointed out that employers understood that workers wanted new working-time arrangements to address work–family issues. At the same time, workers also understood the markets’ need for flexibility. Employers wanted to overcome barriers to allow more substantial informality in organizing working-time arrangements. The default line in this case was the legislation on working time. Both workers and employers needed legal frameworks for negotiating working time, but consideration should be given to national collective bargaining to meet workplaces’ needs within national frameworks. Working time must be lawfully negotiated in unionized and non-unionized workplaces, often through individual workplace agreements.
- 138.** The Employer Vice-Chairperson added that work-sharing was an example of the vital role of work organization, but that workers, employers, and governments needed to adjust to use it. As for the negotiation over the possible implementation of a work-sharing programme, he argued that in many parts of the world, such as in North America, the vast majority of workers were not covered by unions, and this fact needed to be taken into account.
- 139.** The Government Vice-Chairperson, speaking on behalf of the Government group, requested that the ILO conduct more work on issues related to part-time work, especially with regard to equal treatment among other issues. He argued that an inter-relationship between part-time work and “atypical” working-time arrangements appeared to exist. Part-time work raised a number of issues, as part-time workers worked shorter hours, which had an impact on, for example, their social security entitlements. More information was needed on social trends with regard to part-time work, and the implications for society if more and more workers were to work part-time. He pointed out that the Netherlands was an example of a country with a high instance of part-time work, and that this had affected the country in different ways.
- 140.** The Government Vice-Chairperson emphasized that social dialogue and collective bargaining on working time were important elements of measures such as using work-sharing as a crisis-response measure. Daily, weekly or annual limits on working time were controversial, but nevertheless an important social aspect of labour legislation. He pointed out that governments were divided when it came to negotiations within the law and allowing social partners to have the authority to conduct industry or workplace negotiations on working time. He concluded by insisting that the ILO should take a more active role and be a global leader on working-time issues, a point of agreement with the Employers’ group.
- 141.** The Chairperson declared that the previous interventions by the three Vice-Chairpersons had pointed to a number of points of agreement. These points included that the ILO should engage more actively in research and analysis on working time and work organization issues for the benefit of employers, workers and governments. He stressed the important

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role of social dialogue and collective bargaining when determining working time, and highlighted the point raised by Employers and Governments about how working-time issues fit with government policies, including infrastructure and social policy. He concluded by noting that the constituents attending the Meeting were looking to the ILO regarding how to deal with changes in the area of working time, be it in the context of a crisis or in another situation.

142. The Employer Vice-Chairperson argued that there were areas of broad agreement that needed to be clarified. There was a need for information and a better understanding of different distributions of working time in developing and developed countries, and this information should be disaggregated by gender. The research conducted by the ILO should be approached in a tripartite manner, with research that could be either retrospective or prospective in nature.
143. The Worker Vice-Chairperson suggested that future research would need a starting point in terms of sensitivity with regard to the terminological definitions used by governments and employers, while acknowledging that the definition of working time used by employers and governments was not always the same. He added that although workers may disagree with governments and employers on certain working-time issues, there were also points of agreement as well. When discussing working-time arrangements, it was important to take different national experiences into account, such as the variable hours system in France, where employers discuss working time with worker teams. In France, the companies and trade unions incorporated such a system in the collective bargaining agreement as a branch-level agreement, with legislation backing up the system.
144. The Worker Vice-Chairperson also noted that there were points of divergence in working-time arrangements between those workers organized in trade unions and those who were not unionized. He acknowledged the problem of low trade union membership in certain parts of the world, such as in North America. However, he suggested that discussions of working time should involve tripartite partners, and that a systemic approach to collective bargaining within a tripartite framework was necessary.
145. The Chairperson emphasized that the ILO was dealing with social dialogue between organized social partners, and that this was not going to change even though a significant number of workers throughout the world were non-unionized and a significant number of employers were not members of employer organizations. National legislation could still provide an adequate framework for non-unionized workers and employers to obtain good conditions of employment.
146. The Worker expert of Australia asked for clarification from the Employers' group regarding whether they accepted that the existing "caps", i.e. limits regarding hours of work established by ILO standards on working time, were already "fixed", and that the Meeting should thus concentrate on seeking agreement over how to achieve flexibility within the existing framework.
147. The Employer Vice-Chairperson responded, arguing that the Tripartite Meeting of Experts should not get bogged down in a debate over characterizations, but should instead focus on the big issues. He added that his group did not intend to challenge existing standards at the Meeting, but rather to concentrate on what could be achieved within the frameworks provided by them.
148. The Chairperson emphasized that the Meeting should consider broader work that the ILO could conduct within the area of working time, for example, the monitoring of new trends and finding examples of good practices from around the world.

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- 149.** The Worker expert of Australia argued that he still wanted clarification from the Employers' group as to whether the group was seeking an extension of the maximum number of weekly hours beyond the 48-hour "cap" established by international labour standards.
- 150.** The Employer Vice-Chairperson responded that at the national level, there were still many exceptions to this "cap", for example in Canada where some workers could work up to 60 hours per week. He added that the Employers' group was not striving to undermine social dialogue, but simply to achieve recognition that there were plenty of situations where agreements on working time were being negotiated on an individual basis between employers and non-unionized workers.
- 151.** The Worker expert of Germany asked for clarification from the Employer Vice-Chairperson regarding whether this meant that there was a preference for social dialogue and collective bargaining when this was possible.
- 152.** The Employer Vice-Chairperson responded that the Employers' group recognized the importance of social dialogue, something which he argued had been well-illustrated by the presentations on work-sharing during the crisis that had been held during the previous session, but that this should not necessarily suggest that social dialogue was always the preferred approach per se.
- 153.** The Worker Vice-Chairperson argued that the Meeting needed to avoid misunderstandings. From the workers' point of view, the essential point was the negotiations taking place between employers and non-unionized workers were still conducted within a well-defined legal framework and standards previously agreed upon through instruments such as collective bargaining.
- 154.** The Government Vice-Chairperson insisted that the discussion should also deal with areas where ILO standards on working time were not respected. He declared that, from the point of view of the German Government, it would be problematic to replace collective bargaining and collective agreements with individual negotiations.
- 155.** The Chairperson pointed out that the question of what role the ILO should play to ensure good practices in situations where no collective bargaining took place seemed to be an issue which should be further investigated.
- 156.** The Worker Vice-Chairperson responded that, although he agreed with the Chairperson's previous comment, this was not an issue isolated to working time, and hence the focus of the Meeting should not lie there.
- 157.** The Employer Vice-Chairperson agreed with the previous comment by the Worker Vice-Chairperson, and he added that the current discussion seemed to go a bit too far. There was a need to specialize more and focus on concrete issues where there was a possibility to reach an agreement.
- 158.** The Chairperson closed the session by emphasizing that the following discussions should focus on finding common ground, while ensuring that contentious issues did not fall off the agenda.

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## Consideration and adoption of conclusions by the Meeting

- 159.** Following the completion of the discussion over the main policy issues regarding working time in the twenty-first century, it was agreed that the remaining time of the Meeting would be spent discussing and considering the draft conclusions. The objective was to reach consensus on what concrete proposals the Meeting should submit to the Governing Body regarding the future actions of the ILO on working time, in order to address the major issues regarding working time in the twenty-first century.
- 160.** After comprehensive and constructive deliberations covering a wide range of issues, a revised set of conclusions was unanimously adopted at the final sitting of the Meeting. These conclusions are appended at the end of this report.

## Closing remarks

- 161.** The Vice-Chairpersons of the three groups expressed satisfaction with the adopted conclusions and gratitude that all parties had been able to reach an agreement regarding the conclusions. They all complimented their counterparts in the other groups for their constructive attitude and willingness to engage in an open-minded dialogue, as well as their give-and-take approach when attempting to reach consensus regarding contentious issues, which had ultimately advanced the discussions and enabled the Meeting to reach an agreement acceptable and satisfying to all parties. Finally, they also thanked the Office for its commitment and hard work throughout the week of the Meeting.
- 162.** Ms Manuela Tomei, Director of the ILO's Labour Protection Department and Secretary-General of the Meeting, thanked the participants and complimented them on the adopted conclusions. She emphasized that the Meeting and its conclusions represented an important step forward in the area of working time, and that the Office now had received clear guidance as to where to concentrate its resources for the future. She also expressed hope that the Meeting was the starting point of increasing discussions on working-time issues at both international and national level. She concluded by thanking the Meeting secretariat and other personnel involved in the Meeting for their hard work and dedication.
- 163.** The Chairperson expressed satisfaction with the adopted conclusions and thanked the Vice-Chairpersons for their hard work and commitment throughout the Meeting, as well as all of the participating experts. He pointed out that as a next step, the Office would prepare a draft report of the Meeting in the three official languages of the ILO. The intention was to circulate this draft report among the meeting participants for their comments by the end of November. The meeting participants would then be able to provide the Office with any comments that they might have on the draft within two weeks' time. Thereafter, the Office would prepare and distribute the final version of the report of the Meeting in January 2012. The report would then be submitted to the March 2012 session of the Governing Body, along with the agreed-upon conclusions of the Meeting, for its consideration and action. The Chairperson concluded by thanking the Office for its work and efforts throughout the Meeting. He then closed the Meeting

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# Conclusions of the Tripartite Meeting of Experts on Working-time Arrangements

## Working time in the twenty-first century

1. The Tripartite Meeting of Experts on Working-time Arrangements was convened by the ILO Governing Body in Geneva, from 17 to 21 October 2011. The experts noted the importance of working time, its regulation, and organization and management, to:
  - (a) workers and their health and well-being, including opportunities for balancing working and non-work time;
  - (b) the productivity and competitiveness of enterprises;
  - (c) effective responses to economic and labour market crises.
2. The experts discussed various recent developments relating to working time, including developments in levels and patterns of hours worked at aggregate and average levels, and developments in the organization of working time at the individual, workplace, industry and national level. Specifically:
  - (a) hours of work;
  - (b) part-time work;
  - (c) organization of working time;
  - (d) crisis experiences and crisis-response measures;
  - (e) regulatory framework, role of social dialogue and collective bargaining;
  - (f) related public policies;
  - (g) data on hours of work and working-time arrangements.
3. The experts also had the benefit of a preparatory report, *Working time in the twenty-first century*, which provided a summary of various contemporary developments, including selected statistical indicators.
4. The experts recognized that the provisions of existing ILO standards relating to daily and weekly hours of work, weekly rest, paid annual leave, part-time and night work, remain relevant in the twenty-first century, and should be promoted in order to facilitate decent work.
5. The experts noted the recurrent item on labour protection which will take place at the International Labour Conference in 2015.

## Hours of work

6. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance on:

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- (a) what lies behind differing distributions in hours of work in developed and developing countries, including hours of work over 48 per week and gender dimensions;
  - (b) working hours of categories of workers excluded from the scope of existing Conventions on working time, including protection for them;
  - (c) the effects of new information and communication technologies on the organization of working time and work–life balance;
  - (d) working hours in the informal economy;
  - (e) predictability and significant variability of working hours.

### **Part-time work**

- 7. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance on:
  - (a) barriers to mutually agreed and freely chosen part-time work which meets the needs of both employers and workers;
  - (b) access to conditions of employment equivalent to those of comparable full-time workers, including with regard to access to social security coverage;
  - (c) policies and overall conditions that may help workers to transition between full and part-time work, where mutually agreed and freely chosen, and which meets the needs of both employers and workers.

### **Organization of working time**

- 8. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance on the contemporary organization of working time, relevant to the circumstances of all workers and employers – including in small and medium-sized enterprises (SMEs) – whether subject to the collective determination of terms and conditions of employment or otherwise.

### **Crisis experience and crisis-response measures**

- 9. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance on the use of crisis-response measures, as follows:
  - (a) the role and impact of working-time adjustments in response to crisis on: employment, wages and working conditions; and enterprise sustainability and productivity improvements;
  - (b) the budgetary and macroeconomic impact of government initiatives to support working-time adjustments in response to crisis;
  - (c) the use and impact of working-time crisis responses in SMEs.
  - (d) the use of training and retraining as part of working-time crisis response measures.

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## **Regulatory framework, role of social dialogue and collective bargaining**

10. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance in the use of, and relationships between, legislation, social dialogue and collective bargaining in the regulation and organization of working time.

## **Related public policies**

11. The ILO should monitor, research, circulate information and, upon request, provide advice and technical assistance on broader national policy and infrastructure issues that can impact on individuals' organization of their working and non-working life, with consequences for employers and the organization of work.

## **Data on hours of work and working-time arrangements**

12. The ILO should:
  - (a) encourage national governments, in consultation with employers and workers' organizations, to collect working-time data to provide a solid foundation for evidence led policy making;
  - (b) compile comparable international data on working time, including hours of work and the organization of working time, in order to facilitate a more regular analysis of working-time trends and developments, and their implications for ILO constituents;
  - (c) support developing countries through the development of accessible and cost-effective means to collect indicative data, reflecting their needs and capacities.



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**List of participants**  
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