



## Governing Body

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GB.334/POL/PV

Policy Development Section

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## MINUTES

### Policy Development Section

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## Employment and Social Protection Segment

### First item on the agenda

#### Follow-up discussion on the voluntary peer-review mechanisms of national employment policies ([GB.334/POL/1](#))

1. *The Employer spokesperson* said that he was pleased to note that the concerns his group had raised at the March 2018 session were fully reflected in the document's main guiding principles. It was important to avoid duplication of work on national employment policies, ensure that volunteer countries were not ranked or judged, and guarantee that the proposed reviews added value to the existing international labour standards supervisory mechanism. He proposed the prior development of a guiding framework on modalities of discussions on the global synthesis report, as a safeguard to avoid subjective judgements. He asked who would pay for the reviews and follow-up activities. The Employers agreed that volunteer countries should contribute and wished to know whether funding would be taken from the Regular Budget Supplementary Account or from extra-budgetary technical cooperation resources, as adjustments would be required. He also asked whether there continued to be a strong interest in the reviews among Governments, in view of the new cost estimates of over US\$2.8 million over the four-year cycle. The Employers had no objection to the draft decision, but would like further clarification from the Office on funding modalities.
2. *The Worker spokesperson*, thanking the Office for the inter-sessional consultations that had been held, said that his group attached great value to the peer-review mechanism and broadly agreed with the compromise proposal as presented in the document. He welcomed the proposal to prepare global synthesis reports and to organize global employment policy events, which would maximize mutual learning and exchange, and the proposed use of the findings in the preparation of the report for the recurrent discussion on employment at the International Labour Conference. He emphasized that the process should be truly tripartite throughout. Moreover, it should be based on and assess all elements of the comprehensive employment policy framework adopted by the Conference in 2014 and be guided by the Declaration of Philadelphia, the Employment Policy Convention, 1964 (No. 122), and Recommendation, 1964 (No. 122), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Global Employment Agenda and the Declaration on Social Justice for a Fair Globalization. Lastly, technical assistance should be provided to participating countries requesting such assistance in order to improve employment policies and national employment outcomes. The Workers endorsed the draft decision.
3. *Speaking on behalf of the group of industrialized market economy countries (IMEC)*, a Government representative of Finland said that her group did not support the creation of a voluntary peer-review mechanism. While it supported the overall goals, guiding principles and voluntary nature of the proposed process, the associated costs and resources were significant. It was unclear why the Office would provide technical assistance in drafting country self-assessments or fund tripartite meetings at the national level, how the proposed global employment policy events would relate to the Conference's recurrent discussion on employment and whether the costs of those events were included in the estimate. She asked which ILO activities would have to be foregone in order to make available nearly US\$3 million for the peer-review exercise, what added value the proposed mechanism would yield and how duplication of efforts with other relevant ILO processes and activities of international organizations would be avoided. An immense amount of information was already available that would serve the same purpose as the peer review and might have

greater potential to promote long-term progress. In the current context of external and internal reforms, all new cost requirements for the ILO must be scrutinized. Her group had serious doubts about the added value of the proposed mechanism and concerns about the estimated costs and so did not support the draft decision.

4. *A Government representative of India* said that peer review should be truly voluntary, promote mutual learning and exchange and not lead to comparisons or ranking of countries in terms of performance. The ILO should provide technical support to volunteer countries. National tripartite self-assessment reports should aim to identify challenges and issues faced by individual countries and discussions at subregional peer-review workshops should be constructive. The exercise should trigger policy and institutional reforms, identify the capacity-building needs of Governments and social partners, develop proposals for technical assistance and contribute to the country's overall development process. India supported the draft decision.
5. *A Government representative of Nepal* said that the proposed mechanism was a positive initiative that deserved support, as it encouraged States to learn from one another and create a positive culture of decent work through sharing knowledge and experience. The proposed peer review could be a unique way to promote such communication and so promote social justice. His country supported the draft decision.
6. *Speaking on behalf of the Africa group*, a Government representative of Senegal said that while the proposed mechanism was relevant and should encourage mutual learning and exchange of good practices, questions remained about cost, implementation and frequency. Although sharing was important, the Office already had a detailed database that could serve the same purpose as the peer review and should make better use of existing resources before introducing new mechanisms, especially in view of potential overlaps. Peer review of national employment policy could only be fruitful if the countries concerned had well-developed employment policies in the first place; it would be preferable to step up technical assistance to countries. He urged the Office to think about how (sub)regional organizations could be better trained on follow-up to and monitoring of employment policy.
7. *A Government representative of China* said that, in 2017, some 192 million people worldwide were unemployed and 1.4 billion were in vulnerable employment. Against that backdrop, a peer-review mechanism of national employment policies would facilitate the exchange of information between countries and contribute to the analysis of long-term and structural challenges in the regions and subregions. That information would have a positive impact on employment and contribute to better understanding the impact of technologies on employment. The peer-review process should be entirely voluntary. Internal coordination should be strengthened within the Office, which should facilitate the sharing of experiences and good practices. China supported the draft decision.
8. *A Government representative of the Russian Federation* said that his country supported the proposal and wished to highlight its positive experience of a voluntary peer-review process. Between 2014 and 2017, his country had participated with the Commonwealth of Independent States (CIS) in such a process, looking at various aspects of youth employment in one CIS country. The tripartite process, known as "partner analysis", aimed to encourage regional cooperation and boost the effectiveness of employment-related policies and services. The guiding principles at the core of the ILO proposal had been at the heart of the partnership project, which his country had found helpful. The recommendations made at the conclusions of such reviews should be practical and easy to implement; if volunteer countries requested assistance to implement the findings, such assistance should be provided, with monitoring. Voluntary peer reviews of national employment policies could back up the

efforts of the ILO to assist member States with the implementation of their employment policies and programmes.

9. *A representative of the Director-General (Deputy Director-General for Policy (DDG/P))* said that she was pleased that the inter-sessional consultations had been helpful and that many of the questions raised in March 2018 had been answered. She noted, however, that some questions remained. She underscored that the proposal called for purely voluntary peer review; that the mechanism was designed to be tripartite at all stages; and that the ILO was committed to establishing a neutral and helpful peer-review process that did not draw comparisons and did not entail ranking in the global report. In reply to questions about costs, she said that the financial concerns that had been raised could be addressed in the new biennium, including whether to shift priorities. The cost estimate included many variables; the number of volunteer countries was a key component of annual costs and was as yet unknown. The cost of the global consultation was small and was included in the total estimate. Peer reviews would inform the work of the ILO and work at the country level and within a country. Not all countries would need support but the Office had built in the cost of support and mobilizing some resources in order to make reviews as meaningful as possible. It had also sought to put forward the value added in the document. The experience of the Russian Federation had indicated that peer review sharpened the knowledge of the countries involved and would be beneficial to the work of the ILO. Lastly, the aim of the voluntary peer-review mechanism was to build on, rather than duplicate, other mechanisms
10. *Another representative of the Director-General (Director, Employment Policy Department (EMPLOYMENT))*, replying to questions about the added value of the voluntary peer-review mechanism, said that the mechanism provided a comprehensive and powerful mechanism for the sharing of experience and good practice between countries. The information obtained through the mechanism would be critical to the work of the ILO and to that of the constituents and would help sharpen ILO policy messages in the rapidly evolving world of work. The exercise was also very important in the context of support for SDG 8 and the future of work. In response to concerns about duplication of processes, he said that the mechanism would be available to countries that were not part of existing regional or subregional processes. Also, it would create an opportunity for mutual learning between those processes and, as such, offer a more global picture of existing initiatives, on which there was often a lack of communication. Furthermore, many of the elements expected to be contained in the mechanism were already being undertaken by technical support specialists on the ground; their work would be neither duplicated nor sidelined by the adoption of the mechanism, but rather fine-tuned and strengthened. As the peer-review mechanism was voluntary, he anticipated a self-selection process in which the countries that would benefit the most would volunteer.
11. *Speaking on behalf of IMEC*, a Government representative of Finland reiterated his group's disagreement with the decision.

## Decision

12. *The Governing Body requested the Director-General to implement, taking into account its guidance, the proposed voluntary peer-review mechanism of national employment policies.*

(GB.334/POL/1, paragraph 11.)

## Second item on the agenda

### Follow-up to the Strategy for indigenous peoples' rights for inclusive and sustainable development

([GB.334/POL/2](#))

13. *The Worker spokesperson*, emphasizing the importance of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), said that the Office should promote the ratification of the Convention in all regions, especially in countries where such peoples lived. The collaboration within the United Nations (UN) system to promote the rights of indigenous and tribal peoples was welcome, including the support from the UN General Assembly and the Human Rights Council in the form of calls for ratification. Promoting freedom of association and collective bargaining as part of a global strategy was particularly important for the improvement of the working conditions of indigenous women and men. In particular, her group supported the ILO's action in recognition of the double discrimination faced by indigenous women.
14. Reiterating her group's support for the seven components of the ILO Strategy and thanking the Office for its implementation efforts, she said that, although some progress had been made, much remained to be accomplished. The ILO should give priority to: using Decent Work Country Programmes (DWCPs) to contribute towards the achievement of the Sustainable Development Goals (SDGs), especially Goals 10 and 12; promoting courses on labour rights and indigenous women; and, in relation to training, ensuring the recognition and understanding of Convention No. 169 in order to promote new approaches to its application in connection with other ILO instruments. Her group valued the training provided for judges, who played a key role in the application of Convention No. 169, and supported the country studies, particularly as they were being conducted not only in Latin America, but also in regions such as Asia and Central Africa. It welcomed the tripartite meeting that had been held Geneva in September 2018 to promote partnership and alliances for the implementation of Convention No. 169.
15. Referring to the importance of linking the labour rights protected under other ILO instruments to the Convention, she said that the inclusion of Convention No. 169 in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) could prove useful in ensuring a more inclusive decision-making process or influence the terms of access to remedy, and examination of grievances provided for, in paragraphs 64 and 68 of the Declaration. Freely elected workers' organizations would be key for making the voice of indigenous peoples heard.
16. The communication activities being prepared as part of the celebration of the 30th anniversary of the Convention in 2019 should showcase the added value of the Convention as a framework for designing public policy on inclusive sustainable development based on respect for the rights of indigenous and tribal peoples. The group welcomed the suggestion of holding a tripartite technical meeting to draft practical recommendations on the application of the Convention. Such initiatives would support efforts towards its ratification. Moreover, it might be advisable to draft a Recommendation to supplement the Convention, as recommended by the Permanent Forum on Indigenous Issues. Her group supported the draft decision in paragraph 28.
17. *The Employer spokesperson* said that the lack of implementation and adequate promotion of Convention No. 169 had been a source of significant conflict in Latin America. As had been previously reiterated, protecting the rights of indigenous and tribal peoples and their

involvement in decisions affecting them was an important subject for his group, not only because of the importance of protecting the rights of indigenous peoples but also in order to reduce potential conflicts when implementing development strategies in regions with a high density of indigenous peoples. The 2030 Agenda for Sustainable Development (2030 Agenda) offered a unique opportunity to tackle the problems in that regard in a holistic and balanced way.

- 18.** The Strategy sought to guide the discussion on indigenous peoples' rights for inclusive and sustainable development, with a balanced approach and with a focus on Convention No. 169 and of course the welfare of indigenous peoples. The Strategy, with its seven thematic components, was ambitious and required an Office with sufficient technical capacity that was proactive, strategic and willing to resume ownership of the topic and of the Convention, promoting a balanced approach that fostered the generation of productive employment for the benefit of indigenous peoples and society as a whole based on development. The Strategy required an Office that was confident in its work and that exercised positive leadership among its constituents and also with other international bodies and stakeholders, taking a leading role in defining what the Convention said and did not say, avoiding interpretations that were whimsical and contrary to its essence.
- 19.** The document did not clearly present the real impact of actions undertaken, and the actions accomplished, while appreciated as a good start, were insufficient. If the cause was a lack of resources and capacity, that should be communicated to the Governing Body so that it was able to formulate suitable instructions to the Director-General.
- 20.** The ILO seemed to be failing to address the main challenges presented by the application of the Convention, which were of two main types: (i) building institutional capacities, planning and designing regulatory and institutional frameworks related to consultation processes; and (ii) clear positioning at levels of relevance to assume leadership without external questioning about assistance to States in the application of the Convention. As a remedy, the ILO should branch out to other actors and debates, as the main problems to be faced largely lay beyond the traditional areas of work dealt with by the ILO. The group insisted on the need for a fuller, more ambitious approach. Specifically, the ILO needed to support the building of institutional capacities, design legal and institutional frameworks for consultations, and adopt a clear leadership role in assisting member States in the application of the Convention. It also needed to strengthen its own technical capacities, especially in Latin America.
- 21.** After welcoming the tripartite workshop held in Geneva in September 2018 to promote partnership and alliances for the implementation of Convention No. 169, he outlined what he considered to be the main conclusions of the workshop: (i) there was limited knowledge of the Convention among different agencies of the States that had ratified it; (ii) there was a lack of coordination between federal, state, provincial and municipal governments and, in many cases, State responsibilities had been transferred to private companies (in a large number of Latin American countries, no regulations on prior consultation had been adopted, although the experience of countries that had adopted such regulations showed that doing so contributed to the application of the Convention by clarifying terms, establishing responsibilities and reducing conflicts); (iii) the framework of public institutions devoted to the implementation of prior consultation remained weak in Latin America; (iv) generally speaking, one of the main obstacles had been and still was the high level of distrust between the parties, which hindered dialogue and the reaching of agreements, resulting from misinformation on the scope of the Convention and false expectations that stemmed from a lack of awareness; and (v) the representativeness of indigenous peoples was a challenge, as the representatives could on many occasions be questioned by their peers, among which there could be different interests.

22. He expressed concern about the systematic confusion between the Convention No. 169, which was legally binding, and the 2007 United Nations Declaration on the Rights of Indigenous Peoples, which was not. That confusion had been compounded by unbalanced statements that distorted the spirit of the Convention made by entities including the UN Special Rapporteur on the rights of indigenous peoples, the Expert Mechanism on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Peoples and the Inter-American Court of Human Rights. The Convention was legally binding and, as such, the ILO should, with strengthened technical capacity – especially in Latin America – assert itself as the leading authority in that regard. Accordingly, his group requested the Office to develop a strategy in coordination with the other relevant UN bodies and the Organization of American States. It urged the Office to arrange meetings – at which it would be accompanied by a tripartite delegation – with the entities mentioned above in order to clarify the scope and content of the Convention. His group also called on the Office to carry out an impact evaluation of the actions taken under the strategy, for discussion in November 2019.
23. The confusion and lack of clarity and balance in understanding that the protection of indigenous and tribal peoples was set against the backdrop of a need for the growth of and progress in society as a whole, through productive development, should be addressed as a matter of priority and without delay. As part of its leadership role, the ILO should develop and share lessons learned and good practice in certain areas, such as identifying and registering indigenous peoples and their representatives or the relations and dialogue between companies and indigenous peoples. Equally important was to conduct studies on the impact of the uncertainty caused by a lack of regulation on prior consultation and a lack of certainty on the legal status of judicial resolutions inconsistent with the spirit of the Convention. In that regard, his group supported the proposal in paragraph 26 of the document to hold a tripartite technical meeting to develop practical ILO guidance on key issues addressed in the Convention.
24. Regarding the draft decision, his group wished to amend subparagraph (b) to read: “requested the Director-General to take into consideration the strategy and the guidance given in the discussion in the preparation of future programme and budget proposals and in facilitating extra-budgetary resources in order not only to maintain but to strengthen the Office’s technical capacities, especially in Latin America”. His group also wished to add a subparagraph (c) to read: “requested the Director-General to develop, for discussion in March 2019, a clear strategy for relations with the rest of the UN system and the Organization of American States regarding the clear divergences in relation to consultation and participation”.
25. *Speaking on behalf of a majority of countries from the group of Latin American and Caribbean countries (GRULAC)*, a Government representative of Brazil said that the largest number of States to have ratified the Convention were from Latin America and the Caribbean. The Convention was an indispensable normative framework which had given rise to the development of national case law. The Office should continue to promote the Convention and, in terms of strategy, work to promote ratification was very important, the Standards Review Mechanism Tripartite Working Group (SRM TWG) having considered it to be the most up-to-date instrument in that area. The Centenary and 30th anniversary of the Convention were a good opportunity for that. The seven basic components of the strategy had given the ILO access to funds to promote and raise awareness about the Convention. He supported the multilingual platform initiative and appreciated the work on thematic publications, in which all stakeholders should participate. The ILO should lead the institutional work on the Convention to ensure better consistency with the UN and regional systems, as part of its constitutional mandate. Links between the rights of indigenous peoples, gender equality, decent work and economic empowerment should be highlighted to bridge the gaps. The ILO should collaborate with States to ensure technical excellence,



research capacity and analysis of essential objectives in addressing challenges and decent work deficits.

26. However, it would be premature to prepare additional ILO standards, even if non-binding, until there had been more ratifications. Legal and administrative frameworks were still being strengthened in the countries that had ratified it. What would be useful would be information about the use of the *Handbook for ILO Tripartite Constituents*, as it could be understood from the Office paper that it was no longer suitable. Any guidelines should be based on an in-depth discussion in which all constituents had a say, which could not be achieved through technical meetings. More explanations were also essential on the proposal concerning a new standard-setting item, a Recommendation that would be limited to the few States that had ratified the Convention, failing which a mandate to prepare special rules for the participation in such meetings of indigenous peoples' representatives did not appear appropriate. Such considerations should be taken into account in the implementation of subparagraphs (a) and (b) of the draft decision. He supported the amendment proposed by the Employers' group.
27. *Speaking on behalf of the European Union (EU) and its Member States*, a Government representative of Romania said that the candidate countries Montenegro, Serbia and Albania, the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina and the European Free Trade Association (EFTA) country Norway, aligned themselves with the statement. The EU had a range of policies in place to support the rights of indigenous peoples as set out in the United Nations Declaration on the Rights of Indigenous Peoples. The new European Consensus for Development explicitly mentioned indigenous peoples and it was important to enhance opportunities for dialogue and consultation with indigenous peoples at all levels of EU cooperation, as done when developing the SDGs. The ILO's contribution to the UN system-wide action plan and active participation in the Inter-Agency Support Group were welcome, and the contribution of the Convention to the promotion and protection of indigenous peoples was recognized. Practical partnerships with the ILO, such as the Indigenous Navigator, were key instruments to gather data. The partnership with the ILO on responsible business conduct and the UN Guiding Principles on Business and Human Rights were important.
28. Despite the progress achieved, many challenges remained, including marginalization and exclusion. Efforts to implement the strategy were welcome, in particular to build national capacities tailored to the prevailing national conditions and needs of workers, employers and governments, and to include indigenous and tribal peoples as partners and beneficiaries. Training on the Convention required new and innovative approaches. The work on closing the knowledge gap was equally important, and the EU and its Member States welcomed the proposal to develop practical ILO support and organize a technical meeting, with appropriate participation of indigenous peoples. She supported ILO interventions to improve working conditions and for activities focusing on indigenous women, given that the EU was committed to the empowerment of girls and women, and welcomed progress in giving indigenous women a stronger voice. She supported the draft decision.
29. *A Government representative of India* said that the unique identity and traditional livelihood activities of indigenous people needed to be protected, and improvements made to their well-being and welfare were necessary, including to protect them from unacceptable forms of work and provide them with social protection. That called for positive discrimination. India was implementing various policies and programmes for such people, including a scheme for vulnerable tribal groups that had funding for various activities and another to create institutions for scheduled tribes to support marketing and the development of activities they depended on for their livelihood. Education for tribal girls was a priority. Any ILO intervention should be country specific. Ratification of Convention No. 169 as the most

up-to-date instrument on the subject should be encouraged and technical assistance provided to member States to identify any gaps in national legislation vis-à-vis the Convention. She supported the draft decision.

- 30.** *A Government representative of Mexico* noted the relevance of the strategy of the ILO and that successful practices existed. One such initiative in Mexico created a brand of touristic sites of high natural, cultural and historical value, managed by indigenous communities sharing heritage and ancestral knowledge. ILO capacities should be strengthened and integrated approaches adopted in dealing with rights and the well-being of indigenous peoples. It was necessary to measure the scale, origin and destination of indigenous migrants to adapt public policies. In Mexico, 11.7 per cent of the population speaking indigenous languages were migrants. In terms of training, the use of technologies was in stark contrast to the lack of access to basic services. Lessons learnt through the National Institute for Adult Education could be useful for the learning platform. The intellectual property of indigenous communities could be an appropriate area in which to develop guidelines or recommendations, and a trademark for indigenous peoples had been registered in Mexico, which would help protect their culture and autonomy and economic development. Cooperation should be strengthened and lessons drawn from bilateral and regional activities. He supported the draft decision as amended by the Employers.
- 31.** *A Government representative of Ecuador* said that there were 14 nationalities and 18 ancestral peoples officially recognized in the constitution of his country, which guaranteed their rights regarding customs, territory, language, social organization, access to State services and more. Seven per cent of the population was indigenous and another 7 per cent had self-identified themselves as people of African descent. Therefore, social equality and sustainable development were a priority. Intercultural public policies should be designed and implemented based on equality and non-discrimination, access to justice should be improved and rights guaranteed, through a cross-cutting dialogue to identify needs and reduce gaps. Ecuador welcomed actions and initiatives in that regard, in particular in the areas of decent work, gender equality, disability, training, health care and ancestral knowledge. In encouraging States to ratify the Convention, he noted that the International Decade for People of African Descent (2015–24) and the declaration of 2019 as the International Year of Indigenous Languages constituted an opportunity to launch initiatives in the context of the Centenary. He supported the draft decision as amended by the Employers.
- 32.** *A Government representative of Nepal* expressed appreciation for the activities conducted by the International Training Centre of the ILO (Turin Centre) to promote implementation of the Convention, given that understanding and awareness about it and its scope in civil society and the media was a basic requirement for its successful implementation. He supported innovative territorial activities focused on the needs of women and on enhancing their say in decision-making, raising their economic empowerment and eliminating gender-based violence. Specific attention to indigenous peoples was key to achieving the SDGs and the inclusion of tribal and indigenous peoples would ensure that no one was left behind. Nepal welcomed the initiative to train legal professionals. As one of the 23 countries to have ratified Convention No. 169, Nepal had made progress in ensuring indigenous peoples' rights to inclusive and sustainable development. The Constitution of Nepal ensured the rights to employment and non-discrimination at work, the right to equality, and the right of every Nepali community to preserve and promote its language, culture, religion and heritage, and proportional representation in parliament and provincial and local assemblies for indigenous communities. It directed the Government to allow indigenous and local communities to participate in decision-making about their right to live in dignity, maintain their identity and promote traditional knowledge, skills, culture and more. The Labour Act provided for affirmative action for the recruitment of indigenous workers, non-discrimination, equal pay

for equal work, and freedom of association and trade union rights. The Civil Service Act had a special provision on affirmative action for indigenous peoples. He supported the draft decision.

33. *A representative of the Director-General* (Director, Conditions of Work and Equality Department (WORKQUALITY)) welcomed the tripartite consensus on the strategy's thrust and its seven components, as well as the relevance of the Convention in the context of the 2030 Agenda, and inclusive and sustainable growth. She noted the need for the ILO to enhance its leadership in the promotion of the Convention, ensuring proper understanding not only within the ILO's constituencies but also within the UN and beyond. Through the UN system-wide action plan, the ILO had engaged with other agencies and had been able to clarify the content, scope and implications of the obligations deriving from Convention No. 169, and had also regularly participated in the sessions of the various UN bodies on issues related to indigenous matters, the main purpose of which had been to clarify the content of the Convention and provide examples of how its provisions were being applied, something to which the Office was extremely attentive, and with a view to achieving greater consistency. When provisions of the Convention had been misrepresented, measures had been taken to remedy inconsistencies. Regarding the *Handbook*, it was being used by the Office in all its activities and was not outdated, but there had been a number of new insights on how to provide further applications of the obligations under the Convention. Consequently, the Office had proposed a tripartite meeting of experts to take stock of experiences in different countries and develop further guidance, including in particular regarding consultations. Any guidelines prepared could be relevant in dealing with other UN bodies, agencies and stakeholders. She said that the Employers' proposal regarding meetings of tripartite delegations with various international bodies before March 2019 was certainly ambitious given, among other things, the financial implications. However, the ILO could envisage holding an event in 2019, the year of the Centenary of the Organization and of the 30th anniversary of Convention No. 169, at which representatives of the other United Nations agencies, the Organization of American States and the Inter-American Court of Human Rights could discuss the Convention and related developments.
34. *The Chairperson* said that the SRM TWG considered Convention No. 169 to be the most up-to-date instrument regarding indigenous peoples' rights and that it must therefore be promoted.
35. *A Government representative of Brazil* said that, prior to any possible tripartite meeting of experts on guidelines, a significant amount of work remained to be done on the exchange of information on technical cooperation and transparency among the member States implementing Convention No. 169. The format of any such meeting depended on discussions on whether and when that event took place and should provide for the broadest possible participation. In all, 70 per cent of the member States having ratified the Convention were from the Latin American and Caribbean region and those countries had practical experience regarding its implementation.
36. *The Worker spokesperson* said that her group supported the Office's proposal to organize an event at which the Convention would be discussed with other UN agencies. However, her group did not endorse the proposal of the Employers' group concerning subparagraph (c). As to subparagraph (b), the phrase "so as not only to utilize, but to strengthen, the Office's technical capacities" should be maintained. The Convention must cover all the regions, not simply Latin America, and the countries in those regions must ratify the instrument.
37. *The Chairperson* said that the Workers proposed the deletion of the phrase "especially in Latin America".

38. *The Employer spokesperson* said that subparagraph (b) could be redrafted to read “so as not only to utilize, but to strengthen, the Office’s technical capacities in all regions, with special emphasis on Latin America”. Subparagraph (c) should remain unchanged.
39. *A Government representative of Mexico* said that he endorsed the latest proposal of the Employers’ group. It was very important to strengthen capacities in Latin America and the Caribbean concerning the implementation of the Convention. However, in line with the 2016 recommendations of the SRM TWG, work to promote ratification of the instrument in all regions should continue. It was unclear why the Workers’ group opposed subparagraph (c).
40. *Speaking on behalf of the EU and its Member States*, a Government representative of Romania said that she endorsed the Workers’ amendment and the proposal as it currently stood.
41. *A Government representative of Panama* said that there was a need for those countries that were implementing the Convention to share good practices and their experiences. Certain parts of the UN system had interpreted the Convention very differently from the ILO. It was important to make clear to those agencies what the roots of the Convention were and subparagraph (c) was vital in that regard. There was a need for special emphasis on Latin America, given that the region was home to more indigenous peoples than any other region. Latin American countries required guidance on the implementation of the Convention. His group endorsed the most recent amendment proposed by the Employers’ group.
42. *Speaking on behalf of the Asia and Pacific group (ASPAG)*, a Government representative of China said that, although his group preferred the original text proposed by the Office, it endorsed the proposed amended draft decision.
43. *The Employer spokesperson* said that the Office had clearly stated that other UN system agencies viewed the contents of the Convention differently from the ILO. That issue must be resolved: subparagraph (c) had been proposed for just that reason and enjoyed the support of a number of countries. He asked the Workers’ group why it opposed his group’s proposal.
44. *The Worker spokesperson* said that her group endorsed subparagraph (b) of the Employers’ group’s proposal. However, as the home of the Conventions, the ILO should carry out its functions in that regard. The Workers’ group endorsed the Office’s original proposed text.
45. *The Employer spokesperson* said that his group was not satisfied with the explanation given by his Worker counterpart. The Employers also supported the Office’s text but were attempting to strengthen the Office’s stance in the face of differing interpretations of the Convention.
46. *The Government representative of Guatemala* said that cooperation with the UN system and regional human rights protection systems was vital for GRULAC. Therefore, she endorsed subparagraph (c) of the Employers’ proposal. The ILO must spearhead institutional work on the interpretation of Convention No. 169 at the national and international levels. It was not currently performing that task and that situation had led to confusion and duplication of effort in a number of countries. A clear strategy was required regarding links with other organizations and the leadership of the ILO concerning work on Convention No. 169.
47. *Speaking on behalf of the EU and its Member States*, the Government representative of Romania said that subparagraph (c) could be redrafted to read “encourage the Director-General to further engage with the rest of the UN system to promote ILO Convention No. 169 and ensure its understanding across the system”.

48. *The Worker spokesperson* said that her group endorsed the proposal made by the Government representative of Romania on behalf of the EU and its Member States.
49. *The Employer spokesperson* said that his group maintained its proposal and that the Workers' group did not wish to empower the Office to carry out its leadership role.
50. *An Employer member from Colombia*, speaking also on behalf of Latin American employers, said that the ILO had historically dealt with both labour matters and issues regarding indigenous and tribal peoples, firstly through Indigenous and Tribal Populations Convention, 1957 (No. 107), and then, later on, through Convention No. 169. The proposal made by the Government representative of Romania on behalf of the EU and its Member States was incomplete in that it did not refer to the Organization of American States (OAS). Despite attempts by the international system to treat the United Nations Declaration on the Rights of Indigenous Peoples as legally binding and despite the recent issuing, by the OAS, of the American Declaration on the Rights of Indigenous Peoples, the only legally binding instrument concerning indigenous and tribal peoples was Convention No. 169. The Convention was overseen by a tripartite body, the ILO, which should provide other organizations, both inside and outside the UN system, with guidance regarding both the instrument and its ratification. However, the views of those organizations concerning the scope of the Convention differed greatly from that of the ILO. Therefore, subparagraph (c) must be maintained.
51. *Speaking on behalf of GRULAC*, the Government representative of Brazil said that his group supported the Employers' proposed text. By way of a compromise, subparagraph (c) could be redrafted to read "..., a clear strategy for links with the rest of the UN system and other relevant regional organizations, including the Organization of American States". There was no need to give the Director-General any further instructions in that regard.
52. *The Worker spokesperson* said that her group required more time to discuss the proposal made by the Government representative of Brazil on behalf of GRULAC.
53. *The Employer spokesperson* said that his group also required extra time to discuss the proposal.
54. *Speaking on behalf of the EU and its Member States*, the Government representative of Romania said that she endorsed the proposal made by the Government representative of Brazil on behalf of GRULAC.
55. *The Chairperson* reopened the discussion after a suspension, and noted that, during informal consultations, the three groups had agreed on a revised draft decision.

## Decision

56. *The Governing Body:*
- (a) *advised the Office with regard to the way forward in implementing the strategy for action concerning indigenous and tribal peoples;*
- (b) *requested the Director-General to take into consideration the strategy and the guidance given in the discussion in the preparation of future programme and budget proposals and in facilitating extra-budgetary resources, so as not only*

*to utilize, but to strengthen, the Office's technical capacities in all regions, with special emphasis on Latin America; and*

- (c) *requested the Director-General to submit to the Governing Body at its 335th Session (March 2019) a strategic plan to ensure understanding of the scope and application of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), according to ILO criteria, among the other United Nations system bodies and the relevant regional organizations.*

(GB.334/POL/2, paragraph 28, as amended by the Governing Body.)

57. *The Government representative of Romania* reiterated that the EU and its Member States recognized the prime importance of Convention No. 169 and the ILO's role in promoting it, and welcomed the ILO's contribution to the UN system-wide action plan for ensuring a coherent approach to achieving the ends of the UN Declaration on the Rights of Indigenous Peoples, its active participation in the Inter-Agency Support Group on Indigenous Peoples' Issues, and its engagement with the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the rights of indigenous peoples and the Permanent Forum on Indigenous Issues. The strategic plan proposed by the Director-General should therefore take into account the interrelatedness of Convention No. 169 and the UN Declaration, the work of the relevant UN mechanisms and relevant case law.

## Social Dialogue Segment

### Third item on the agenda

#### Sectoral meetings held in 2018 and proposals for sectoral work in 2019

([GB.334/POL/3](#))

58. *The Employer spokesperson* noted with satisfaction the two successful meetings of experts held in 2018, which had been highly productive and without contentious issues. The first had produced a comprehensive revised code of practice on safety and health in shipbuilding and ship repair, and the second had adopted guidelines on decent work in public emergency services. He endorsed the three proposed meetings to be held in 2019. His group supported the draft decision.
59. *The Worker spokesperson* said that the two successful meetings of experts demonstrated the relevance of such meetings in preparing practical sector-specific guidelines that filled normative gaps and promoted decent working conditions. Since the publication of the original Code of Practice on Safety and Health in Shipbuilding and Ship Repair in 1973, the shipbuilding and ship repair sector had experienced significant change in the areas of design and technology, and faced challenges concerning market competition and an increase in precarious employment. Health and safety were often neglected, leading to serious accidents. The revised code of practice provided minimum standards for all workers in the sector and ensured worker representation, access to health and safety information, and the right to stop performing dangerous tasks without repercussions. He hoped that it might also be used to improve the working conditions of shipbreakers. He also welcomed the guidelines on decent work in public emergency services, which strengthened the fundamental principles and rights at work and emphasized the public nature of those services. They also recognized the

right to refuse to work in hazardous conditions and the right to training. The next step would be to develop guidelines concerning personal protection equipment. The outcomes of both meetings must be carefully implemented and monitored; he therefore called on the Office to make adequate provision in the budget for their promotion. His group welcomed the proposed meetings for 2019, and supported the draft decision.

60. *Speaking on behalf of IMEC*, a Government representative of Canada said that her group supported subparagraphs (a), (b) and (c) of the draft decision. Taking note of the appendices to document GB.334/POL/3, she asked whether the decision to be taken by the Governing Body on standing orders for meetings would have an impact on subparagraph (d) of the draft decision on sectoral meetings, and whether the decision on that paragraph should be postponed.
61. *A representative of the Director-General* (Director, Sectoral Policies Department (SECTOR)) clarified that there were in fact six meetings due to be held before the end of 2019, but one meeting on guidelines in the road transport sector had not been included on the list, as consultations were ongoing regarding the composition of that meeting. She saw no need to postpone the decision on subparagraph (d), as any standing orders adopted pursuant to a discussion on document GB.334/INS/7 would enter into force with immediate effect, replacing the Standing Orders for sectoral meetings. Any new standing orders would require only a change in the name of sectoral meetings, except for the meeting on the chemical and pharmaceutical industries to be held in December, as that report was to be published imminently.
62. *Speaking on behalf of the Africa group*, a Government representative of Côte d'Ivoire said that the outcomes of the meetings of experts held in January and April 2018 enhanced and updated existing guidelines and proposed new ones, taking into account new international standards in the area of occupational safety and health, the SDGs, changes in the sectors concerned and improvements in living and working conditions. He took note of the list of meetings to be held in 2019. His group supported the draft decision.
63. *Speaking on behalf of IMEC*, the Government representative of Canada said that, following the explanation from the Office, her group supported the draft decision in its entirety.

## Decision

64. *The Governing Body:*
- (a) *took note of the reports of the meetings referred to in section I of document GB.334/POL/3;*
  - (b) *authorized the Director-General to publish the Code of practice on safety and health in shipbuilding and ship repair (revised edition) and the Guidelines on decent work in public emergency services;*
  - (c) *requested the Director-General to bear in mind, when drawing up proposals for future work, the recommendations for future action by the ILO made by the meetings referred to in section I of document GB.334/POL/3;*
  - (d) *endorsed the proposals contained in the appended table relating to the dates, duration, official title, purpose and composition of the meetings listed therein.*

(GB.334/POL/3, paragraph 10.)

## Development Cooperation Segment

### Fourth item on the agenda

#### Enhanced programme of development cooperation for the occupied Arab territories ([GB.334/POL/4](#))

65. *The Employer spokesperson* said that the current economic situation in the occupied Arab territories was hindering job creation as the private sector remained fragile and the public sector, particularly in Gaza, had been subjected to pay cuts and early retirements. Moreover, women and young people were disproportionately disadvantaged when it came to accessing employment. The Employers' group shared the Director-General's view that the ILO and the international community as a whole must remain engaged in efforts to support dialogue and reach joint solutions to create decent work in the occupied Arab territories.
66. Her group welcomed the signing of the second Palestinian Decent Work Programme (2018–22). She urged the Office to allocate more resources to the ILO development cooperation programme, in view of the financial gap left by declining international aid. The Employers' group recognized the value and importance of continuous financial support from the international community, and supported the ILO's ongoing dialogue with all current and potential donors for the purpose of mobilizing the necessary resources.
67. It was regrettable that the document made no reference to technical assistance or specific capacity building for employers. Palestinian employers had an important role to play in providing substantive inputs on the development and implementation of employment policies that would create jobs, foster a business-friendly environment and build up the weak economy. She asked the Office to provide further information, in its next periodic report, on the action it was taking to build and foster an environment conducive to sustainable business.
68. Her group encouraged the ILO representative in Jerusalem to collect relevant empirical data on the labour market and systematically use it to provide employment policy guidance. Such data would also give guidance to the international community on what further support was required. Her group supported the continuation of partnerships with relevant institutions such as the Palestine Economic Policy Research Institute and welcomed the Occupied Palestinian Territory employment diagnostic study and the tripartite technical task force established to improve labour market governance and the employment situation of Palestinian men and women.
69. She encouraged the Office to continue supporting the labour law reform process through tripartite partnerships and consultations, and to provide technical support and advice on Palestinian workers' skills development. She proposed that a study should be conducted to identify business opportunities, perhaps in parallel to the next planned visit by an ILO delegation. Lastly, she called for a more coordinated international response and cooperation between the ILO and other UN agencies by means of a collaboration strategy. The Employers' group supported the next steps outlined in the document.
70. *Speaking on behalf of the Arab Employers' group*, an Employer member from the United Arab Emirates emphasized the importance of ILO assistance, which had led to the provision of social security for Palestinian private sector workers and the establishment of the Palestinian Social Security Corporation, which would enable workers and their families to receive decent social security protection. With respect to social security contributions made



by Palestinian workers to Israeli funds, he called on the Office to seek an agreement between the two parties to recover the withheld contributions.

71. He encouraged the ILO to get reports on any harassment and injuries suffered by employers and workers at checkpoints and the taxes imposed on Palestinian workers. He called on donors to support the Palestinian social security system, and requested the Director-General to devote a section of the periodic report to the Governing Body to a review of the ILO's activities in the territories.
72. *The Worker spokesperson* welcomed the progress made and planned ILO interventions within the programme of development cooperation for the occupied Arab territories. However, the worsening situation continued to be of grave concern. The Workers' group concurred with the Report of the Director-General on the need for the ILO and the international community as a whole to remain engaged in the efforts to support dialogue and reach a joint solution to promote decent work in the occupied Arab territories.
73. The Workers' group endorsed the three priorities from the first Decent Work Programme, and asked for more emphasis on strengthening social dialogue and freedom of association. The group acknowledged the ILO support to the Palestinian Fund for Employment and Social Protection in developing its strategic plan for 2018–22. In that regard, the Workers' group emphasized the need to solve the problems related to the transfer of social security contributions of Palestinian workers working in Israel to the social security fund in Palestine. The Workers' group appreciated the ILO's contribution to the drafting of the Trade Union Law through social dialogue. It welcomed the ILO technical assistance to the Tripartite Committee on Labour Law Reform as well as the assistance provided to increase women's participation in the labour market and to improve labour inspection.
74. Although the ILO was making major efforts to promote decent work, the Workers' group was deeply concerned about the critical situation of workers and their families in Gaza and in the West Bank, particularly with respect to their freedom of movement. Palestinians working in Israel were required to use special passes, which was a clear example of discrimination. Some Palestinian workers had resorted to abusive labour brokers to obtain a work permit in Israel. In such a context, the Workers' group supported the ILO in further promoting the Decent Work Agenda in the Occupied Palestinian Territory.
75. Noting that the document referred to the need for extended and diversified partnerships to support the full implementation of the second Decent Work Programme, he asked the Office which partnerships it envisaged, and sought assurance that no partnerships would weaken tripartism or rights-based approaches.
76. *Speaking on behalf of the Africa group*, a Government representative of Morocco noted with satisfaction that the second Palestinian Decent Work Programme followed a tripartite approach that was in keeping with local priorities and relevant UN programmes. Her group welcomed the fact that the three priority areas defined in the Programme addressed the main decent work deficits in terms of the labour market, working conditions and social security. She commended the Office on its efforts to explore new sources of funding, deploy supplementary funds and attract new partners. ILO efforts to support legislative reform, improve labour market mechanisms, strengthen social dialogue and promote fundamental labour rights would also help Palestinians to access decent working conditions as defined in the SDGs.
77. The Africa group invited the ILO to ground its interventions more firmly in capacity building for tripartite constituents, who should be encouraged to hold consultations on how to make progress with respect to employment, social security and the promotion of workers' rights.

Her group fully supported the enhanced programme of development cooperation for the occupied Arab territories and the implementation of the Palestinian social security system.

- 78.** *Speaking on behalf of the Arab group*, a Government representative of Bahrain called on international organizations, in particular the ILO and other organizations concerned with human rights, to intervene to stop the crimes being committed against the Palestinian people and workers. On the basis of the tripartite consensus reached at the Arab Labour Conference in April 2018, the group emphasized that the Appendix to the Report of the Director-General to the 107th Session of the International Labour Conference (2018) should be amended and discussed as a separate agenda item on Palestinian workers' rights. He called on the ILO to reaffirm its commitment to providing financial support to revive the Palestinian Fund for Employment and Social Protection and develop a plan of action to mobilize the required financial support in cooperation with regional and international donors in order to revitalize the economy and improve living standards. He also urged the Governing Body to increase support for the enhanced programme of development cooperation for the occupied Arab territories. The ILO should intervene actively to restore the rights of Palestinian workers and take the necessary measures to ensure the payment of the wages and entitlements of Palestinian workers.
- 79.** He expressed the Arab group's appreciation for the ILO's provision of financial and technical support to establish the Palestinian Social Security Corporation and hoped that it would continue to provide support to strengthen the social security programmes. The ILO should play an active part in recovering withheld contributions. The group requested the Director-General to report on efforts undertaken on that matter in his periodic report to the Governing Body in March 2019. Lastly, the Arab group called on the ILO to intervene with the Israeli authorities to stop the exploitation of Palestinian workers by brokers or intermediaries through the sale of work permits at exorbitant cost and to stop the prosecution of workers in the informal economy.
- 80.** *The Government representative of Indonesia* welcomed the achievements of the first Palestinian Decent Work Programme 2013–16, but was deeply concerned at the persistent barriers to improvements for workers in the Occupied Palestinian Territory. Given the scarcity of job opportunities, stagnant economic growth and the high unemployment rate, the second Decent Work Programme should continue to focus on empowerment projects to support livelihoods and encourage entrepreneurship, in particular among young people, women and persons with disabilities. It should also focus on efforts to combat possible exploitation of Palestinian workers who had to find work in Israel and the settlements. To mitigate the effects of declining donor aid, the ILO should continue to extend and diversify partnerships and resource mobilization beyond traditional development partners to support entities such as the Palestinian Fund for Employment and Social Protection. The Office should also continue to strengthen labour market analysis capacities and labour market development in the Occupied Palestinian Territory. He fully endorsed the focus on supporting the fulfilment of all SDGs, including decent work for all. He reiterated that his Government fully supported towards the achievement of economic growth, decent work and social justice in the Occupied Palestinian Territory and stood ready to work with the ILO to further promote the Decent Work Agenda for Palestinian workers.
- 81.** *The Government representative of Iraq* said that the blockade had worsened labour market conditions and the humanitarian situation in the territories. The ILO should intervene to bring an end to the wrongdoings perpetrated against Palestinians, in particular workers. He called for the implementation of the decisions of the 45th session of the Arab Labour Conference, which reiterated the importance of tripartism in the Arab region. The Appendix to the Report of the Director-General should be amended and discussed as a separate agenda item of the International Labour Conference, to ensure the protection of Palestinian workers'

rights. He applauded the ILO's efforts to enhance access to social security assistance among Palestinians and urged the Office to continue providing support.

- 82.** *The Government representative of Bangladesh* said that, despite the commitment of the 2030 Agenda to leave no one behind, the continuing situation in the Occupied Palestinian Territory was devastating the livelihoods of Palestinians and limiting their access to economic opportunities and decent work. The overall and youth unemployment rates in the Occupied Palestinian Territory were alarming, and Palestinian women faced serious obstacles and inequalities in accessing employment. The funding gap would add another challenge to the already troubling situation in the labour market and daily life. However, it was heartening to see that the ILO was taking steps to address the employment situation among Palestinians, in particular by improving labour market governance, reforming labour legislation and launching a social security system for private sector workers and their families. She commended the Office for providing technical assistance in the Occupied Palestinian Territory, in particular in the drafting of legislation and the integration of cross-cutting issues such as gender equality, youth and workers with disabilities, and expressed her appreciation for the support extended to tripartite constituents in the development and review of the rules and regulations of the Palestinian social security system.
- 83.** *The Government representative of Israel* said that her Government supported ILO technical assistance and development programmes, including in the Palestinian territories. The Government of Israel had continuously worked to improve employment conditions of the overall working population, including among Palestinian workers granted access to the Israeli labour market, who by law were given the same protections as Israeli workers. However, the policy was sometimes exploited, and her Government was re-evaluating opportunities for improved collaboration in the light of recent attacks on Israeli citizens. The politicization of the present discussion was regrettable, especially since the issue was already addressed through an annual mission and report. Her Government would continue to fully engage and align with ILO goals and work.
- 84.** *A representative of the Director-General* (Regional Director for the Arab States) said that, despite the challenging circumstances, the ILO would continue to expand and diversify resource mobilization efforts in the Occupied Palestinian Territory. In addition to resources from its regular budget and Regular Budget Supplementary Account (RBSA), the Office continued to rely on the support of development partners, in particular the Government of Kuwait, which was continuing to support the Decent Work Programme through an annual contribution of US\$500,000 for the Decent Work Agenda; the Governments of Qatar and Italy, which had pledged US\$1 million and US\$2.5 million, respectively, towards the establishment and development of the Palestinian Social Security Corporation; and discussions were ongoing regarding additional support from the European Union and the Government of Spain. The ILO would soon sign a cooperative development partnership agreement with an Italian non-governmental organization and had already submitted a proposal to the Government of Italy to support a new cooperative work agency. The Office was working with the Food and Agriculture Organization of the United Nations to promote and strengthen agricultural cooperatives, as well as with UN Women to promote gender equality in the world of work, with funding from the Government of Italy, and to address structural barriers to the participation of women in the labour market, with funding from the Swedish International Development Cooperation Agency.
- 85.** In addition to the initiatives described in the document, the Office was using internal resources and RBSA funding to build capacities among both employers and trade unions, and it supported developing and incorporating entrepreneurship skills into the Palestinian education system and implementing activities on occupational safety and health. The Director-General's Report to the International Labour Conference in 2018 had described

efforts to strengthen labour market analysis capacities, sustainable employment creation and labour market development in the Occupied Palestinian Territory. The Office was currently supporting the development of a national action plan for employment; helping the Palestinian Fund for Employment and Social Protection to develop a strategic plan for 2018–22; and working in partnership with the Palestinian Economic Policy Research Institute to strengthen the capacity of the Palestinian Central Bureau of Statistics to produce statistical data to better inform labour policy development and planning. Those efforts would provide data in the context of the achievement of SDG 8 and other goals related to decent work. To support Palestinians working in Israel, the Office was working to build up the Palestinian Social Security Corporation to extend coverage also to Palestinians working in Israel and complete the requirement to fulfil the related commitments under the Paris Protocol.

- 86.** *The Government representative of the United States* said that the politicization of the agenda item on technical assistance under the ILO’s second Palestinian Decent Work Programme was regrettable, since the Governing Body was not the proper forum, and discussion of broader political issues only detracted from, and risked undermining, the ILO’s work in the area. He applauded the positive role of the ILO in working constructively with the Government of Israel and the Palestinian Authority to implement decent work initiatives for Palestinian workers, but was discouraged by statements that appeared to call for unilateral action, as opposed to engaging constructively towards achieving lasting and comprehensive peace.
- 87.** *The Chairperson* allowed a request from the representative of Palestine to speak on the agenda item. Prior to giving the floor, he recalled that the Standing Orders of the Governing Body, contrary to the Standing Orders of the Conference, did not provide for speaking rights of representatives of liberation movements. However, under article 2.2 of the Standing Orders, it was the prerogative of the Chairperson to accord the right to address the Governing Body. The Officers of the Governing Body had considered this matter and had decided that should a representative of Palestine ask for the floor, they were prepared to respond favourably. Their decision was made on the understanding that the intervention would be strictly limited to the matter under discussion.
- 88.** *The representative of Palestine* emphasized that his Administration was no longer a liberation movement but a State, established on the basis of an agreement with Israel. Other international organizations had recognized the Palestinian National Authority as a State, and some had admitted it as an observer State. He thanked the Office, and particularly the Regional Office for the Arab States and the representative in Jerusalem, for their efforts to support Palestinians.

## Outcome

- 89.** *The Governing Body took note of the information provided in document GB.334/POL/4.*

## Fifth item on the agenda

### An integrated ILO strategy to address decent work deficits in the tobacco sector

(GB.334/POL/5)

90. *The Worker spokesperson* said that her group supported the shift towards an integrated strategy that addressed all decent work deficits, and the need to develop national employment plans to support diversification and address decent work deficits in the sector through social dialogue. It would welcome clarification of the document's reference to "reducing dependence on child labour"; the ultimate aim should be its eradication. The implementation of the integrated strategy should indeed focus initially on countries where public-private partnerships (PPPs) were in operation.
91. The country consultations had revealed a range of issues, including the sector's lack of respect for fundamental rights, low wages and limited access to social protection. Farmers and workers in the countries where the consultations had taken place had expressed serious concerns regarding access to other employment if the tobacco industry were to disappear, while also highlighting the importance of an integrated strategy in addressing the socio-economic causes of child labour, which required long-term collaborative efforts. In order to ensure the sustainability of those efforts, further clarity was required on the availability of funds.
92. Problems with occupational safety and health had been reported in all countries where the consultations had taken place, and efforts to promote the ratification and implementation of the Safety and Health in Agriculture Convention, 2001 (No. 184), as well as the dissemination of the *Safety and health in agriculture: ILO Code of practice*, should therefore be redoubled. The Office should identify the mechanisms that were successful in delivering fairer prices to growers, without which tobacco-growing communities would continue to rely on child labour. In Malawi, the ILO should prioritize legislation to strengthen tenant farmers' rights. The document's reference to freedom of association was welcome, given its role in driving positive change.
93. Successful implementation of the integrated strategy would require political will and increased financial resources. With regard to funding, the ILO must ensure coherence within the United Nations (UN) system, including by aligning itself with the Model Policy for agencies of the UN system on preventing tobacco industry interference (the Model Policy), and its efforts should be consistent with member States' obligations under the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC). The current PPPs ran counter to key provisions of the Model Policy and should not be renewed.
94. Although standards had been set for donors to the proposed agricultural development fund, her group was concerned that some member States would be unable to contribute to it owing to their obligations under the FCTC. The tobacco sector's willingness to contribute to such a fund was doubtful, and there were concerns surrounding reputational risks for the ILO if it continued to accept funding from the industry at a time when the UN system was changing its stance towards it.
95. She asked whether the RBSA funding made available for implementation of the integrated strategy and the anticipated additional contributions were long-term solutions that would enable efforts on child labour to continue. She also asked whether further funding for the integrated strategy would be found and, if so, from where and how much would be required.

She saw no need for a specific fund because it would detract from the aim of securing additional funding.

96. The Workers supported the draft decision, provided that the reference to “alternative sources of funding” in subparagraph (c) referred to development partners, rather than the tobacco industry.
97. *The Employer spokesperson* said that her group agreed that the ILO must be able to engage with all legal sectors, including the tobacco sector, and that the integrated strategy did not interfere with the public health policies of the States parties to the FCTC, the WHO’s Global Action Plan for the Prevention and Control of Non-communicable Diseases 2013–2020 or the terms of reference of the UN Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases.
98. In her group’s view, the Model Policy did not restrict the ILO and PPPs did not run counter to it. The proposed agricultural development fund would be consistent with the Model Policy, although the provisions for it set out in the document were too narrow and unnecessary for compliance. The fund would be entirely compliant with the FCTC, particularly because it would prevent the perception of interference from the industry. Although some States parties might decide that the fund violated their own policies if contributions were accepted from the tobacco industry, the industry must play a role in the integrated strategy, and policies adopted by individual governments should not be imposed on the rest of the Governing Body. Moreover, to exclude the principle of the fund from the draft decision solely on the basis that some governments might object to the use of such a fund negated the very purpose of tripartite dialogue; any objections to the fund should be raised during the Governing Body discussions. Her group would support a compromise involving a fund that prevented the perception of interference by the tobacco industry, but whose provisions were less restrictive than those set out in the document.
99. She asked what evidence existed that PPPs interfered with tobacco control measures; no claims to that effect had ever been made, and PPPs had been implemented in accordance with ILO policies and principles. Moreover, the work of the ILO focused on social policy, rather than public health policy. The tobacco industry provided work for more than 60 million people, whose need for employment should not be forgotten.
100. Her group welcomed the country consultations, although the document omitted two of their most important findings: the absence of a viable alternative to tobacco for farmers and the challenge of transitioning to other crops owing to a lack of market access and lower prices. Those factors, combined with recent dramatic falls in prices for other crops, meant that the transition to alternative sources of income would be a long-term process.
101. Her group supported the adoption of a programmatic approach to the ILO’s work in the tobacco sector, particularly with regard to the eradication of child labour, driven by national sustainable development policies. However, the current approach should also continue, particularly given the proven effectiveness of PPPs in reducing child labour.
102. The Governing Body was increasingly required to make decisions imposed on it by other institutions, and the campaign recently launched by the Framework Convention Alliance for Tobacco Control represented unacceptable interference in the ILO’s decision-making process. She urged the Director-General to convey a strong message to the WHO, calling on it to use the existing channels for cooperation between UN agencies.
103. Turning to the draft decision, her group proposed adding the words “relevant stakeholders and” after “participation of” in subparagraph (a), and replacing “alternative” by “other” in

subparagraph (c). It also proposed the addition of a subparagraph (d), to read: “to establish and administer a tripartite fund in support of the integrated strategy in accordance with its financial rules and practices, to which private enterprises, including from the tobacco sector, would be eligible to contribute”. With regard to the use of RBSA funding mentioned in subparagraph (b), she asked whether it was appropriate for that funding to be earmarked through Governing Body decisions and whether the integrated strategy met the selection criteria, given that tobacco growing and child labour were not among the thematic focus areas for the latest round of RBSA allocations.

- 104.** *Speaking on behalf of the Africa group*, a Government representative of Uganda noted that the Organization continued to receive criticism for accepting direct funding from tobacco companies. It was therefore vital, during the current Governing Body session, that the tripartite constituents provide the Office with guidance on measures to prevent interference by the tobacco industry and organizations, as had initially been requested during the 329th Session. The subject remained controversial, not due to the question of whether or not the Model Policy was binding on the ILO, but because certain member States held negative views of tobacco due to its health risks.
- 105.** Efforts to eliminate child labour in the tobacco industry needed to continue, but that required funding from legitimate sources. Although the document covered the Office’s plans to terminate its PPPs with the tobacco industry and proposals to use RBSA funds to ensure the continuity of existing projects, it did not provide details on the amount of funding available.
- 106.** The Office had suggested during informal discussions that the implementation of the proposed integrated strategy would require US\$11.6 million over four years to cover projects in Malawi, the United Republic of Tanzania, Uganda and Zambia. Of that, \$2 million had already been allocated from the RBSA, while an additional \$10.8 million had been secured from a public development partner and provisionally earmarked for Malawi and Uganda under a broader partnership to combat child labour. Two other development partners were in discussions regarding the United Republic of Tanzania and Zambia, and the Office would hold strategic planning meetings in each country to identify national priorities for the integrated strategy. She asked why the \$2 million was not mentioned in the paper, when that RBSA allocation had been approved, and why the \$10 million had been earmarked for only Uganda and Malawi, when the United Republic of Tanzania and Zambia had been included throughout the discussions. She also asked why the Office had volunteered to initiate loan negotiations with the World Bank without the consent of the member States, which was required.
- 107.** It was clear that there was no concrete alternative to the funding received from the tobacco industry; indeed, the PPP with the Eliminating Child Labour in Tobacco Growing Foundation had been extended as no other funding was available. Her group was concerned that ending the partnership without an alternative would disrupt ongoing efforts to eliminate child labour in the tobacco industry, contrary to the principle of the best interests of the child, as stated in the UN Convention on the Rights of the Child.
- 108.** The Africa group proposed a new draft decision to replace the draft decision contained in paragraph 46 of document GB.334/POL/5:

The Governing Body provides the following guidance to the Office:

- (a) that the efforts to eliminate child labour in the tobacco industry should continue with funding from any legitimate source, including the tobacco industry and ILO constituents;
- (b) where the tobacco industry is willing to continue cooperation, the Office should not stop receiving funds, unless:
  - (i) there is a concrete alternative source of funds; or

- (ii) a framework is established where the tobacco industry channels the funds for elimination of child labour directly to social partners or willing governments, and this framework should include ILO technical assistance on the elimination of child labour;
- (c) the Office should engage other United Nations agencies with a view to mainstreaming efforts to eliminate child labour in the tobacco industry. To this end, the Office should report to the 336th Session of the Governing Body on progress in this regard; and
- (d) while engaging other UN agencies, the Office should not act as if the ILO is an inferior member of the UN system.

**109.** *Speaking on behalf of the EU and its Member States*, a Government representative of Romania said that the following countries aligned themselves with the statement: Montenegro, Albania, Bosnia and Herzegovina, Norway and Georgia. She expressed support for the integrated strategy and welcomed the country consultations. It was encouraging that the majority of constituents consulted supported the three broad areas for action under the strategy. The reorientation of the ILO's work in the sector to take a broader programme approach would require the participation of a wide range of institutions, including national governments and a coalition of development partners for support and resourcing.

**110.** The allocation of RBSA funds was the prerogative of the Office, but on an exceptional, short-term basis it would be acceptable for the Governing Body to request that the Office start implementation of the integrated strategy using those funds, in addition to other public funding. In the longer term, her group was committed to setting up sustainable solutions to support the strategy by 2020; EU Member States were already working closely with the Office to pursue the necessary partnerships with international agencies, international development banks and domestic development agencies. However, while some dialogue was required with the tobacco industry, it was unacceptable for the ILO to receive funding from the industry in any form whatsoever; indeed, there should be a coherent effort across the UN system to ensure an effective separation between its policy and interference from the tobacco industry. Her group supported the original draft decision.

**111.** *A Government representative of Australia*, also speaking on behalf of Bahrain, Bangladesh, China, Ecuador, India, Islamic Republic of Iran, Israel, Myanmar, Nepal, New Zealand, Qatar, Singapore, Thailand, Turkey and Uruguay, welcomed the Office's efforts to facilitate resource mobilization for the integrated strategy, and the consultations held in tobacco-growing communities. The fact that the Office had spoken directly to tobacco farmers, district farmers, social partners, employers, children and other stakeholders meant that the strategy reflected the priorities in target countries and the views of constituents at a national level.

**112.** The member States she was representing were strongly committed to achieving tripartite consensus on the issue, and supported the Office's proposals to organize a tripartite meeting to exchange knowledge regarding the strategy and use existing resources to fund the programmes until new donors were found. She encouraged the Office to build a broad coalition of development partners and continue consultations to identify synergies for long-term funding. Coherence in the UN system was an important principle, and the ILO's efforts to promote decent work in tobacco-growing communities must be consistent with member States' obligations regarding the FCTC. She supported the original draft decision.

**113.** *A Government representative of Japan* said that the ILO had unique capacities and responsibilities when it came to eradicating child labour and must develop a workable, sustainable plan in that respect. Although the Model Policy was not binding on the ILO, her Government understood that the Organization, as a UN agency, should give it consideration when implementing its policies. All governments and social partners who were committed



to eradicating child labour would be able to contribute, under the conditions agreed at the current session of the Governing Body, to the new policy proposals. The approach was compatible with the ILO Declaration on Fundamental Principles and Rights at Work, 1998, which stipulated the mobilization of external resources to eliminate child labour. With those comments taken into account, her country would support the draft decision.

- 114.** *A Government representative of the United States* expressed support for an integrated approach to addressing decent work in the tobacco sector more broadly, covering not only child and forced labour, but also efforts to improve skills training and support for alternative livelihoods, occupational health and safety, wages, educational infrastructure and enhanced social dialogue. Those efforts would require strong support from and necessarily include all the constituents of the uniquely tripartite ILO.
- 115.** While PPPs should remain transparent, the ILO's partnerships with the tobacco industry did not conflict with its role in the UN system. She emphasized that the UN Model Policy was non-binding and recalled that the resolution adopted by the United Nations Economic and Social Council (ECOSOC) encouraged members of the United Nations Interagency Task Force on the Prevention and Control of Non-communicable Diseases (UNIATF) to develop and implement their own policies as appropriate and in line with their own mandates. Recalling that the ILO's mandate was the pursuit of decent work, it would not be in conflict with the Model Policy if it accepted funding from the tobacco industry. Furthermore, prohibiting ILO partnerships within that legal industry would not advance the ILO's fulfilment of that mandate; rather, recalling the example of successful ILO partnerships in the cocoa industry, it was important and appropriate for an industry to be part of the solution to issues in that area. Failing to accept funding from legal sources could even hamper the Task Force's goal of preventing the spread of non-communicable diseases. Her country therefore supported the establishment of a fund, with appropriate safeguards, with contributions from private enterprises, including the tobacco industry, and called upon the Office to reconsider that option.
- 116.** She could support the proposal to hold a tripartite meeting and use the RBSA to fund the strategy over the short term, and welcomed the fact that public funding had become available; she therefore supported subparagraphs (a) and (b) of the draft decision. Regarding subparagraph (c), her country wished to express the strong view that willing donors from the tobacco industry, a legal industry, should have the possibility of being included in any broad coalition of development partners, and expected that the Office would take that into account. She generally supported the proposed amendment to add subparagraph (d), but sought clarification from the Employers' group on how the proposed fund would be "tripartite", and asked the Office for guidance on the potential for a tripartite fund management structure. Her country could also support elements of the amendment proposed by the Africa group if the Governing Body decided to work from that text.
- 117.** *A Government representative of Switzerland*, welcoming the proposed integrated strategy, said that it was important to find a pragmatic solution to ensure that the ILO could continue to run its already high-quality programmes in that area. To that end, his country supported the creation of a fund for the long-term financing of those programmes that complied with the requirements of the Model Policy and the FCTC. It was positive news that no disruption of technical assistance was expected, and that the Office would seek synergies with the World Bank and other public partners. However, he would welcome further details regarding figures and timelines in relation to alternative funding. The role of the tobacco industry, as the principal employer in the sector, also required further clarification; full integration of the private sector was the best way to influence the value chain. He supported the draft decision, especially subparagraphs (b) and (c).

- 118.** *A Government representative of Ecuador* expressed support for ECOSOC resolution E/RES/2017/8 and decisions 6, 18 and 19 taken at the Eighth Conference of the Parties (COP8), which called upon the Parties to promote tobacco control policy coherence and implement policies on preventing tobacco industry interference. She welcomed the proposals for funding projects in the short term and mobilizing additional resources to strengthen the Decent Work Agenda. The ILO's efforts in that area should be consistent with those of the UN system, and would require the establishment of a coalition of development partners to secure the necessary financing for current projects to continue fighting for the eradication of child labour and forced labour. Her country supported the original draft decision.
- 119.** *A Government representative of Canada* said that Canada aligned itself with the statement of Australia. She stated that the issues surrounding the tobacco industry were unique, as no other sector had a framework convention; there was therefore no risk of setting a precedent for other sectors. The integrated strategy for decent work in the tobacco sector did not compromise either the FCTC or the Model Policy.
- 120.** She agreed that countries should have primary responsibility for their own funding and that the integrated strategy should drive resource mobilization efforts, and praised the ILO for recognizing the relevance of the UN reform and the need for policy coherence. Creating any type of fund to which the tobacco industry would contribute would run contrary to the spirit of the FCTC and the Model Policy; the industry could continue to improve labour standards for its workers without directly or indirectly funding the ILO.
- 121.** The ILO should continue its technical assistance within the wider objectives of the integrated strategy and international development efforts, with a focus on alternative livelihoods and children, women and girls, and continue to work with other UN agencies. She requested further details on the objectives and location of the proposed tripartite meeting; it would have more impact if it took place in one of the countries receiving funding.
- 122.** In the spirit of compromise, she supported the draft decision, although she would have strongly preferred an express commitment from the Office not to accept tobacco industry funding, and a clear reference to the Model Policy.
- 123.** *A Government representative of Uruguay* welcomed the contribution of the Workers' group and the Office's visits to countries with PPPs. The concerns raised by workers in the tobacco sector were shared by other workers in vulnerable employment, and were related to the application of the fundamental principles and rights at work. She supported the Office's integrated strategy and its three central goals. The ILO and other UN agencies had sufficient experience to support countries in the implementation of that strategy, using traditional, South-South and triangular cooperation to identify ways to strengthen national capacity and promote alternative sustainable livelihoods. There was no need for any participation of the tobacco industry.
- 124.** Expressing her full support for tripartism, she said it must not be used by the ILO as a reason to operate outside the guidelines and commitments accepted within the UN system. While the ILO was not bound by the FCTC, that Convention was binding for its 181 States parties. The Model Policy should therefore be applied by all UN agencies in order to prevent tobacco industry interference. She welcomed the ILO's efforts to seek alternative sources of funding for programmes to address decent work deficits in the tobacco sector, including child labour, and to ensure technical assistance was not disrupted. She supported the original draft decision, as long as the integrated strategy would not receive any funding from the tobacco industry.

125. *A Government representative of Panama* expressed support for the integrated strategy, the ILO's efforts to promote decent work in the tobacco sector, and the decision not to renew PPPs with that sector. The ILO's efforts must remain consistent with the reform of the UN system, including Members' obligations under the FCTC. He supported the original draft decision.
126. *A Government representative of Peru* supported the integrated strategy and steps to promote decent work in the tobacco sector. He supported the draft decision, on the understanding that the tripartite meeting referred to in subparagraph (a) would be open to all governments and other stakeholders wishing to participate.
127. *A Government representative of Brazil* supported the areas of agreement set out in the document, particularly regarding promoting the best interests of the child. The three central goals of the integrated strategy would actively engage all constituents, strengthen capacity building and promote due diligence in supply chains. The ILO's convening and facilitating role would help member States to create new paths for economic and social development. The ILO should liaise with governments to implement the integrated strategy, taking into account decision FCTC/COP8(19) on the implementation of articles 17 and 18 of the FCTC.
128. He welcomed the differentiation between short- and long-term approaches to implementation, and the proposed use of RBSA funds to cover the immediate needs of existing programmes in tobacco-growing areas. In the long term, he supported the proposed broad coalition of development partners, drawing on the work of other UN agencies and international economic institutions. Such a coalition may facilitate the design of innovative financial tools that benefited from private resources while safeguarding ILO programmes from undue interference; the fund referred to in paragraphs 38–41 of the integrated strategy was one example. However, the development of any such financial tool should be fully explored by the Office to address the concerns of constituents and take into account the international obligations of member States, particularly under article 5.3 of the FCTC.
129. He noted the draft decision, but said that the organization "as a matter of urgency" of a tripartite meeting referred to in subparagraph (a) may raise more questions than solutions. The Office should clarify the intent, scope and composition of that meeting. However, more information sessions would be welcome, provided that they did not have a decision-making mandate. Furthermore, consensus may be reached by deleting "alternative" from the reference to sources of funding in subparagraph (c) of the draft decision, and a reference to eliminating child labour and promoting decent work in the tobacco sector could be included.
130. *A representative of the World Health Organization (WHO)* recalled that the Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases recognized the fundamental conflict of interest between the tobacco industry and public health. COP8 had called for the promotion of tobacco control coherence in the governing bodies of relevant intergovernmental organizations; the adoption of policies to prevent tobacco industry interference; and support for, and strengthened implementation of, articles 17 and 18 of the FCTC as a means to safeguard the livelihoods and health of tobacco growers. Any policy should take into account the FCTC, including article 5.3. The FCTC recommended rejecting any partnership with the tobacco industry. The ILO's proposal to end PPPs with tobacco companies was in line with existing recommendations. However, the proposal to create a fund with contributions from such companies would be inconsistent, even if safeguards were put in place.
131. *A representative of the Director-General (DDG/P)* thanked the Governments and social partners of Zambia, the United Republic of Tanzania, Malawi and Uganda for their help in providing access to a range of stakeholders during consultative missions in those countries.

The missions had granted the Office a greater understanding of decent work deficits in the sector and reinforced the view that the ILO had a key role to play in addressing those deficits.

- 132.** The resolution adopted by ECOSOC on the UN Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases encouraged members of the Task Force, including the ILO, to develop and implement their own policies on preventing tobacco industry interference, bearing in mind the Model Policy, in order to ensure a consistent and effective separation between the activities of the UN system and those of the tobacco industry. Although the ILO was not bound by the FCTC, that resolution had been a call to the entire UN system, not just those organizations involved in public health matters. The purpose of the Model Policy was to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry were comprehensive, effective and consistent across the UN system, including the ILO, in line with the system's guiding principles. It was therefore pertinent for the Governing Body to discuss the Office's adoption of a model policy in line with its mandate. The Model Policy stated that UN organizations should reject partnerships, joint programmes, non-binding or non-enforceable agreements and any other voluntary arrangements with the tobacco industry. The ILO would not cease working with the tobacco sector and had reaffirmed its commitment to address decent work deficits in the industry. However, the question of sourcing funding for that work remained. The ILO did not and would not be required to fund its work in a particular area through contributions by that sector. Having observed the situation on the ground, the Office considered that tobacco workers would have difficulty finding employment in alternative crop-growing industries and recognized that a long-term strategy was needed to address decent work deficits in the sector. It was not a question of choosing whether to continue working with the tobacco industry or abandoning work with the sector altogether.
- 133.** In response to concerns about the stringency of the safeguards proposed by the Office in regard to the establishment of a fund, she reminded constituents that the guidelines for the implementation of article 5.3 of the FCTC were designed to prevent the promotion of the tobacco industry in ways that could be perceived as socially responsible. The Office had no opinions on the purpose behind contributions to PPPs, but did believe that it should not give the industry any opportunity for promotion. Therefore, the adoption of sufficient safeguards would prevent the industry from publicizing its contributions beyond any disclosure required by law or other obligations. However, an anonymous fund, as proposed by the Office, would prevent the industry from publicizing its involvement in any case. The Office would need to explore different options for the management structure of the fund. One possible option would be a fund administered by the ILO in accordance with its own financial rules and regulations and a set of safeguards. Another would be a fund not managed or controlled by the ILO but which could receive some guidance from the Office.
- 134.** Work would continue in the four countries with which the Office had agreed PPPs until the end of 2019 in support of the integrated strategy in those countries. Funding for that technical support had been secured through several sources, including RBSA, and would follow the allocation criteria applied in line with the programme and budget and agreed with the eight development partners that supported the RBSA. The allocation of RBSA each biennium was the prerogative of the Director-General. The Office procedures in that regard were aligned with guidance in agreements and discussions with the eight RBSA donors. The Office had not intended to request the Governing Body to allocate RBSA but to indicate that an allocation of such funds was to be included in the resources devoted to the integrated strategy in 2019. That strategy met the criteria of the current round of RBSA on an exceptional basis, since the ILO had been asked to focus on areas in which the capacity of constituents could be strengthened, including in the development of national socio-economic policy and in the scope of the UN Development Assistance Frameworks. The PPPs were due to expire in December 2018. One PPP had been extended for six months as it had been deemed cost-

effective to complete the work in progress. However, the continuation of PPPs would be inconsistent with the Model Policy's provisions.

- 135.** As regards funding secured from a public donor that had been earmarked for two countries, the Office had taken steps to identify alternative sources of funding, including through national consultations. Such efforts were already delivering positive results, including discussions with the donor on a new initiative on child labour in agriculture in Africa. Although that funding had been earmarked for Malawi and Uganda, the ILO was discussing providing similar levels of support to the United Republic of Tanzania and Zambia with other development partners. The Office was exploring options to develop an integrated funding strategy, including sourcing funding from the World Bank, in its efforts to build a broad funding base. The Office's goal was indeed to eradicate child labour in line with the SDGs. Since the Office needed to keep all actors at the table, it was seeking to hold a tripartite meeting to promote knowledge exchange in relation to the different elements of the integrated strategy and explore the roles of social partners and all other stakeholders. The meeting could be held in one of the affected countries if so desired.
- 136.** *The Worker spokesperson* thanked the Government representative of Canada for clarifying that the tobacco sector was unique in having a framework convention; that justified the specific discussion under way, which had been queried in the past by the Employers' group.
- 137.** Regarding the amendment proposed by the Employers' group, she asked what was meant by the term "relevant stakeholders" inserted in subparagraph (a), other than social partners and affected countries. She also queried the ambiguity of the word "alternative", which the amendment proposed replacing with "other" in subparagraph (c), and which appeared to be inconsistent in the French and Spanish versions of the text. In relation to the proposed addition of subparagraph (d) on the establishment of a tripartite fund, she understood that the Employers' group was in favour of a fund, but not the safeguards mentioned in document GB.334/POL/5. Did the Employers' group therefore disagree with the interpretation that safeguards were needed for the fund to be consistent with the FCTC and Model Policy? Secondly, did the Employers think that tobacco industry members would be prepared to contribute considerable sums of money to the fund on an anonymous basis? Thirdly, did the Employers think that the fund was still a viable way forward, given the number of governments that had expressed concerns, rightly or wrongly, about contributing to a fund that also received funding from the tobacco industry, and given that most potential donors financing an integrated strategy would have to come from those countries?
- 138.** While the Africa group's concerns were understandable, it should be noted that there were other tobacco-producing regions in the world that had not raised those concerns. She asked why the group had deleted all references to the integrated strategy in its proposed amendment; did it believe that the integrated strategy was of no use to the workers, employers and governments in the region? In addition, given the apparently useful tripartite exchanges held recently in many of its countries, why did it wish to delete the elements relating to a future tripartite meeting?
- 139.** She sought clarification on why the Africa group was against the proposal to use RBSA funds to finance projects for the elimination of child labour. Concerns about finding sources of funding other than those from the tobacco industry were legitimate, but that money was currently limited and only benefited a few countries. While the integrated strategy would be broader, potentially requiring more money, there was considerable commitment from the Office and certain member States to securing financing over both the short and longer term. The Africa group should not therefore be too pessimistic regarding funding. In addition, given that 50 African countries had ratified the FCTC, how did they square their associated

obligations with asking for support to continue accepting direct funding from the tobacco industry?

140. Any fund, even one consistent with member States' obligations regarding financing from the tobacco industry, would be useless if it remained empty, which could happen if an anonymity clause discouraged donors from the tobacco sector, or if other donors refused to contribute alongside those tobacco industry donors. The Africa region needed an integrated policy, and sufficient funding to address their concerns on that matter, as well as those of workers and trade unions in the sector. In recent years, the tobacco industry had shown a lack of interest in promoting decent work; stronger social dialogue was needed. The tripartite meeting proposed in the draft decision was therefore key to further developing the integrated strategy, establishing the responsibilities of the social partners, and working on associated legal elements such as freedom of association and collective bargaining. Lastly, she asked the governments that were in favour of the proposed fund whether they were ready to contribute to that fund if other governments refused to do so.
141. *The Employer spokesperson* said that the instruments which had been outlined by the Office, and which served as the subjects of discussion, were non-binding. Despite that, the Office's argument was that the ILO had the responsibility to align itself with the Model Policy for UN agencies. Expressing the view of the Employers' group, she said that the integrated strategy outlined by the Office and the consultations held in four African countries were inconsistent with that Model Policy, which required disengagement from all forms of interactions, not just funding. The Employers' position was for the Office not to align with the Model Policy, because it must continue working towards advancing programmes of priority to the ILO. Sufficient grounds were needed to disengage from PPPs and the Governing Body should not select partnerships based solely on the UN's viewpoint. Tobacco was a legal sector, but also one which should not be treated differently because no precedents had been set in that respect. A reasoned decision should be made about the fund, and the guidelines and restrictions which made it inoperative reduced.
142. It was clear from the statements by the Africa group and the United States that there was support for the fund. There should simply be reasonable safeguards. The fund must be governed by a tripartite board, which was not external to the ILO, involving foundations and the tobacco sector itself. Fortunately, there was convergence between the amendments proposed by the Employers and the Africa group.
143. *Speaking on behalf of the Africa group*, a Government representative of Uganda recalled that the decision should deal with the real issue of whether the ILO should accept funding from tobacco. There were obviously strong views against such funding, but tobacco was a legal industry. The FCTC sought to regulate the tobacco sector with respect to public health and did not refer to child labour. There were workers in that sector who made payments to their trade unions, and that money subsequently ended up with the International Trade Union Confederation (ITUC). In that regard, was there a mechanism to separate the money that came from tobacco and from other sources? It was unfair to label the Africa group as inconsistent for having accepted funding from the tobacco sector.
144. While the ILO was party to the FCTC, it was also party to the UN Convention on the Rights of the Child. Therefore, if tobacco funding were to be cut, it should be done so as to ensure a smooth transition and the availability of funding from another concrete source. If PPPs were terminated, ongoing activities would be disrupted. The Africa group's position was one of consensus and middle ground should be found.
145. *The Employer spokesperson* echoed the sentiments expressed by the Africa group, in particular the fact that the entire UN system, including the ILO, received funding from

governments which was not separate from the tobacco industry. For that reason, the Governing Body was being insincere by criticizing the acceptance of tobacco money through government funding. In addition, if funding were diverted from the RBSA to support the programmes which were previously funded by tobacco, which existing projects or programmes would be affected if the Office followed through on its current proposals?

146. In response, *a representative of the Director-General (DDG/P)* said that the Office was not reallocating the RBSA funds to tobacco, but that those funds were being used for a number of purposes.
147. *A Government representative of Uganda* said that the strategy that had been raised by the Workers lacked a clear roadmap, with clear performance indicators and resources. The Office should clearly demonstrate the availability of funds by means of a written commitment. It was important to adopt the stance taken by the Africa group, with the support of the Employers, in order to move forward.
148. *The Worker spokesperson* said that she had asked why the Africa group wished to remove the reference to the integrated strategy and the tripartite meeting from the draft decision in order to ascertain whether tripartite agreement on the strategy and on the usefulness of RBSA funding in ensuring that work to address child labour continued was possible. She agreed that consideration should be given to how the strategy would be developed in future.
149. *A Government representative of Uganda* said that the draft decision should refer to funding and provide assurances that the financial resources required to continue the ILO's activities would be available.
150. *The Chairperson* said that the document presented by the Office was well balanced and proposed a long-term solution to the problem. Although it appeared to enjoy broad support, he wished to take a decision that was satisfactory to a greater proportion of the Governing Body.
151. *A Government representative of Uganda*, noting that Rule 5.5.1 of the Governing Body provided that decisions on proposals involving expenditure must consider the estimated cost and make provision for necessary expenditure, said that it would be difficult to take a decision on the integrated strategy unless the Office set out how much it would cost and what funding sources would be used.
152. *The Employer spokesperson* said that, despite the Chairperson's assertion, there was no majority opinion on the draft decision and further discussion would be required to overcome clear divisions.
153. *A Government representative of the United States* said that while there seemed to be several representatives that supported the draft decision proposed by the Office, there were several different interpretations of that text and conditions that representatives had placed on its adoption. It was important not just to adopt the text, but also to have a clear understanding of the guidance given to the Office by the Governing Body for its implementation.
154. *The Director-General* thanked the Governing Body for its courteous discussion of the item and agreed that it would serve no purpose to postpone the decision to a future session of the Governing Body. While there was no consensus yet, there were majority positions emerging, and it was right to explore the nuances of the discussion. Concerning the financial implications, the rule quoted did not apply in the current circumstance, and thus did not prevent a decision from being taken.

- 155.** *The Chairperson* clarified that his impression had been one of emerging consensus, but that he was not seeking to bias one side or the other of the discussion. He proposed giving the constituents more time to address some of the points of divergence and reach a consensus decision.
- 156.** *A Government representative of Uganda* asked the Director-General to explain why Rule 5.5.1 was irrelevant.
- 157.** *A representative of the Director-General* (Treasurer and Financial Comptroller) said that Rule 5.5.1 stated that the Governing Body should make no decision regarding any proposal involving expenditure without considering its estimated cost and making provision for that expenditure. As the draft decision proposed by the Office did not include any expenditure, the Rule did not apply.
- 158.** *A Government representative of Uganda* said that no strategy could be implemented without activities and a workplan and that would cost money. Therefore, the integrated strategy outlined in the document would require a budget.
- 159.** *The Chairperson* recalled that he had agreed to the formal request of the Employers' group to postpone the discussion for a few days for further consultations in order to try to reach a consensus on the details of the draft decision, a request that had been supported by a number of member States and groups. He also recalled that the Workers' group had strongly objected to the postponement, supported by the representative of Romania speaking on behalf of the European Union, on the grounds that there had been a clear indication of a majority view on how to move forward with broader agreement. The Employers' spokesperson indicated that her group had asked for additional time to try and reach consensus and to seek a way forward which would take into account the voices of the most affected region. The Chair invited the Governing Body to resume its discussion of the item.
- 160.** *Speaking on behalf of the Africa group*, a Government representative of Uganda said that, during consultations, it had become clear that it would be necessary to accept a compromise solution and that no single group would have their interest without looking at the interest of others and also accommodating them. With this spirit, he recalled the previous discussion and proposed a position that would guarantee the interests of all, by consensus and not by vote. He proposed the following amended version of the draft decision:
- “The Governing Body welcomed the Integrated Strategy 2019–22 but noted that it requires further development. Accordingly, the Governing Body directed the Director-General:
- (a) to organize a tripartite meeting as a matter of urgency, to promote an exchange of views on the further development and the implementation of the strategy, with, among others, the participation of the directly affected countries and social partners in the tobacco sector;
  - (b) to present an update on the costed and time-bound integrated strategy to the Governing Body at its 337th Session in November 2019;
  - (c) to continue the ongoing project-based efforts to eliminate child labour using Regular Budget Supplementary Account funds and other public funds in the short term; and
  - (d) to continue efforts to mobilize various sustainable sources of funding from the public and private sector with appropriate safeguards.”
- 161.** *The Worker spokesperson* said that the issue at hand was a long-standing one and it had been important to take the time to understand both the text and the concerns of others. She noted



that it had been a difficult discussion for the Africa group and appreciated very much that everyone had worked with all to find a solution. Adoption of the draft decision, as amended, would allow the Office to move ahead with its work and for efforts to eradicate child labour to progress in a number of countries. Her group supported the draft decision, as amended.

162. *The Employer spokesperson* said that Africa was the region that would be the most affected by the draft decision. If the integrated strategy and the tripartite meeting were to succeed, a common understanding of the issues was crucial. The aim was to make a positive impact on the lives of the 60 million people involved in the tobacco sector. The draft decision, as amended, would allow the private sector to contribute to that aim and would give the Office clear guidance on the further development and implementation of the strategy. The Employers were looking forward to being part of that process. The decision would ensure that there was no interruption in current activities and provided a longer-term vision to support future wide-reaching activities and initiatives. The tripartite meeting would have an important role to play in the development of those activities, supported by sustainable sources of funding from both the public and the private sectors. Her group supported the draft decision, as amended by the Africa group.
163. *Speaking on behalf of the EU and its Member States*, a Government representative of Romania welcomed the efforts to reach consensus and said that the integrated strategy constituted a practical solution to developing and delivering a holistic and long-term approach to addressing decent work deficits in the tobacco sector. She supported the draft decision, as amended, in a spirit of compromise, but sought further clarification about the appropriate safeguards to prevent interference from the tobacco industry mentioned in subparagraph (d) of the proposed text.
164. *Speaking on behalf of ASPAG*, a Government representative of China said that his group supported the draft decision, as amended.
165. *A Government representative of Ecuador* said that the Governing Body's approach must be consistent with the decisions taken within the United Nations system and the other specialized agencies. The reference to private sector funding contained in subparagraph (d) gave cause for concern. However, her country supported the draft decision, as amended.
166. *A Government representative of Lesotho* said that the decent work deficits in the sector could not be overlooked. Work to eliminate child labour needed to continue. As the ILO could not stop its cooperation with the tobacco industry, the clear strategy advanced by the Africa group should be supported. All countries must understand the strategy in order to implement it successfully, which would require meaningful contributions from all parties concerned and facilitate the establishment of a monitoring and evaluation framework by the ILO.
167. *A Government representative of Uruguay* said that while the proposed text was not ideal, in particular subparagraph (d), her country would support it in the interests of consensus.
168. *A Government representative of the United States* said that the amended text was reasonable, viable and tripartite and his country supported it fully. He commended and thanked all delegates, in particular the delegate from Uganda, the social partners – the Employers and the Workers – very much for their great efforts.
169. *A Government representative of Brazil* said that the issue was not simple and the discussions had revealed a wealth of legitimate views and opinions. The efforts of all – especially the Africa group – to attain a compromise text were truly commendable. Brazil supported the draft decision, as amended.

170. *A representative of the Director-General (DDG/P) said, with regard to subparagraph (d), that the Office would take all of the Governing Body's comments into account when developing the integrated strategy and when moving forward with its implementation, and would continue to consult with all of the affected governments and the social partners in that regard. The first step was to organize the tripartite meeting; careful consideration would be given to all of the views raised at that meeting.*
171. *The Chairperson said he wished to commend the Africa group for its perseverance and efforts to reach an acceptable text that the Governing Body could adopt by consensus.*

## Decision

172. *The Governing Body welcomed the Integrated Strategy 2019–22 but noted that it requires further development. Accordingly, the Governing Body directed the Director-General:*
- (a) to organize a tripartite meeting as a matter of urgency, to promote an exchange of views on the further development and the implementation of the strategy, with among, others the participation of the directly affected countries and social partners in the tobacco sector;*
  - (b) to present an update on the costed and time-bound integrated strategy to the Governing Body at its 337th Session in November 2019;*
  - (c) to continue the ongoing project-based efforts to eliminate child labour using Regular Budget Supplementary Account funds and other public funds in the short term; and*
  - (d) to continue efforts to mobilize various sustainable sources of funding from the public and private sector with appropriate safeguards.*

(GB.334/POL/5, paragraph 46, as amended by the Governing Body.)