



## Governing Body

**Minutes(Rev.5)**

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### **Minutes of the meetings of the Screening Group held in preparation of decisions made by correspondence by the Governing Body between March and October 2020**

The 338th Session of the Governing Body, which was originally scheduled from 12 to 26 March, did not take place in view of the restrictions to meetings and travel in place since early March as a result of the coronavirus pandemic.

The Governing Body delegated to its Officers the authority to make decisions, in consultation with the tripartite Screening Group, on several items, or made decisions by correspondence. Consideration of all other items on the agenda is deferred to future sessions of the Governing Body.

With the subsequent reinforcement of travel and meeting restrictions in most countries and having due regard to the need to protect the health and well-being of people, the Governing Body decided, through a vote by correspondence, to defer the 109th Session of the International Labour Conference (originally scheduled from 25 May to 5 June) to June 2021, and to cancel the associated 338bis and 339th Sessions of the Governing Body scheduled for 25 May and 6 June 2020, respectively.

This document contains official communications, ballot results and the minutes of the meetings of the Officers of the Governing Body with the Screening Group in relation to the agenda of the 338th Session of the Governing Body.



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## Consequences of not holding the 338th Session of the Governing Body in March 2020 and subsequent developments

Due to the rapidly evolving situation caused by the COVID-19 crisis, subsequently declared a pandemic by the World Health Organization, it was decided not to hold the 338th Session of the Governing Body originally scheduled for 12–26 March 2020. The sequence of events leading to this decision and the steps taken thereafter are outlined below.

1. In response to the escalating crisis caused by the Covid-19 outbreak, the Swiss Federal Council decided at an extraordinary session on 28 February 2020 to ban large-scale events until 15 March 2020 at the earliest (the ban was later reinforced and extended until 19 April 2020).
2. On 3 March 2020, the members of the Governing Body were informed by the Director-General that, on his recommendation and after having consulted the Employer and Worker Vice-Chairpersons and Government group representatives, the Chairperson of the Governing Body had decided, in accordance with paragraph 3.2.3 of the Standing Orders of the Governing Body, that the 338th Session of the Governing Body would no longer take place on those dates.
3. The decision followed a careful risk assessment by the Office together with the competent local authorities, undertaken in conformity with the decision of 28 February of the Swiss Federal Council. It took into particular account the tripartite nature of the Governing Body, which required Employer and Worker members with no representation in Switzerland to travel from their countries to participate in the Governing Body meetings held in Geneva.
4. The Governing Body members were assured that arrangements would be put in place to ensure that items that would have been discussed at the March session would be incorporated into the agenda of the sessions of the Governing Body to take place later in the year so that the activities of the Organization could be carried forward effectively. The arrangements under consideration would involve:
  - delegation of authority to the Officers of the Governing Body to take urgent decisions deemed uncontroversial;
  - decisions to be taken by the resumed Governing Body session already scheduled for 25 May 2020 in the framework of the 109th Session of the International Labour Conference;
  - further matters to be considered by the 339th Session of the Governing Body foreseen for June immediately after the Conference.

This information was also communicated to all Member States through a *note verbale* sent on the same day to all their Permanent Missions.

5. On 5 March 2020, the Officers of the Governing Body and the members of the tripartite Screening Group received a set of proposals from the Office on the course of action on how and when to deal with items that had been placed on the agenda of the 338th Session. It included the classification of items as either needing immediate decision or incorporation into future sessions:

- eight items were identified as potentially non-controversial and requiring urgent decision through a delegation of authority to the Officers by the Governing Body;
  - three items relating to actions that the Governing Body had to recommend to the Conference were proposed for deferral to what would have been the resumed 338th Session on 25 May;
  - seven items were identified as requiring action at the 339th Session (6 June) as these were related to activities requiring action prior to the 340th Session (October–November 2020); and
  - all other items were to be postponed to future sessions, including the 340th Session (October–November 2020).
6. A schedule of successive joint meetings of the Officers and the Screening Group to discuss the following stages was also put forward:
- (a) A **first meeting** to provide their views on the items identified as urgent and for which a delegation of authority to the Officers could be sought from the Governing Body. Subsequent to that, all members of the Governing Body would be consulted by email correspondence if they would agree to delegate their authority on each of the items proposed.
  - (b) A **second meeting** to make decisions on items for which a delegation of authority had been granted by the Governing Body.
  - (c) A **third meeting** to determine the agenda of the May, June and November sessions for which the Office had prepared proposals before the decision was taken to call off the March session.
7. At the first joint meeting of the Officers of the Governing Body and Screening Group which took place on 13 March, members expressed their views on which items a delegation of authority would be requested. Agreement was reached to seek delegation of authority on seven of the eight items. These were:
- Arrangements for the 109th Session of the Conference ([GB.338/INS/2/2](#))
  - Dates of the 17th Asia and the Pacific Regional Meeting ([GB.338/INS/15/2](#))
  - Composition, agenda and programme of standing bodies and meetings ([GB.338/INS/17\(Rev.1\)](#))
  - Sectoral meetings held in 2019 and proposals for 2020–21 ([GB.338/POL/3](#))
  - Delegation of authority under article 18 of the Standing Orders of the International Labour Conference ([GB.338/PFA/2](#))
  - Composition of the Administrative Tribunal of the ILO ([GB.338/PFA/11/2](#))
  - Comprehensive review of the Conference Standing Orders ([GB.338/LILS/1](#))
8. No agreement was reached, however, on whether to seek delegation of authority on GB.338/INS/15/1 (Update on the status of ratification of the 1986 Instrument for the Amendment of the Constitution of the ILO and follow-up to paragraph 3 of the Resolution on the ILO Centenary Declaration for the Future of Work) on the understanding that pending

agreement on the composition and terms of reference of a working group to examine the matter, informal tripartite consultations would be organized with a view to reporting on progress to the 340th Session of the Governing Body in October–November.

9. Reservations were expressed by some groups on the proposed handling of items GB.338/INS/2/2 and GB.338/POL/3. Compromise was reached on many aspects, and it was understood that:
  - In respect of item GB.338/INS/2/2, the delegation of authority included not only decision-making on the decision point in document GB.338/INS/2/2, but also for the guidance that members of the Screening Group might provide on other aspects of the preparations for the 109th Session of the International Labour Conference.
  - In respect of item GB.338/POL/3, while the delegated authority relating to matters covered in subparagraph 11(a) of the draft decision could be exercised by the Officers in consultation with the Screening Group, delegated authority in respect of issues covered in subparagraphs 11(b), (c) and (d) of the draft decision would be exercised only if the Governing Body did not hold a session in May or June 2020.
10. The group was also consulted on the modalities of the consultation by correspondence with the Governing Body members. It was proposed that in accordance with usual Governing Body practice, the Chairperson of the Governing Body would assess the responses received to determine if consensus had been reached. If the Chairperson considered that there had been no consensus in respect of any of the seven items, a count of the responses would be undertaken to determine if there had been a simple majority of regular members in support of each proposed delegation of authority. The absence of a response by Wednesday 18 March would be deemed to constitute support for the proposed delegations of authority.
11. On 15 March, the email correspondence to all Governing Body members was sent requesting delegation of their authority on the seven aforementioned items (see [Appendix I](#)).
12. In a message sent on 19 March 2020, the Vice-Chairpersons of the Governing Body and the members of the Screening Group were informed by the Office, at the Chairperson's request, of his assessment of the responses received from Governing Body members. At 6 p.m. on Wednesday, 18 March 2020, 51 responses were expressly in favour of the delegation of authority in respect of all aforementioned seven items; six responses were against the delegation of authority in respect of one or more items while supporting the delegation of authority in respect of all other items; one response was against the delegation of authority in respect of all seven items; and 64 members had not responded, the absence of a response being deemed to constitute support for the proposed delegation of authority (included in [Appendix I](#)).
13. While this was not a unanimous decision, a very large majority of express or implied support had been received overall, in particular from regular members of the Governing Body in respect of all seven items; the Chairperson therefore considered that the Governing Body had agreed to delegate its authority in respect of all items.

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Friday, 20 March 2020**

14. The Officers of the Governing Body and the members of the tripartite Screening Group met through videoconference on Friday, 20 March 2020 to make decisions, under the authority

delegated to them by the Governing Body, on the items on the agenda of the 338th Session of the Governing Body requiring urgent action. An update on the status of the 109th Session of the International Labour Conference was also provided by the Office.

15. The Chairperson of the Governing Body, H.E. Mr Litjobo (Government, Lesotho), chaired the meeting. Participants included the Employer Vice-Chairperson, Mr M. Mdwaba (South Africa), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific: Mr R. Behzad (Iran)

Latin America and the Caribbean (GRULAC): Ms L. Silva (Uruguay)

Eastern Europe: Ms M. Nojszewska-Dochev (Poland)

Western Europe: Mr P. Rochford (Ireland)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Employers' group secretariat: Mr R. Suarez and Ms M.P. Anzorreguy

Workers' group secretariat: Ms R. Gonzalez and Ms M. Llanos

16. *The Chairperson* recalled that a very large majority of Member States had agreed on the delegation of authority on the seven items from the agenda of the 338th Session of the Governing Body that required urgent action; the main purpose of the joint meeting of the Officers and the tripartite Screening Group was to make decisions on those items. Two of those items were contingent on the decision on whether it would be possible to hold the International Labour Conference and the Governing Body sessions in May and June 2020. He therefore proposed considering those two items at the end of the meeting, together with information from the Office on the prospect of holding the Conference and Governing Body sessions in May and June 2020. The Screening Group would then be in a better position to discuss when and how to deal with the remaining agenda items.
17. *The Worker and Employer Vice-Chairpersons* expressed their shared view that the current exceptional situation meant taking on unusual responsibilities. They were fully aware of the problems and challenges that arose, especially for government representatives. It was important to build mutual trust in decision-making, in the knowledge that everyone was working towards the same objective. The Workers and the Employers were committed to listening to and taking seriously the concerns of governments, and acting on the basis of consensus where possible, taking the concerns of all on board. They stated, however, that the Officers might have to take decisions where consensus could not be reached.
18. *The Chairperson of the Government group* said that the bulk of the discussion for the Governments would be from the standpoint of the regional coordinators. While they did not have major differences, harmonization of diverse national standpoints would be a challenge and required flexibility in accommodating different positions. He called for patience in allowing each regional coordinator to air the particular views of each regional group at this crucial time.
19. *The representative of the Africa group* noted that while under normal circumstances her group would have made a statement on the agenda items, it had agreed to delegate authority for decisions and had no objection or specific comments to most of the draft decisions.

20. *The representative of the Asia and Pacific group (ASPAG) shared the sense of collective responsibility referred to by the Employer and Worker Vice-Chairpersons, as well as the call for flexibility from the Chairperson of the Government group.*
21. *The representative of the group of Latin American and Caribbean countries (GRULAC), highlighting her group's willingness to be flexible in view of the extraordinary circumstances, emphasized that the delegation of authority must be used on an exceptional basis and applied restrictively. Consultations must be continued. Mutual trust was essential, as well as the need to be practical and transparent.*
22. *The representatives of the group of industrialized market economy countries (IMEC), the Eastern European Group, and the Western European Group also emphasized the need for mutual understanding and working collectively, constructively and in solidarity in all actions taken. It was important to give strategic direction to the Office and to enable it to remain operational in the coming months.*
23. *The Vice-Chairperson of the Government group highlighted the need to maintain a positive dialogue and work towards achieving good results for all ILO Member States.*

**I. Decisions under delegated authority on items on the agenda of the 338th Session of the Governing Body**

***Dates of the 17th Asia and Pacific Regional Meeting***  
(GB.338/INS/15/2)

24. *The Employer and Worker Vice-Chairpersons and the representatives of the Africa group, ASPAG, GRULAC, IMEC, the Eastern European group, the Western European and the Vice-Chairperson of the Government group expressed support for the proposals and draft decision contained in document GB.338/INS/15/2.*
25. *The Deputy Director-General for Management and Reform, in response to a question raised by the representative of ASPAG concerning a discrepancy between the dates proposed in documents GB.338/INS/15/2 and GB.338/INS/17, confirmed that the correction had been made, as reflected in the documents online.*

Decision

26. ***The Governing Body, through delegation of authority, approved that the 17th Asia and the Pacific Regional Meeting be held from Tuesday 6 to Friday 9 April 2021.***

(GB.338/INS/15/2, paragraph 4)

***Composition, agenda and programme of standing bodies and meetings***  
(GB.338/INS/17(Rev.1))

27. *The Chairperson said that document GB.338/INS/17(Rev.1) had two parts: the first on the list of observers to be invited to the International Labour Conference and other official meetings; and the second on the proposed programme of official meetings in 2020 and 2021. The programme would have to be reviewed depending on whether it would be possible to hold some of the meetings on the scheduled dates. For example, as it was evident that the*

sectoral meeting on the future of work in the automotive industry could not take place in early May 2020, it would have to be rescheduled and included in the programme of meetings for the second half of 2020.

28. *The Vice-Chairperson of the Government group* proposed that the community of Portuguese-speaking countries be included in the list for invitation to the 17th Asia and the Pacific Regional Meeting.
29. *The Employer and Worker Vice-Chairpersons, the Chairperson of the Government group and the representatives of ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group*, expressed support for the draft decision.
30. In response to a query from *the representative of GRULAC* on whether a new date had been established for the meeting on the automotive industry, *the Deputy Director-General for Management and Reform* said that it was hoped to reschedule the meeting in the second half of 2020. However, under the uncertain circumstances no date had been set.

#### Decision

**31. *The Governing Body, through delegation of authority:***

- (a) *authorized the Director-General to issue an invitation to the Government of the Kingdom of Bhutan to send an observer delegation to the 109th Session of the International Labour Conference, as well as to the organizations requesting to be represented at the Conference listed in the appendix of document GB.338/INS/17(Rev.1), it being understood that it will be for the Conference to consider their requests to participate in the work of the committees dealing with the agenda items in which they have stated a special interest, and to inform the organizations concerned that they may nominate one person only for each of the agenda items in respect of which their interest has been recognized;*
- (b) *endorsed the proposals made in relation to the invitation of intergovernmental and international non-governmental organizations as observers to the other official meetings listed in the appendix:*
  - *the Technical Meeting on the Future of Work in the Education Sector;*
  - *the Technical Meeting on the Future of Work in Aquaculture in the Context of the Rural Economy; and*
  - *the 17th Asia and the Pacific Regional Meeting, with the addition of the Community of Portuguese-speaking Countries (CPLP) to the list of organizations to be invited; and*
- (c) *took note of the programme of meetings, as approved by the Officers of the Governing Body, including the postponement of the Technical meeting on the future of work in the automotive industry to the second half of 2020, as well as of possible further changes to the programme of meetings.*

(GB.338/INS/17(Rev.1), paragraph 9, as amended by the Governing Body)

**Delegation of authority under article 18 of the Standing Orders of the International Labour Conference**  
(GB.338/PFA/2)

32. The Officers of the Governing Body and the members of the Screening Group expressed support for the draft decision.

Decision

33. *The Governing Body, through delegation of authority, decided to delegate to its Officers, for the period of the 109th Session (May–June 2020) of the Conference, the authority to carry out its responsibilities under article 18 of the Conference Standing Orders in relation to proposals involving expenditure in the 77th financial period ending 31 December 2021.*

(GB.338/PFA/2, paragraph 3)

**Comprehensive review of the Standing Orders of the Conference: Progress report**  
(GB.338/LILS/1)

34. *The Employer Vice-Chairperson, the Chairperson of the Government group and the representatives of the Africa group and ASPAG expressed support for the draft decision.*
35. *The Worker Vice-Chairperson noted that a number of consultations had been held, progress had been made, and that the first consolidated text of amendments had been presented for consideration by the Governing Body. More time was needed on the understanding that nothing could be considered as agreed until the entire package of amendments would be agreed by consensus. She supported the draft decision but noted that in view of the current situation, the timing of the proposed consultations might need to be adapted.*
36. *The representative of GRULAC said that her group supported the draft decision but, in view of comments received from its members, would like to continue consultations. She concurred with the Worker Vice-Chairperson with regard to the timing of the proposed consultations.*
37. *The Vice-Chairperson of the Government group and the representatives of IMEC, the Eastern European group and the Western European group expressed support for the draft decision and concurred with the concern that it was not foreseeable that two rounds of tripartite consultations would be held by the end of June 2020.*
38. *In response to that concern, the Deputy Director-General for Management and Reform indicated that the two rounds of consultations would be convened at the earliest possible date, bearing in mind that the Governing Body had until March 2021 to consider the amendments if these were to be submitted to the Conference in June 2021.*

Decision

39. *The Governing Body, through delegation of authority, took note of the progress report on the consultations concerning the comprehensive review of the Standing Orders of the Conference, and requested the Office to organize at least two rounds*

*of tripartite consultations as soon as possible and to prepare a draft consolidated text of amendments for its consideration at a future session.*

(GB.338/LILS/1, paragraph 9, as amended by the Governing Body)

***Matters relating to the Administrative Tribunal  
of the ILO: Composition of the Tribunal***  
(GB.338/PFA/11/2)

40. *The Employer and Worker Vice-Chairpersons, the Chairperson and Vice-Chairperson of the Government group, and the representatives of the Africa group, ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group expressed support for the draft decision.*
41. Responding to a question from *the Worker Vice-Chairperson* on how the renewal of Mr Kreins' term of office might be affected by the possible cancellation of the 109th Session of the International Labour Conference, *the Deputy Director-General for Management and Reform* indicated that, in the event that no International Labour Conference was held in 2020, Mr Kreins' mandate could be considered for renewal by the Conference only in 2021. The decision taken at this meeting would be carried over automatically to the next Conference. As a result, Mr Kreins would not sit on the Administrative Tribunal in the intervening period, and the Tribunal would have to operate with one member less.
42. *The Worker Vice-Chairperson* requested the Office to explore ways that would enable the Tribunal to continue its important work in those circumstances, as a situation in which the Administrative Tribunal would be deprived from Mr Kreins contributions during a whole year should be avoided.
43. *The representative of IMEC* said that she would like the Office to produce a paper on that and other potential implications of cancelling the 109th Session of the International Labour Conference.
44. *The Deputy Director-General for Management and Reform* said that, should the Office recommend the cancellation of the 109th International Labour Conference, it would provide advice on the implications for all items on the Conference agenda, including an analysis of available options for that particular item.

Decision

45. ***The Governing Body, through delegation of authority, decided to propose to the International Labour Conference the renewal of the term of office of Mr Kreins (Belgium) for three years and the adoption of the following draft resolution:***

The General Conference of the International Labour Organization,

*Decides*, in accordance with article III of the Statute of the Administrative Tribunal of the International Labour Organization, to renew the appointment of Mr Kreins (Belgium) as a judge of the Tribunal for a term of three years.

(GB.338/PFA/11/2, paragraph 4)

**Sectoral meetings held in 2019 and proposals  
for 2020–21  
(GB.338/POL/3)**

46. *The Chairperson* recalled that the Screening Group was only called upon to consider the draft decision in paragraph 11(a). All other paragraphs would be dealt with at a later stage.
47. *The Employer and Worker Vice-Chairpersons, the Chairperson of the Government group and the representatives of the Africa group ASPAG, GRULAC, IMEC, the Eastern European group and the Western European group*, expressed support for paragraph 11(a) of the draft decision.
48. *The Employer Vice-Chairperson* advanced his group's support for paragraphs 11(b) and (c).
49. *The representatives of ASPAG, IMEC, as well as of the Eastern European and Western European groups*, reiterated their previously stated position in support of paragraphs 11(a) and (b), but wished to defer comments on paragraphs 11(c) and (d) until the next meeting of the Screening Group.
50. *The representative of GRULAC* also restated her group's preference to reserve comments in respect of paragraphs 11(b), (c), and for (d) for the subsequent meeting.
51. *The Vice-Chairperson of the Government group* cited the understanding reached at the last meeting of the Screening Group, in which delegated authority in respect of issues covered in subparagraphs 11(b), (c) and (d) of the draft decision would be exercised only if the Governing Body did not hold a session in May or June 2020.
52. *The Chairperson* concluded that further discussion of the two remaining Governing Body agenda items should be deferred to a future meeting of the Screening Group, once the decision on whether the Conference and the May and June sessions of the Governing Body would take place was known.

Decision

53. ***The Governing Body, through delegation of authority, approved the publication and dissemination by the Office of the guidelines on the promotion of decent work and road safety in the transport sector and of the summary record of the proceedings of the Meeting of Experts to Adopt Guidelines on the Promotion of Decent Work and Road Safety in the Transport Sector, which was held in Geneva from 23 to 27 September 2019, and deferred to a later stage consideration of other items included in the draft decision of document GB.338/POL/3.***

(GB.338/POL/3, paragraph 11, as amended by the Governing Body)

**II. Update on the status of the 109th Session  
of the International Labour Conference**

54. At the invitation of *the Chairperson*, and further to the urgent request from the Regional Coordinators for clarity on the status of the 109th Session of the International Labour Conference, *the Deputy Director-General for Management and Reform* said that it was highly probable that the 109th Session of the International Labour Conference, 2020 would have to be cancelled. While a recommendation in this regard, which would be put to the Governing Body for a vote, was yet to be confirmed pending consultation with the Swiss authorities and the Officers of the Governing Body, the Office would prepare a paper on the

implications of that recommendation for presentation to the Officers and Screening Group in the forthcoming days. The paper would include comments on suggestions received regarding the possibility of a postponed or reduced Conference, the consequences regarding individual items that were to come before the Conference, the repercussions of the cancellation on the Conference Committee on the Application of Standards and the Governing Body elections, and the ways those issues might be addressed in 2021.

55. In response to the request from *the Chairperson of the Government group* to convene the forthcoming Screening Group meeting earlier than foreseen in the following week, *the Deputy Director-General for Management and Reform* said that, as the paper necessitated detailed information, it would not be feasible to do so. He intended the paper to be ready on Tuesday, 24 March, and the Screening Group meeting to be held the following Thursday, 26 or Friday, 27 March.
56. *The representatives of the Africa group, ASPAG, IMEC and the Eastern European group* expressed their support for the Office's pragmatic approach to a difficult issue. They looked forward to further information in order to report back to their groups.
57. *The representative of GRULAC* requested further clarification on the procedures leading up to the vote on the cancellation of the Conference, and as to whether all Governing Body members would be entitled to vote.
58. In response to *the representative of the Western European group's* request for the social partners' views on a scaled-down Conference held later in the year, which members of his group had expressed interest in exploring, *the Worker Vice-Chairperson* said that she did not support the idea of a postponed or reduced Conference. It was important to determine the action the Organization could take in a tripartite and democratic manner. Holding a Conference with delegations composed of only four persons each would be highly problematic for her group. It was also difficult to conceive of a Conference with fewer items on its agenda. She proposed further discussion of that matter following the issuance of the paper on the implications of a possible cancellation of the Conference.
59. *The Employer Vice-Chairperson* said that a scaled-down Conference was not feasible or practical, and supported the views of the Worker Vice-Chairperson.
60. *The Vice-Chairperson of the Government group*, noting the significance of a decision to cancel the Conference, said that it was important to cooperate closely and constructively to identify a sound solution.
61. *The Deputy Director-General for Management and Reform* said that while reference could be made in the paper to the potential for a reduced Conference, it must be borne in mind that a Conference of any format would still need to be held in accordance with the Constitution, which stipulated minimum delegations of four persons for each Member State entitled to be accompanied by advisers thereby bringing the number of participants to at least 2,000.

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Friday, 27 March 2020**

62. The Officers of the Governing Body and the other members of the tripartite Screening Group met through videoconference on Friday, 27 March 2020, to consider whether or not to put to the Governing Body a vote by correspondence on the recommendation of the Director-

General to defer the 109th Session of the International Labour Conference (May-June 2020) to June 2021, and as a consequence, the two Governing Body sessions associated with it.

63. The Chairperson of the Governing Body, H.E. Mr Litjobo (Government, Lesotho), chaired the meeting. Participants included the Employer Vice-Chairperson, Mr M. Mdwaba (South Africa), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific (ASPAG): Mr R. Behzad (Iran)

Latin America and the Caribbean (GRULAC): Ms L. Silva (Uruguay)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms M. Nojszewska-Dochev (Poland)

Western Europe: Mr P. Rochford (Ireland)

Employers' group secretariat: Mr R. Suarez and Ms M.P. Anzorreguy

Workers' group secretariat: Ms R. Gonzalez and Ms M. Llanos

64. *The Chairperson* recalled that the purpose of the meeting was to consider the following four items in respect of which the Office had distributed working papers, including an analysis of the consequences of the Conference deferral and Governing Body sessions cancellation (see [Appendix II](#)):

- I. the proposed deferral of the 109th Session of the Conference to June 2021 and the cancellation of the associated 338bis and 339th Sessions of the Governing Body;
- II. the proposed calendar of meetings and actions that would result from the deferral of the Conference session;
- III. the draft letter to all Governing Body members describing the procedure of a vote by correspondence; and
- IV. any comments on the draft minutes of the meeting of 20 March.

65. *The meeting adopted the draft agenda as proposed by the Chairperson.*

**I. Proposed deferral of the 109th Session of the Conference to June 2021 and cancellation of the associated 338bis and 339th Sessions of the Governing Body**

66. *The Chairperson* recalled that he and the two Vice-Chairpersons had already met earlier in the week to consider and endorse the Director-General's recommended deferral of the Conference and cancellation of the two Governing Body sessions associated with the Conference.

67. *The Worker Vice-Chairperson* said that, after careful consideration, her group agreed with the proposed deferral of the 109th Session of the Conference. Adopting an early decision

would limit the financial losses of non-refundable costs for the Organization. Recognizing that it was the Governing Body who had the authority to adopt such a decision, her group agreed with the proposal to consult all Governing Body members. In this regard, she sought clarification as to whether this decision would be taken by the Screening Group through delegation of authority, or by the Governing Body members through a ballot by correspondence. She also asked, in the case of a ballot, if all members (regular and deputy) would vote. Her group was not in favour of holding a smaller version of the Conference later in the year, and found the arguments put forward in the Office paper in that regard very convincing.

- 68.** Regarding the remaining topics covered in the paper, she agreed with the proposal for the Reports of the Chairperson of the Governing Body and of the Director-General to the Conference to be discussed in 2021. She requested clarification on the issue of the Administrative Tribunal and expressed support for any measures that would ensure it could continue to work with its full composition. While regretting that the Committee on the Application of Standards (CAS) could not be convened, her group agreed that it would resume its work only in 2021. The two general discussions on skills and inequalities, the recurrent discussion on social security, and those on the abrogation and withdrawal of instruments could also be postponed to 2021. She requested the Office to update the reports to include the effects of the COVID-19 crisis, particularly for the discussions on social security and on inequalities. Finally, she took note of the constitutional provisions with regard to Governing Body elections, which state that in the impossibility of holding elections, the current membership would remain in office until elections could be held in 2021.
- 69.** *The Deputy Director-General for Management and Reform* confirmed that the decision concerning the Conference deferral would be taken by Governing Body members through a ballot by correspondence. The same approach would be taken as when the delegation of authority to the Officers and the Screening Group had been sought: the Office would write to all regular and deputy members and, following Governing Body practice, the Chairperson would then determine on the basis of the replies received if there was consensus. In the absence of a clear consensus, the votes would then be counted, but only those of regular members.
- 70.** *The Employer Vice-Chairperson* welcomed the comprehensive paper provided by the Office, which outlined the compelling reasons for the Director-General's recommendation, as well as the legal, financial and practical implications of such an important decision. Noting the worsening situation brought on by the COVID-19 pandemic in many if not all parts of the world, he expressed satisfaction in seeing the ILO respond adequately in difficult times when leadership was particularly necessary. He supported the course of action proposed by the Office.
- 71.** He expressed support for the sequence of meetings and actions referred to in the Office paper, and took note of the section relating to the content of the 2021 Conference and the following sessions. Serious consideration must be given to the possibility of refocusing one of the general discussions in the 2021 Conference to deal with the effects of the COVID-19 crisis on the labour market and the role of the ILO. This was a pivotal moment for the ILO to show its continued relevance and demonstrate urgency in its response.
- 72.** As regards the Administrative Tribunal, he requested clarification as the paper referred to options that could permit Mr Kreins to continue serving as a judge, whereas the information given at the last meeting of the Screening Group was that without the Conference taking place in 2020, the term renewal of Mr Kreins could not be approved by the Conference until its 2021 session, leaving his seat vacant in the interim.

73. Regarding the possibility of convening the Committee on Freedom of Association (CFA), he emphasized that, as it was the Officers of the CFA who decide on the agenda of the Committee, it was for them to decide if it was necessary or not to convene a meeting, and under which modalities.
74. Given the current circumstances, *the representative of the Africa group* also expressed support for the proposed course of action. Nevertheless, members of her group were concerned with the postponement of the Governing Body elections, as her group had already agreed in 2019 on the attribution of the 13 seats reserved for Africa. She requested the Office to explore innovative solutions to avoid the postponement.
75. *The representative of ASPAG* mentioned that to date, no objection to the proposal of deferring the 109th Session of the Conference had been received from members of his group. They found the calendar and sequence of consultations referred to in the paper very pragmatic and helpful in considering the next steps.
76. *The representative of GRULAC* expressed her group's support for the proposal, having seen no other alternative but to defer the Conference. Nevertheless, she emphasized her group's opposition to the idea of a reduced session of the Conference. The Conference must be seen as a package and taken as a whole; selecting items was not an option. She agreed that it was necessary to include an item on the Programme and Budget for 2022–23 in the agenda of the 2021 Conference, which would otherwise retain the agenda of the 2020 session. On the budget implications of deferring the Conference, her group wished to know if it would be possible to negotiate with service providers in order to lower the costs already incurred. Regarding Governing Body elections, her group had no objection to conducting them in 2021, but requested clarification on whether the three-year term would start in 2020 or in 2021 after the elections. Her group supported the cancellation of the 338bis and 339th Sessions of the Governing Body, and the sequence of actions to be taken as stated in the paper. She also wished to reiterate their position that the delegation of authority must be applied in a restrictive way. Finally, her group would consider the possibility of extending the duration of the 340th Session of the Governing Body to cope with a larger agenda.
77. *The representative of IMEC* said that many members of her group had wanted to see an innovative approach taken with regard to the Conference and to the Governing Body elections. She requested that the Office consider new ways that would ensure the continuity of the ILO's important work through the use of technology, as other organizations had done with their own meetings. She asked if it would be possible to organize an ad-hoc session of the CAS, as had been proposed for the CFA, while recognizing that the CAS was a Committee of the Conference. With regard to the renewal of the term of office of one judge of the Administrative Tribunal by a Governing Body decision, she expressed her group's concern that such a renewal would constitute a deviation from the terms of the Tribunal's Statute and set a precedent for future vacancies. Vacancies were not uncommon in national and international courts and had not prevented their normal functioning. With regard to the ballot, a member of her group had asked to consider splitting the question into two parts: one on the deferral of the 109th Session of the Conference and the other on the cancellation of the Governing Body sessions. Many members of her group were very interested in incorporating an item on crisis recovery into the 2021 Conference agenda, as suggested by *the Employer Vice-Chairperson*. She expressed support for the proposed course of action.
78. *The representative of the Eastern European group* said that while some members of her group had considered innovative methods of conducting the CAS and Governing Body elections, they deemed a virtual Conference impossible. In the context of the COVID-19 pandemic, safety and health were a global priority. She therefore agreed with the Director-General's recommendation to defer the Conference and cancel the Governing Body sessions. Furthermore, she sought clarification as to whether the draft decisions and the underlying

documents would be shared with Governing Body members prior to any ballot by correspondence.

- 79.** *The representative of the Western European group* supported the proposed course of action. Some members of his group had however expressed disappointment at the lack of innovative solutions with respect to holding the Conference in a reduced format, and in particular, the Governing Body elections. He supported *the representative of the Africa group's* call for possible alternatives to postponing the elections. The latter was a real concern for smaller Member States that had already expended resources to facilitate their transition into the Governing Body. The Office should consider more flexible arrangements for future Governing Body elections, particularly in the event of future crises. With respect to the agenda of the next Conference, an item on the COVID-19 pandemic and its impact on the world of work should be considered. Lastly, given the pressures on Member States to address the current crisis, he noted that some governments had expressed concerns in relation to the potential impact of the pandemic on their respective reporting obligations under article 22 of the Constitution.
- 80.** *The Vice-Chairperson of the Government group* expressed full support for the proposal. With respect to the agenda of the Conference in 2021, he emphasized the need to refocus discussions on the issues arising from the current crisis. While it was worthwhile to consider more innovative means of conducting the Conference, he urged caution against any type of reduced format that would involve a pick-and-choose approach or a prioritization that would not reflect the views of the entire membership of the ILO. The only viable solution was therefore to defer the 109th Session of the Conference until 2021. With regard to the possible renewal of the term of office of the judge of the Administrative Tribunal by a decision of the Governing Body, more detailed discussions were required.
- 81.** In response to the questions raised on the term renewal of the judge of the Administrative Tribunal, *the Deputy Director-General for Management and Reform* acknowledged that at the previous Screening Group meeting of 20 March he had stated that the normal process would see the judge's position become vacant until next considered and resolved by the Conference in 2021. Following a request made by some members of the Screening Group, the Office had prepared other options to ensure continuity within the Tribunal. Although there had been periods in the past where the Tribunal had operated with less than seven judges, the judge whose term was to expire in June 2020 was one of the three French-speaking judges. If his position were to remain vacant, the Tribunal would not be able to sit in its usual three-panel composition per working language of the Tribunal.
- 82.** Regarding comments relating to the importance of integrating a discussion on the issues arising from the COVID-19 pandemic into the next Conference, he indicated that the Office was already exploring options that it could present to the Screening Group for consideration at its next meeting. With regard to the various questions raised concerning the deferral of the Governing Body elections, he recalled that the advice provided was based on a provision in the ILO Constitution: given that the elections were to be undertaken by the Conference, it was unlikely that any alternative arrangements could be made outside of a session of the Conference. The Office would provide greater detail on the matter at following Screening Group discussions. He clarified that the Office had not yet presented the Director-General's recommendation to the Governing Body. The Office required the Screening Group's endorsement of such recommendation before subsequently asking Governing Body members to vote on it.
- 83.** Regarding Conference cost-containment measures, he confirmed that the US\$0.5 million already committed or spent could not be reduced further under the contractual terms entered into with service providers. The Office had actively managed to avoid further costs by delaying contracts where possible; taking the decision to postpone the Conference before mid-April would prevent costs from rising to US\$4 million. Regarding the term of office of

the Governing Body, he stated that the three-year term would start after the elections in 2021 and finish in 2024. Responding to IMEC's question on the CAS, he explained that, unlike the CFA which was a standing subsidiary committee of the Governing Body, it would be impossible, to appoint the CAS outside a duly constituted session of the Conference. In response to a comment made by *the representative of Eastern Europe*, he confirmed that for any further ballot put to the Governing Body, the Office would continue providing clear draft decisions accompanied where necessary by explanatory documents. Prior to that, discussions on the content of such papers and formulation of draft decisions would take place with the Screening Group to ensure transparency.

- 84.** With regard to the reporting obligations under article 22 of the ILO Constitution, it was evident that Member States were under extreme pressure in view of the COVID-19 pandemic. He would seek advice on that matter and provide further details at the next meeting of the Screening Group. Despite the various expressions of interest for more innovative approaches to the Conference, such as a reduced Conference session or one through videoconference which other organizations were considering, similar arrangements did not appear possible for the ILO, given its particular tripartite structure involving social partner constituents from across all times zones and regions, who did not have representatives in Geneva.
- 85.** *The Worker Vice-Chairperson* highlighted the importance of incorporating the devastating effects of the COVID-19 pandemic into several items to be discussed in 2021, and also expressed interest in hearing the Office's suggestions on the Conference agenda for 2021 and beyond. With respect to the Governing Body elections, she emphasized the need to work on the basis of constitutional requirements. Her group could not accept any departure from the standard election process, which must involve tripartite delegations properly accredited to a session of the Conference. She supported the extension of the duration of one or more future CFA meetings to absorb the backlog created by the cancellation of the March and June sessions of the Committee. With regard to the rescheduling of the CFA, it would be advisable to consult all CFA officers on the options indicated in the paper. Concerning the renewal of the appointment of one judge of the Administrative Tribunal, it would be unfortunate if a solution ensuring the continuity of the Tribunal's work could not be found, when innovative approaches were being suggested for other aspects of the Conference. She fully supported the proposal of extending the October–November 2020 session of the Governing Body in order to have sufficient time to discuss all items. Her preferred option was to allocate additional days as part of the third week instead of working on Saturdays during the first two weeks.

## **II. Calendar for dealing with items on the agenda of the 338th (March 2020), 338bis (May 2020) and 339th (June 2020) Sessions of the Governing Body**

- 86.** *The Worker and Employer Vice-Chairpersons, the Chairperson and the Vice-Chairperson of the Government group and the representatives of the Africa group, GRULAC, IMEC and the Western European group* supported the calendar as proposed in the Office paper.
- 87.** *The representative of ASPAG* supported the proposed chronological order of actions to be taken and suggested that the deadline for Governing Body members to submit their responses be moved to Friday, 3 April.
- 88.** *The representative of the Eastern European group* highlighted the importance of making a quick decision in early April on the deferral of the Conference session because of the implications.

### III. Draft letter to Governing Body members

89. *The Worker and Employer Vice-Chairpersons and the representative of the Africa group* approved the draft letter proposed by the Office.
90. *The Chairperson of the Government group* supported the request of *the representative of ASPAG* to extend the deadline for Governing Body members to send their responses from Wednesday, 1 to Friday, 3 April, taking into account that in the previous ballot by correspondence some members had not been able to respond due to lack of time. *The representative of GRULAC, the representative of the Eastern European group and the Vice-Chairperson of the Government group*, while noting the urgency of the matter, were also in favour of the deadline extension.
91. *The representative of IMEC* recalled the request of a member of her group to split the question into two parts. She requested that the letter also include a reference to other outstanding items mentioned in the Conference deferral paper, to emphasize that discussions on those items would be continuing at the next meeting of the Screening Group.
92. *The representative of the Western European group* also supported the extension of the deadline, to ensure that the relevant authorities would be able to take the decision, given that colleagues in capitals were having to deal with the impact of the COVID-19 pandemic on several fronts. The suggestion to split the ballot question into two in order to ensure clarity was also supported by a number of members of his group.
93. *The Vice-Chairperson of the Government group* supported the IMEC proposal on the need to define the scope of the next Screening Group meeting. It would be useful to discuss other important issues, such as the composition of the Tribunal.
94. *The Deputy Director-General for Management and Reform* agreed with the need to clarify the scope of the next Screening Group meeting by indicating that the items to be discussed would include those listed in part V of the Office paper concerning the implications of the deferral of the 109th Session of the Conference. The letter would be amended accordingly. The Office would caution against the idea of splitting the question because it could generate confusion by giving the impression that it would be possible to defer the session of the Conference and still hold the sessions of the Governing Body, when they were inextricably linked. As requested by the *Worker Vice-Chairperson*, the Office would simplify the format of the paper on Conference deferral, so that essential information Governing Body members needed when casting their ballot would be clearly set out.
95. *The Chairperson* confirmed that the deadline for Governing Body members to respond would be extended to Friday, 3 April.

### IV. Approval of the draft minutes of the meeting of 20 March

96. *The Worker Vice-Chairperson* said that due to time constraints, she would send her comments in the subsequent days.
97. *The Chairperson of the Government group* had not been aware that the minutes were to be approved at the meeting, but nonetheless had two minor comments. First, it would be useful, in order to ensure clarity for readers, to reproduce the question from ASPAG to which the Deputy Director-General was responding in paragraph 25, and to delete a redundant reference in paragraph 40 to the Africa group.

98. *The Clerk of the Governing Body* explained that the approval of the Minutes and decisions made by the Screening Group on behalf of the Governing Body was necessary for their timely publication on the Governing Body website. The members of the Screening Group therefore agreed to send their comments by close of business on Wednesday, 1 April 2020.

## **Deferral of the 109th Session of the International Labour Conference and cancellation of the associated 338bis and 339th Sessions of the Governing Body**

99. In a communication dated 30 March 2020 (see [Appendix III](#)), all Governing Body members were invited to vote by correspondence on the Director-General's recommendation, endorsed by the Officers of the Governing Body and the tripartite Screening Group, to defer the 109th Session of the International Labour Conference, and as a consequence, to cancel the associated 338bis and 339th Sessions of the Governing Body, scheduled for 25 May and 6 June 2020 respectively.
100. Within the deadline set for 6 p.m. on Friday, 3 April 2020, there were 87 responses expressly in favour of the recommendation, one abstention, none against, and 34 non-responses deemed to constitute support for the recommendation.<sup>1</sup> In the absence of any opposition to the recommendation, the Chairperson of the Governing Body determined the Governing Body to have approved by consensus the deferral of the 109th Session of the Conference and the cancellation of the 338bis and 339th Sessions of the Governing Body. The results of the vote by correspondence and the Chairperson's determination were communicated immediately to the Vice-Chairpersons of the Governing Body, the tripartite Screening Group, all members of the Governing Body, and all Member States through their Permanent Missions in Geneva. The results of the vote by correspondence, including explanations of vote or other comments received from Governing Body members in relation to the vote, are included in Appendix III.

### **Decision**

101. *The Governing Body, on the recommendation of the Director-General of the International Labour Office, decided through a vote by correspondence, to defer the 109th Session of the International Labour Conference from 25 May–5 June 2020 to June 2021, and to cancel the associated 338bis and 339th Sessions of the Governing Body, which were scheduled for 25 May and 6 June 2020 respectively.*

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Friday, 8 May 2020**

102. The Officers of the Governing Body and the other members of the tripartite Screening Group met through videoconference on Friday, 8 May 2020, to consider items previously identified by the Screening Group as requiring Governing Body decisions before the October–November session of the Governing Body.
103. The Chairperson of the Governing Body, H.E. Mr R. Litjobo (Government, Lesotho), chaired the meeting. Participants included the Employer Vice-Chairperson, Mr M. Mdwaba

<sup>1</sup> Two responses reached the Office beyond the deadline and were not taken into account.

(South Africa), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific group (ASPAG): Mr S. Pakseresht (Islamic Republic of Iran)

Group of Latin American and Caribbean countries (GRULAC): Ms L. Silva (Uruguay)

Group of industrialized market economy countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms M. Nojszewska-Dochev (Poland)

Western Europe: Mr P. Rochford (Ireland)

Employers' group secretariat: Mr R. Suarez and Ms M.P. Anzorreguy

Workers' group secretariat: Ms R. Gonzalez and Ms M. Llanos

**104.** *The Chairperson* recalled that the purpose of the meeting was to consider the following seven items in respect of which the Office had distributed an annotated agenda ([Appendix IV](#)) containing background information for each item and a description of the actions that the Screening Group (and eventually the Governing Body) was expected to take:

I. agenda of the International Labour Conference in June 2021;

II. composition of the Committee of Experts on the Application of Conventions and Recommendations (CEACR);

III. sectoral meetings held in 2019 and proposals for 2020–21;

IV. preparations of the V Global Conference on Child Labour;

V. composition of the Administrative Tribunal of the ILO;

VI. proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment for the 2021 General Survey;

VII. programme, composition and agenda of standing bodies and meetings.

**105.** *The Deputy Director-General for Management and Reform* recalled that as requested by the Screening Group, the purpose of the meeting was to discuss and possibly reach consensus on the course of action to be recommended to the Governing Body on each of the seven items. Based on the discussions, the Office would then prepare the draft decisions, and submit them to the Screening Group for consideration, prior to submission to the Governing Body for decision by correspondence. Some items, however, could necessitate further discussion over the course of several weeks, such as the format and agenda of the October–November 2020 Governing Body session, as it depended on the announcement by the Swiss authorities on 27 May on new arrangements for the convening of meetings. The Screening Group could then reconvene in June to discuss that matter.

**106.** *The meeting adopted the draft agenda as proposed by the Chairperson.*

## I. Agenda of the International Labour Conference

- 107.** *The Deputy Director-General for Management and Reform* referred to previous discussions suggesting general support for the proposal to retain all three technical items of the agenda of the 2020 Conference session for 2021. However, those discussions had taken place in the early stages of the pandemic, when the severity of its economic and social impact was not yet apparent. It was important to place the recovery effort coming out of the crisis at the heart of the Conference, with the ILO taking a strong and visible role as the global parliament of labour, and as requested by constituents. In that context, the Office wished to seek the views of the Screening Group on possibly rethinking the approach of purely transposing the agenda from 2020 to 2021, before proposals were finalized and presented to the Governing Body. Those proposals should allow for some flexibility given the uncertainties that lie ahead, in order to ensure a relevant discussion in June 2021.
- 108.** *The Employer Vice-Chairperson* agreed that it was essential for the ILO to be seen as a thought leader in the current context, in providing guidance and showing a balanced approach. To that end, the 2021 Conference should focus primarily on labour market recovery from the COVID-19 pandemic. His group proposed to convert the general discussion on inequalities to a discussion on post-COVID-19 labour market recovery. Such a discussion would need to be forward looking and enable Member States to share the measures they were taking to recover the dynamism of the labour markets, and their views on what the ILO's role should be in this regard. Concerning the other items on the Conference agenda, his group supported the proposals on the recurrent discussion on social protection and the general discussion on skills and lifelong learning. Reports prepared ahead of the general and recurrent discussions should cover not only the pandemic, but also the topic of productivity.
- 109.** With regard to the discussion on productivity proposed for the November 2020 session of the Governing Body, it was the view of the Employers' group that a discussion on such an important matter should not be limited to the Governing Body, and should be held among the wider ILO constituency at the Conference. Therefore, a stand-alone discussion on productivity could also be envisaged for the 2022 session of the Conference, in the form of a general discussion, in view of the substantial preparation already undertaken for the 2020 report of the Director-General and the work to be done ahead of the November 2020 Governing Body session. In relation to the World of Work Summit, he emphasized that the proposed high-level debates on the impact of the COVID-19 pandemic and the future of work should be organized well in advance and in a balanced manner.
- 110.** On the matter of information and reports on the application of Conventions and Recommendations, he sought clarification on what was meant by "key considerations" and on the statement that the deferral of the Conference should not impact Member States constitutional obligations to report. It was evident that the deferral of the Conference session and the Committee on the Application of Standards (CAS) would disrupt their functioning; this should be acknowledged. Concerning the article 19 reports requested for the General Survey on nursing personnel and domestic workers, the draft decision on that item should specify the deadline for submission.
- 111.** On the 2020 CEACR *General Report and observations concerning particular countries* to be examined by the CAS in 2021, the Employers' group emphasized that the voluntary nature of any supplementary updates should be specified in the draft decision. Articles 19 and 22 both provide for constitutional reporting obligations and should not be treated differently; providing updates for both must therefore be on a voluntary basis. Clear deadlines should be specified as to when constituents should submit their voluntary reports, to allow the CEACR to examine them at its November–December session.

- 112.** *The Employer Vice-Chairperson* also sought clarification on the reports referred to in paragraph 33 of Appendix I to the annotated agenda and when they should be submitted. He expressed concern on whether the Committee of Experts could examine those reports given the backlog. He suggested the following revisions to help clarify the content of paragraph 33:
- A. include the original article 22 reporting cycle for 2019–22;
  - B. present proposed adjustments in the format of a table (i.e. with updates for the examination of the 2019 cycle in 2020, 2020 cycle in 2021, and so on.);
  - C. indicate clearly which government reports and social partner submissions would be examined at the November 2020 CEACR session and the reports not examined for various reasons, as well as article 23 observations submitted by the social partners. This should be the basis for a CEACR report submitted to the 2021 ILC session.
- 113.** He requested clarification on the reference in the document to the relationship between recurrent discussions and standard-setting items. Lastly, he agreed to defer consideration of a technical item for the ILC 2022 agenda to November 2020 or March 2021, and reiterated his group’s proposal for a general discussion on productivity in 2022.
- 114.** Having understood that decisions on the Conference agenda were to be taken at the meeting, *the Worker Vice-Chairperson* stated that she had come to the meeting with a clear position from her group to accept the Office proposals to transpose the agenda items from 2020 to 2021. The items that were already on the agenda of the 109th Session had become even more relevant in the context of the COVID-19 pandemic. She reiterated her support for the proposal to devote the report of the Director-General and the World of Work Summit to the impact of COVID-19 on the world of work, now that the devastating social and economic consequences of the pandemic, and its impact on employment, were more evident. There was therefore no need to change the items on the agenda; should a change be called for, it would be more appropriate to consider expanding the discussion on skills to include recovery and labour market issues. The Workers’ group would not support the proposal of the Employers’ group to remove the general discussion on inequalities from the agenda and replace it with a discussion on labour market recovery. The issue of inequalities in the world of work, already very relevant to the ILO’s mandate before the pandemic, had shown to be even more relevant now, taking into account the extensive reports from all over the world showing how the pandemic is exacerbating existing inequalities. Furthermore, their proposal to fill the open slot in the 2022 agenda with an item on productivity would be unacceptable to her group, as it would also eliminate any possibility of a future discussion on inequalities. She recalled that the item on inequalities was supposed to prepare the ground for the recurrent discussion on labour protection foreseen for the 111th Session (2023). She emphasized that the proposed discussion on productivity in the agenda of the 340th Session (October–November 2020) of the Governing Body should focus on productivity in the context of recovery from the crisis and the challenges faced by enterprises and workers.
- 115.** She supported the deferral by one year of the General Survey on instruments concerning equality of opportunity and treatment, and the addition to the report form of a question on the COVID-19 impact, for submission to the Governing Body in October–November 2020 for approval. While it would be appropriate to update the questionnaire on apprenticeships in order to capture the impact of the crisis, she sought clarification on the process, as the questionnaire had already been sent to constituents.
- 116.** The Workers’ group supported postponing the finalization of the agenda of the 110th Session of Conference (2022) to October–November 2020, on the understanding that the remaining item would be selected then. In that respect, she reiterated that it was a priority for the Workers’ group to follow-up on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), notably to the proposal concerning standard-setting

items related to occupational safety and health protection against biological hazards, which had become more relevant in light of the pandemic. Finally, the amendments to the Standing Orders of the Conference could be considered if the consultation process were to be concluded in time for the Conference in June 2021.

- 117.** *The Chairperson of the Government group* expressed the governments' position that the Screening Group should only consider decisions deemed urgent for referral to all Governing Body members, and not rush into decisions that might need to change in six months due to the uncertain situation. He requested more details concerning the World of Work Summit in 2021. The Government group had many questions on the details of the arrangements for the CAS, and supported the request from the Employer Vice-Chairperson for a synthesis of the reporting cycle in table form. The Government group welcomed the proposal to hold a virtual forum on COVID-19 in June 2020 and requested more details on the format and possible outcome.
- 118.** *The representatives of the Africa group, ASPAG, GRULAC, IMEC and Eastern and Western Europe* expressed preference for members of the Governing Body to take decisions by correspondence, and not through delegation of authority. They thanked the social partners for their flexibility on the decision-making process, as this allowed groups to express their views at the Screening Group meetings before draft decisions were referred to Governing Body members for decision by correspondence.
- 119.** *The representative of the Africa group* stated that her group was in favour of the Office proposals on the Conference agenda, but had to consult with her group on the new proposal from the Employers' group to remove the item on inequalities. Concerning Governing Body elections, her group would have preferred that the elections take place, but also understood the reasons as set out in the document. Her group supported the draft decision related to the Committee on the Application of Standards but had several clarification questions.
- 120.** *The representative of ASPAG* emphasized that the pandemic did not allow for a "business as usual" approach. A full committee should be devoted to long-term global strategies to recover from the crisis, which would analyse the lessons learned gathered from around the globe, with a view to helping countries develop mechanisms to deal better with similar crises in the future. These efforts must build on the ILO Centenary Declaration for the Future of Work and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). One of the technical committees previously agreed upon could be moved to the agenda of the 2022 session or to a subsequent session.
- 121.** In supporting the proposal to devote the report of the Director-General to the implications of COVID-19 for the world of work, his group considered it important to take into account the vital role of productivity in sustainable recovery, including in the most vulnerable sectors. The ILO must remain at the centre of the recovery effort and take advantage of its unique tripartite structure. His group supported the work of the SRM TWG and recognized the importance of ensuring the effective functioning of the supervisory system to the extent possible under the circumstances. He requested clarification on the references in the document to the supplementary information for reports requested under article 19.
- 122.** *The representative of GRULAC* stated that her group understood the exceptionality of all measures that had been taken and agreed with the proposal to retain the agenda of the 109th Session as it was. Her group supported the inclusion and analysis of the impact of COVID-19 into each committee discussion, but was not in favour of an additional committee on COVID-19. The World of Work Summit high-level debates should take geographical balance and the particularities of each region into account. The CAS was a sensitive issue for her group. In supporting the deferral of both reports, she supported the representative of ASPAG's request for clarification on how the General Survey that was already published would be updated to include COVID-19 related information. She reiterated the view that

providing additional information must be on a voluntary basis, and sought clearer indications on the scope and focus of the information requested. As there was no mention of the possibility of sending information voluntarily for reports submitted under article 22, she asked for clarification on what was meant by “relevant information” and if governments would need to send new reports. She stressed the importance of avoiding duplication of work, particularly at this time when all governments were facing numerous challenges. It was important for these proposals to be reflected clearly in the draft decisions, in order to ensure that Governing Body members understood all the implications. She supported the request from the Employer Vice-Chairperson for the Office to provide a synthetic view of the reporting cycle in table form.

- 123.** Concerning the Standing Orders of the Conference, GRULAC’s preference was to defer the discussion of the amended version to the 2022 Conference as more time was needed for consultations. On behalf of the group of the Americas (GRUA), she agreed with the proposal concerning the ILO Staff Pension Committee. Finally, in reference to the proposed virtual summit in June 2020, she requested the Office to ensure that all events take geographical balance, different time zones and multilingualism into account.
- 124.** *The representative of IMEC* expressed appreciation at the active role the ILO was taking in response to the COVID-19 crisis and its socio-economic impacts. As regards the decisions to be taken in the next stages, some members of her group had a proposal to align the decision-making process with the normal practice of the Governing Body, which was to decide through consensus rather than by vote. Concerning the Conference agenda, while her group recognized the importance of mainstreaming the impact of the pandemic into the Conference agenda, it shared the position of *the representatives of GRULAC and Eastern Europe* not to support the addition of a specific committee on the labour impact of COVID-19. Her group was in favour of the proposal from the Worker Vice-Chairperson to expand the scope of the general discussion on skills to include broader labour market implications. With regard to the CAS, she also requested clarification on the nature of voluntary reporting.
- 125.** *The representative of the Eastern European group* expressed support for retaining the 2020 agenda. She supported the proposal to devote the World of Work Summit to the impact of COVID-19 but also stressed the importance of integrating the topic in all Conference proceedings, bearing in mind that one of the effects of the crisis would be the weakening of workers’ rights. The focus of the high-level sessions should aim at providing guidance on recovery measures in collaboration with multilateral partners. The possibility of adopting an outcome document similar to the Global Jobs Pacts in 2009 should be considered. Concerning the reports submitted to the CAS, she agreed with their deferral but did not find it effective to ask governments to update reports they had already submitted. Any additional workload should be avoided during such a difficult period. The new information could be provided through the ILO database that was regularly updated. She also supported adding a question to the report form for the next General Survey on care economy instruments.
- 126.** *The representative of the Western European group* echoed the views expressed by the representative of IMEC on the work the ILO had carried out under extraordinary circumstances. The sectorial briefings, socio-economic analysis, focus on occupational safety and health issues, and back-to-work protocols were appreciated in his country and region. He supported IMEC’s proposal on the decision-making process, suggesting a survey to determine consensus virtually, by asking all Governing Body members to indicate whether they: (a) join consensus; (b) have concerns, but will not block consensus (and opt to submit a statement for the record); or (c) block consensus. If no consensus emerged from the survey, a vote with regular members could then be taken and recorded. That process would better replicate the normal Governing Body practice.
- 127.** *The Western European group* also strongly encouraged the Office to reflect on alternative contingency plans in case of difficulties in holding the next Governing Body and Conference

sessions in their usual form. In the interest of business continuity, the Western European group would be in favour of considering possible alternatives, such as a virtual Governing Body session with the format and agenda adjusted accordingly. It would be extremely regrettable, and could significantly weaken the ILO's voice, if it could not adapt its approach at a time when all international institutions were looking for ways to carry out their duties, when economic and social stakes were so high. He urged all members to contribute to making all upcoming sessions more efficient and called for clear time limits and agenda items that would allow Governing Body members to provide the Office with clear policy guidance consistently.

- 128.** Bearing in mind the huge impact of the crisis on labour market and social issues, a strong cross-cutting focus on COVID-19 would be necessary at the 109th Session of the Conference, in addition to a dedicated summit. He suggested keeping discussion on the agenda open for the moment, in order to properly consider how the Conference could address the matter in 2021 in the most coherent and impactful way. The group would welcome further proposals from the Office in that respect.
- 129.** It was vital for the supervisory system to continue functioning given the critical importance of international labour standards for achieving decent work for workers across the globe, particularly in times of crisis. In line with the statements from other groups, he requested additional information on the proposed process for providing supplementary reports. The reporting burden for all constituents should be kept to a minimum. Before formally giving its agreement, his group needed clarification on the nature of the supplementary information expected and for the Office to distinguish between obligations to provide information on the previously submitted article 22 reports or the impact of COVID-19 on the convention under review. In that connection, the list of conventions on which reports should be submitted might also need to be adapted in view of their relevance to the impact of the pandemic.
- 130.** *The Vice-Chairperson of the Government group* said that all requests for additional information from Member States should take into account the limitations they were facing. The ILO needed to adapt by giving priority to addressing the consequences of COVID-19 in the world of work and avoid giving the impression that it was disconnected from reality. He requested more information on the global virtual summit in June 2020, in terms of participation and expected outcomes. Regarding the reports under articles 19 and 22, he asked the Office to clarify what the consequences would be for a country if it did not provide the supplementary information requested, even on a voluntary basis. He wished to put on record his view that countries that had already fulfilled their reporting obligations under article 22 in 2019 did not have a further obligation to provide supplementary information.
- 131.** *The Employer Vice-Chairperson* reiterated his view that productivity could not be dealt with in the context of the recovery from the COVID-19 crisis only. The priority should be on creating jobs, and not on initiating a standard-setting process on biological hazards that that would not bring about results in the near future
- 132.** *The Deputy Director-General for Management and Reform* reassured members of the Screening Group that the 340th Session of the Governing Body would take place in one form or another. Contingency planning was underway, and various options (whether face-to-face, virtual, or a hybrid of both) would be based on the overall situation relating to travel and the Swiss Federal Council guidelines on the conduct of meetings.
- 133.** Concerning the proposed virtual global summit in June 2020, he confirmed that it would also have a regional focus. More information would be available shortly on the series of events spread over consecutive days, starting with a regional event sponsored by each Regional Office, followed by a global event accessible from different time zones, and culminating in a constituent-only event.

- 134.** In response to the request for clarification from *the Worker Vice-Chairperson* on the next steps and timelines involved in the preparation of the Conference agenda, the Deputy Director-General recalled that, as stated by several members of the Screening Group, taking immediate decisions on the Conference agenda was not necessary; more time was needed to discuss and develop proposals. The Office would revert to the Screening Group in some weeks with a further developed paper reflecting the discussions held at the meeting, any suggestions put forward by the Screening Group, and potentially some options or further elaborations on the proposals.
- 135.** In closing, he informed the Screening Group of recent information concerning the renewal of the term of Mr Kreins as member of the Administrative Tribunal. He recalled the discussion held at the last meeting of the Screening Group on 27 March, when members raised concerns on the proposal for the Governing Body to authorize the extension of his term of office on an exceptional basis until the Conference confirmed his appointment in 2021. The Office consequently undertook further research which led to the conclusion that there were no compelling reasons to reappoint the judge outside of the normal procedure. The Office would provide an update to the paper containing more information in the succeeding days, for further discussion at the next meeting of the Screening Group.
- 136.** Responding to requests from members for more information on issues relating to the reports for submission and discussion at the CAS in 2021, *the Director of the International Labour Standards Department* provided the following clarifications:
- As stated in Article 19 of the ILO Constitution, it was within the purview of the Governing Body to decide on the appropriate intervals for Member States to submit reports. In this context, and in light of appeals from governments not to have additional reporting obligations given the difficult circumstances brought on by the pandemic, it was suggested that the supplementary information requested for the General Survey report on employment to be discussed in 2021 be of a voluntary nature, should the Governing Body so decide. In the absence of supplementary information provided by governments, the Committee of Experts would rely on publicly available information, including the ILO COVID-19 platform to which tripartite constituents provide regular inputs.
  - While annual reporting on ratified conventions was mandatory under article 22 of the ILO Constitution, the proposal was to limit this year's constitutional obligation to providing updated information on new developments, only where these occurred, to supplement the reports already submitted last year. Should there be no relevant developments to report; a letter from the government indicating so would suffice. In that case, comments – observations and/or direct requests – made by the Committee of Experts at its last session would be retained, and note would be taken that no supplementary information had been received.
  - The scope of the supplementary information requested from governments would be limited to the new developments that occurred since the submission of their article 22 reports in 2019, including the impact of the pandemic on the content of the conventions under review, and would not comprise the package of measures taken by countries to deal with the pandemic.
  - With respect to the request for more detailed information on the reporting cycle as deferred by one year, synthesizing such information in tabular form, as requested, might be challenging; customised information on reporting schedule, by country and convention, was available in Normlex.
  - Concerning the deferral by one year of the article 19 report form on the nursing personnel Convention, the proposal was to complement the questionnaire, which had

already been approved by the Governing Body, with an additional question on the manner in which COVID-19 had an impact on the matters raised in the questionnaire.

**137.** Pending further proposals from the Office regarding the agenda of the Conference in June 2021, areas of convergence among the three groups emerged with respect to the following proposals:

- (i) the need to centre the report of the Director-General as well as the World of Work Summit in June 2021 around the consequences of the COVID-19 pandemic on the world of work, and on discussing his ILC 2020 report on productivity at the November 2020 session of the Governing Body instead;
- (ii) to retain the reports of the 90th Session of the CEACR for the CAS in 2021, and defer the items on the agenda for 2021 to 2022;
- (iii) to select the General Survey entitled “Promoting employment and decent work in a changing landscape” for examination by the CAS in 2021, which would be complemented by a review of measures adopted by Member States to address the employment impact of the COVID-19 pandemic, and prepared on the basis of publicly available information as well as additional reports provided by Member States on a voluntary basis;
- (iv) to defer by one year the General Survey on the Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157), and the Domestic Workers Recommendation, 2011 (No. 201) as well as the corresponding article 19 reports;
- (v) to defer by one year the normal reporting cycle for ratified conventions under article 22 of ILO Constitution;
- (vi) to update the reports of the three technical items on the agenda in order to reflect the developments emerging from the COVID-19 crisis and its impact on the world of work;
- (vii) to keep on the agenda for 2021 the withdrawal of the Fee-Charging Employment Agencies Convention, 1933 (No. 34), that the Governing Body had already placed on the agenda of that year before the deferral of the 2020 ILC;
- (viii) to extend the deadline for submitting replies to the questionnaire on the standard-setting item on apprenticeships from 30 June 2020 to 31 March 2021; and
- (ix) to keep the composition of the ILO Staff Pension Committee until the next Session of the Conference in June 2021.

**138.** *The Chairperson* confirmed that a follow up meeting would take place on 15 May to discuss the remaining six items on the agenda.

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Friday, 15 May 2020**

**139.** The Officers of the Governing Body and the other members of the tripartite Screening Group met through videoconference on Friday, 15 May 2020 to consider the remaining six items from the previous meeting of 8 May, requiring Governing Body decisions before the October–November session of the Governing Body:

- I. composition of the Committee of Experts on the Application of Conventions and Recommendations (CEACR);
  - II. sectoral meetings held in 2019 and proposals for 2020–21;
  - III. preparations of the V Global Conference on Child Labour;
  - IV. composition of the Administrative Tribunal of the ILO;
  - V. proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment for the 2021 General Survey;
  - VI. programme, composition and agenda of standing bodies and meetings:
    - A. the composition of the Officers of the Governing Body and its committees and working parties as a result of the deferral of the Conference and the impossibility of holding Governing Body elections; and
    - B. the possible impact of the deferral or cancellation of official meetings between March and June 2020 on the programme of official meetings already scheduled during the second half of 2020 and first half of 2021, including the programme of sectoral meetings and the dates of the meetings of the Committee on Freedom of Association and of the Governing Body in October–November 2020.
- 140.** *The Chairperson* proposed that the discussion of item IV, Composition of the Administrative Tribunal of the ILO, be deferred to a later meeting of the Screening Group. On the day prior to the meeting, the President of the Administrative Tribunal had brought a number of considerations to the attention of the Officers of the Governing Body, which the Chairperson wished to discuss with his fellow Officers before bringing the matter to the Screening Group.
- 141.** *The Worker Vice-Chairperson* indicated that she had received, in her capacity as Officer of the Governing Body, together with the other two Officers of the Governing Body, a letter from the President of the Administrative Tribunal raising some concerns and asking that those concerns be forwarded to the Screening Group for consideration. In his letter, the President of the Tribunal stated that the Tribunal had not been consulted on the proposals before the Screening Group. She stated that regardless of the content of that letter, it was a matter of governance that it be shared with the rest of the members of the Screening Group, in particular the Government group. This was therefore not solely a matter for discussion between the three Officers of the Governing Body. For that reason, she believed that the discussion on that item should be postponed to a later date, so that all members of the Screening Group would have the same information.
- 142.** Emphasizing that there had been no prior consultation on deferring the item, *the Employer Vice-Chairperson* objected to any postponement. He recalled that, at the previous meeting, the Office had been requested to provide further information, which had since been done in a revised version of Appendix III to the annotated agenda. He had also received the letter from the President of the Administrative Tribunal and had sent a clear and thorough response to his fellow Officers. In his view, the letter should not have been addressed to the Officers of the Governing Body without being addressed to the Secretariat or the Director-General of the ILO. There had clearly been a breach of governance. Moreover, the letter had no bearing on the question at issue, namely, whether the Governing Body had authority to renew the term of office of a judge, as such authority lies solely with the Conference under the clear letter of the Tribunal’s Statute. Since the letter could have no bearing on his group’s position, he saw no reason to further postpone the discussion.

143. *The Chairperson of the Government group* recalled that the matter had been deferred from the last meeting because the Office was requested to clarify certain points. Governments had already consulted with capitals on the revised Appendix III prepared by the Office and were ready to discuss it at the present meeting. To postpone the discussion on the basis of a letter that they were not privy to would be unfair to governments. He proposed to proceed with the existing agenda. If no agreement could be reached during that discussion, then the matter could be resumed at a subsequent meeting. As a matter of principle, any relevant information should be shared with all Screening Group members.
144. *The Chairperson* proposed that the item be kept on the agenda and be discussed in due course.
145. *The meeting adopted the draft agenda as proposed by the Chairperson.*

**I. Composition of the Committee of Experts on the Application of Conventions and Recommendations (CEACR)**

146. *The Worker Vice-Chairperson* endorsed the draft decision as contained in document GB.338/INS/16/1. She expressed the hope that the Screening Group would support the proposal so that the CEACR could work in its full capacity at its next meeting, and asked the Office to convey to Professor Halton Cheadle the Organization's gratitude for his commendable work in the past 15 years.
147. *The Employer Vice-Chairperson* expressed support for the draft decision. It was important to appoint Justice Sandile Ngcobo before the next session of the Committee so that he could be properly briefed and begin discharging his duties as soon as possible. He supported that the draft decision be put to a vote by correspondence.
148. *The Chairperson of the Government group* requested the Office to provide a general overview on the process for the selection and appointment of members of the CEACR.
149. *The representative of the Africa group* emphasized that her comment concerned the appointment process and not the candidate. Her group had requested an explanation from the International Labour Standards Department regarding the procedure of filling vacant posts within the CEACR. The group was informed that there were no announcements for these vacancies nor calls for expression of interest. The Office searched for candidates among renowned experts and then submitted a short list to the Officers of the Governing Body for consideration. The Officers then submitted a name to the Governing Body for endorsement. Her group was of the view that vacancies should be communicated as widely as possible to ensure qualified applicants in the region or subregion could apply. The process should be competitive so that the best candidates stand out. Moreover, the role of the Governing Body was limited to endorsing the candidate proposed by the Officers; their report did not include a list of the other candidates or an explanation of the selection process. Her group therefore called for a reform of the recruitment procedure with a view to making it transparent and inclusive. She expressed her group's support for the candidate.
150. *The representative of GRULAC* supported the request made by the representative of the Africa group and reiterated the view expressed by her group at recent Governing Body meetings that the selection process should be more transparent and participatory. She also pointed out that as the post became vacant at the end of 2018, the CEACR had worked without an expert for an entire year. While she had no objection to the candidate proposed, she expressed concern regarding the process. Her group was therefore not ready to take a decision on the matter, as a more participatory discussion with all Governing Body members was needed. The matter was not urgent, given that the CEACR had continued to function for

a year without full membership. She would however not oppose consensus on the appointment, provided that her group's position remained on record.

151. *The representative of IMEC* supported the draft decision. As her group had always supported competitive and transparent processes, she also expressed support for the request made by the representative of the Africa group.
152. *The representatives of ASPAG and the Eastern European group* agreed with the draft decision.
153. *The representative of the Western European group* aligned himself with the statement by IMEC and supported the draft decision. His group was sympathetic to the views expressed by the Africa group and GRULAC regarding the recruitment process, and would be interested in discussing the matter in future.
154. *The Vice-Chairperson of the Government Group* underlined that the Office had one full year to select the expert and wished to know why it had not been possible to fill the vacancy earlier. Three Governing Body meetings and one CEACR meeting had taken place without a full composition. A process that took a year with no details on procedure could not be qualified as efficient. Discussions should be held on how to improve the process, for the benefit of good governance and all members of the Organization.
155. *The Employer Vice-Chairperson* said that the best outcome for all would be to improve the process and governance in the interests of collective transparency. It was therefore important to resume this discussion in future.
156. *The Chairperson* said that the request for a discussion on the selection process had been noted for action and should be addressed at a later date, possibly when discussing the agenda of future sessions of the Governing Body. He noted consensus support for the appointment of Justice Sandile Ngcobo as a member of the CEACR.

## II. Sectoral meetings held in 2019 and proposals for 2020–21

157. *The Chairperson* outlined the four issues to be addressed under this agenda item:
  1. the appointment of chairpersons for five technical meetings to be held in 2020–21 (paragraph (a) of Appendix II to the annotated agenda);
  2. arrangements for two meetings to be held in the first half of 2021 (paragraph (b) of Appendix II);
  3. the theme of an additional meeting under the programme of sectoral meetings for 2020–21 (paragraph (c) of Appendix II); and
  4. a revised schedule of meetings during the second half of 2020 or in 2021, as a result of the postponement of the technical meeting on the future of work in the automotive industry, as outlined in Appendix II to the annotated agenda.
158. In view of the uncertainty surrounding the date upon which it might be possible to resume face-to-face meetings, *the Chairperson* suggested delaying the discussion of the fourth matter to a later meeting of the Screening Group, once the conditions for travel and meetings during the last quarter of 2020 would be known.

**159.** *The Worker Vice-Chairperson* welcomed the publication and dissemination of the guidelines on the promotion of decent work and road safety in the transport sector, after a very successful meeting on the subject in September 2019. She recalled that these guidelines were dedicated to the late Ms E. Busser, and said her group would spare no effort toward their implementation. With regards to the appointment of chairpersons for five technical meetings to be held in 2020–21, her group was favourable to a continued rotation among the three groups. If the designated group was unable to find a chairperson among regular or deputy Governing Body members, either one of the other groups could appoint one or, instead, the Office could appoint an independent chairperson. Therefore, she proposed to amend the draft decision as follows:

- (a) decided, for each of the technical meetings listed in paragraph 7 of document GB.338/POL/3, to appoint one of its members as Chairperson; **if there are no candidates one month prior to the meeting**, request the Office to select as Chairperson an independent person with expertise on the matters covered by the agenda and to notify the meeting accordingly;

**160.** She endorsed the proposed meetings for the first half of 2021. With regard to draft decision paragraph (c), her group supported the allocation of the remaining resources to a meeting of experts to examine the topic of the protection of whistle-blowers in the public sector. A series of discussions on the topic had been held since 2014, sufficient research on the subject had been conducted, a working paper had been prepared, and the Governing Body had already considered this proposal in its 337th Session (October–November 2019). The draft decision should be amended accordingly.

**161.** *The Employer Vice-Chairperson* said he could support the Workers' proposed amendment to paragraph (a) of the draft decision, but requested to see it in writing. Regarding the appointment of chairpersons for technical meetings, he understood some governments had already approached the Office to express interest in chairing some of those meetings. In the case of meetings without nominations, the Office would be asked to propose independent chairpersons and consult the groups before an official invitation was issued. The Employers' group supported the new dates for the two meetings to be held in the first half of 2021. With regard to paragraph (c) of the draft decision, his group did not support the holding of a meeting on the topic of the protection of whistle-blowers. Instead, they would be favourable to a meeting on the topic of the future of skills in the ITC sector, consistent with the recommendation of the 2019 advisory bodies to convene a meeting directly linked to the ILO Centenary Declaration for the Future of Work. His group would also favour an event related to the effects of the COVID pandemic. It would be timely for the ILO to identify the needs of those sectors most impacted and demonstrate the relevance of social dialogue that was capable of responding to issues as they emerged. He requested the Office to provide additional information on such an event, the sectors it would cover, and its expected outcome and format. His group agreed to the proposal for the Office to prepare a draft decision on the topic based on the discussions, for submission to the Screening Group for its endorsement. Following that, the text could be sent to all Governing Body members for a decision by correspondence.

**162.** *The Chairperson of the Government group* sought clarification on what the usual practice had been regarding the appointment of chairpersons of technical meetings: whether there had been any change to that practice, and why the group was now being presented with two options. With regard to the proposal put forward by the Workers' group, he asked if one month would be sufficient time to prepare the chairperson. He also sought clarification on what would happen if the most qualified expert on a given subject came from a country that was not a Governing Body member. Lastly, he added that Member States had differing views on the issue of whistle-blowers.

**163.** *The representative of the Africa group* stated that since participation at technical meetings was not limited to Governing Body members, its chairing should also be open to countries

that are not members of the Governing Body. Regarding the practice of the Office nominating the chairpersons, her group was of the view that this process was working well and should not be changed.

164. *The representative for ASPAG* expressed support for the COVID-19-related event, if the social partners were in agreement, and for the revised schedule meetings proposed.
165. *The representative of GRULAC* stated that consultations within her group would be necessary before the group could express an opinion on the proposals put forward by the social partners. She sought clarity on the urgency of taking a decision on the proposed schedule of meetings. Her region was still suffering the effects of the pandemic, with countries in the region experiencing a peak in the number of cases. Social distancing measures and travel restrictions were still in place in many countries, and could impede many countries from being represented in upcoming meetings. She recalled her group's position that only urgent decisions should be taken through delegation of authority. In general, the group would prefer for this matter to be discussed at a Governing Body session. Since two meetings in the calendar were scheduled to take place before the October–November 2020 Governing Body session (urban transport and automotive sector), her group could show flexibility in those two cases. However, she asked the Office to analyse and provide additional information on how realistic it would be to hold meetings on the dates proposed, as other organizations had already cancelled their meetings set for November. Her group was not opposed to the idea of holding a meeting on the protection of whistle-blowers in the public sector, but would prefer that the Governing Body discuss the matter. With regard to the appointment of chairpersons, GRULAC preferred that nominations come from the groups, and not from the Office.
166. *The representative of IMEC* expressed support for a COVID event and requested additional information on it. She supported the request from GRULAC for the Office's views on the feasibility of holding the meetings scheduled for the last quarter of 2020.
167. *The representative of the Eastern European group* expressed support for a COVID-related event given its relevance, as many sectors had been affected by the pandemic. She supported the proposal related to the sectoral meetings proposed for 2020–21, and would consult her group on the Workers' group's proposal.
168. *The representative of the Western European group* also requested for the Workers' group proposed amendment in writing before consulting his group. Most members of his group could agree with the new dates proposed, and would welcome additional information on contingency planning in case the meetings foreseen for the end of 2020 had to be rescheduled, which was likely to happen. Some members of his group had expressed interest on a sectoral meeting on the impact of the COVID pandemic on the tourism sector, which would be more relevant. Several members of his group were in favour of a meeting on the protection of whistle-blowers in the public sector in 2021, as the necessary preparatory work had already been completed by the Office. He suggested that the Office strategically examine the long-term schedule beyond 2021. A meeting on the platform economy could be useful and could be discussed in due course.
169. *The Deputy Director-General for Management and Reform* clarified that an event related to the COVID pandemic would not necessarily be financed from sectoral meeting allocations. The Office would report back to the Screening Group with proposals to maximize work around the COVID pandemic, one of which might be a preparatory meeting to be held prior to the 109th Session of the Conference in 2021.
170. *The Director of the Sectoral Policies Department* referred to article 6.2 of the Standing Orders for technical meetings adopted in 2018, which stated that “The Governing Body shall either appoint one of its regular or deputy members as Chairperson of the meeting, or request

the Office to select an independent person with expertise on the matters covered by the agenda and notify the meeting accordingly.” Thus far, no decision had been taken on which of the two options should be chosen. It had already been informally agreed that the sectoral advisory bodies meeting scheduled for January 2021 would decide on a process which all groups felt comfortable with, as that was done on a case-by-case basis. Concerning the Workers’ group proposal, the Office considered that a month was sufficient time to prepare the chairpersons. Under the rotation system, the next turn would go to governments. In response to the queries from the Chairperson of the Government group, she confirmed that following the recent adoption of the Standing Orders, there was not yet an established practice. It was therefore necessary to agree on which of the two options provided for in the Standing Orders should be followed. She also recalled that there were different standing orders for the two kinds of meetings: for meetings of experts, the Office nominates an independent expert as chairperson, given that the outputs consisted of codes of practice or guidelines requiring expertise; for technical meetings, however, their outcomes consisted of conclusions and recommendations, which called for a chairperson with good knowledge of the ILO and the political processes that come into play in such negotiations, and thus provided for the two options for the appointment of the Chairperson.

- 171.** *The Worker Vice-Chairperson* requested further information on the implications of postponing the decision on the list of proposed meetings on the preparations for those meetings. The Employers’ group proposal of holding a meeting on skills in ITC was new, whereas the necessary preparation for the discussion on whistle-blowers had already taken place. She recognized that already quite a lot of attention was given to the issue of skills in the work of the ILO in the upcoming years, such as in the sectoral meetings on the automobile and education sector; also, the ILO was implementing a research project on skills shortages and labour migration in the field of information and communication technology; last but not least, a discussion on skills would also be held at the upcoming Conference session, which her group had supported. If, after all those meetings on skills, it was felt that there was still a need for another one, the proposal could be presented to the Advisory Bodies. Whistle-blower issues remained very relevant, including in the context of the COVID-19 pandemic. Individuals had spoken up on it and suffered the consequences.
- 172.** *The Employer Vice-Chairperson* had perceived general support among governments for a meeting on the impact of COVID-19. His group would be interested in having more information on the proposal from the Western European group for such a meeting relating specifically to the tourism sector. Concerning his group’s suggestion for a meeting on the impact of COVID-19 on the future of skills in the information technology and communication sectors, he clarified that while the other possible subject matters were also important, the topic of skills was particularly relevant in the context of the crisis.
- 173.** *The Director of the Sectoral Policies Department (SECTOR)* said that the revised text of the draft decision had been displayed on the screens and suggested adding in subparagraph (a) a reference to the rotation among the groups for appointing chairpersons of official meetings, as that had not been addressed in the rules for meetings and was based on previous practice. On the schedule of upcoming meetings, the uncertainties of these unprecedented times have made it difficult to know if and when to postpone the meetings planned from September to December. The Office was continuing the preparatory work under the assumption that they would be held. In that context, the endorsement of the revised programme of sectoral meetings was the only point of the draft decision that required urgent approval as it would allow the Office to focus on the preparation of the reports of the relevant meetings. The two other points, namely the appointment of chairpersons for meetings and the use of the resources kept in reserve for one additional meeting, could be decided upon at a later stage. The Office could formulate a new proposal concerning the additional meeting. With respect to the importance of skills for the future of work, she confirmed that all sectoral meetings included a skills component as it was relevant to all sectors of activity, especially in the context of the future of work.

174. In order to take a decision on all three points, *the Chairperson of the Government group* suggested resuming the discussion in June once a revised draft decision had been received, the necessary consultations held, and when there could be more clarity on the evolution of the situation.
175. *The Worker Vice-Chairperson* said that repeated requests to the Governing Body for votes should be avoided. Regarding the programme of meetings to be organized, it was important for the Office to receive early approval in order to prepare efficiently for those meetings. However, if there was a general preference to approve the draft decision as a complete package, the decision should be taken in the next week and not delayed until June.
176. *The representative of GRULAC* stated that her group's preference would have been to defer the decisions to the 340th Session of the Governing Body (October–November 2020). In view of the clarification provided, she would consult with her group on point (b). She supported the Workers' Vice-Chairperson suggestion for the Screening Group to meet before June.
177. *The Deputy Director-General for Management and Reform* proposed to reconvene in late May or early June to finalize the discussion on the programme of sectoral meetings and again later in June for the agenda of the 109th Session of the Conference. In response to a request from the Chairperson of the Government group for all draft decisions to be approved by the Screening Group before submission a comprehensive list to Governing Body members, he confirmed that that was what was envisaged.
178. *The final decision on the item was deferred to a subsequent meeting to be held before June 2020.*

### III. Preparations of the V Global Conference on Child Labour

179. *The Employer Vice-Chairperson* said that all efforts needed to be made to hold the Global Conference in 2021 and asked the Office if the member State that had offered to host would still be in a position to do so given the circumstances. His group supported the draft decision.
180. *The Worker Vice-Chairperson* welcomed the developments described in GB.338/POL/4, and congratulated Member States for the increased number of ratifications of the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), and the Protocol of 2014 to the Forced Labour Convention, 1930. She noted that the crisis would certainly lead to a worsening of child labour figures. The Workers' group took note of the uncertainty of holding the event. It could not support subparagraph (a) of the draft decision, as it would be premature to request the Office to pursue the preparations without the involvement and formal decisions of the full Governing Body. The item should be considered at the 340th Session (October–November 2020) of the Governing Body, when the situation would be clearer. The Workers' group nevertheless agreed to holding tripartite consultations to prepare future discussions in the Governing Body. She proposed to amend the draft decision by deleting subparagraph (a) and modifying subparagraph (c) to read “to inform the Governing Body at its 340th Session (October–November 2020) of any relevant development and to take into account its guidance in the preparation of the V Global Conference”.
181. Referring to the statement in paragraph 20 of document GB.338/POL/4 that if, by June 2020, a host country and the necessary resources could not be identified, the V Global Conference would have to be postponed until the biennium 2022–23, *the Chairperson of the Government group* asked if the Office had received confirmation from an African country willing to host it. He expressed doubts that the enormous resources required to organize such an event could

be found in the middle of the pandemic. Depending on what would be the situation in just a few weeks in June, it might not be necessary to endorse the first subparagraph of the draft decision.

- 182.** *The representative of the Africa group* confirmed that Zimbabwe had expressed interest in 2017 to host the Global Conference. However, the Office for some reason could not proceed with the offer, leading to the withdrawal of its proposal in January 2019. Informal discussions were held around the proposal from another country of the same subregion. The Africa group was therefore surprised that no progress had been made and asked the Office to explain what had happened since January 2019 in terms of finding a host. She expressed doubts on the feasibility of finding a host and the necessary resources by June 2020 for holding the Global Conference in 2021 as Member States were focused on fighting the pandemic and would need to devote resources mainly to mitigating its socio-economic consequences. It might be necessary to start considering the deferral of the Global Conference or changing the format of the meeting to a smaller one.
- 183.** *The representatives of ASPAG, GRULAC, IMEC, the Eastern and Western European groups* had no objection to the draft decision as proposed by the Office, and supported the request for information from the representative of the Africa group. *The representative of IMEC* added that members of her group strongly supported the Global Conference. *The representative of the Eastern European group* highlighted the importance of holding it in 2021, which had been designated as International Year for the Elimination of Child Labour, and asked the Office to provide all relevant information on the preparation process and, in particular, on activities conducted in partnership with other organizations.
- 184.** *The Chief of the Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)* explained that the Office had been undertaking consultations since 2017 with the Africa region, and had continued discussions with one potential host country. The official confirmation should have been received in March before the Governing Body session, but had been put on hold because of the COVID-19 pandemic. The Office was expecting to receive the official confirmation shortly. Taking into account concerns regarding the deadline for identifying the host, she confirmed that the final decision could be taken at the 340th Session (October–November 2020) of the Governing Body. However, in light of the circumstances, the possibility of postponing the Global Conference to 2022–23 could not be excluded. In response to the question regarding coordination with other organizations, she explained that the Office was having informal discussions with other United Nations agencies on how to implement the UN General Assembly resolution 73/327, which declared 2021 as the International Year for the Elimination of Child Labour. The issue would be discussed at the next meeting of the coordinating group of Alliance 8.7, which includes most agencies as well as the social partners and some Member States. The Office would be sending an official communication to the heads of all agencies asking them to support the implementation of the resolution.
- 185.** *The Employer Vice-Chairperson* noted that, in light of the information he had been privy to, the government of his country, South Africa, had put forward its candidature to host the Global Conference in 2022, and not in 2021, due to COVID-19. Having listened to all views, it seemed less likely that the Global Conference could take place in 2021. For this reason, his group would therefore move its support for the meeting to be held in 2022, while reiterating its support to this event as a whole.
- 186.** *The Worker Vice-Chairperson* agreed that it would be difficult to hold the Global Conference in 2021. With the uncertainties at hand, it was important to deal with more urgent matters and postpone the discussion to the 340th Session of the Governing Body.

#### IV. Renewal of the term of office of Mr Kreins as a member of the ILO Administrative Tribunal

187. *The Worker Vice-Chairperson* recalled that the Governing Body, through delegated authority, had already agreed to propose to the Conference the renewal of the term of office Mr Kreins. She reiterated that the confirmation by the Conference of the appointment of the judges was simply a formality, as there have been no known instances where the Conference had not endorsed the recommendation of the Governing Body. On previous occasions, the Workers' group had already expressed support for the Governing Body to exceptionally authorize Mr Kreins to continue in his functions until the Conference could renew his appointment, for the reasons outlined in the original version of Appendix III. It was therefore of great concern to see in the revised paper a reversal of the arguments and proposed decision, for which the Office did not provide convincing arguments. In the meantime, the Officers of the Governing Body received on the eve of the Screening Group meeting a letter from the President of the Tribunal raising serious operational concerns if the Tribunal was to work with only six judges, and requesting that those concerns be shared with the members of the Screening Group for consideration in their deliberations. She also expressed concern at the content of the letter which seemed to indicate that the Office had not consulted the Tribunal before preparing the revised version of Appendix III, and asked if this had been the case. If so, it would not be the proper way to decide on this issue, as the Tribunal was best placed to provide views on its own functioning.
188. The revised paper provided examples and comparisons on past vacancies that were no longer relevant today, with obsolete references to deputy judges which no longer existed. The vacancy arising from the resignation of an English-speaking judge who had never assumed his functions was not comparable to the situation of Mr Kreins, who was a very active judge able to work in English and French. From a linguistic aspect, the non-renewal of his term would have a serious impact on the Tribunal's handling of cases in French. It was also important to have an uneven number of judges (seven) in order to secure a majority in the event of decisions being made by a majority of members of the Tribunal.
189. To address the concerns of governments on procedure, *the Worker Vice-Chairperson* suggested including in the draft decision a reference to the exceptional nature of the decision to extend the judge's mandate. Not allowing Mr Kreins to continue would be detrimental to the functioning of the Tribunal and limit its capacity to provide justice to workers in the ILO and other 58 organizations that have accepted its jurisdiction.
190. *The Employer Vice-Chairperson* reiterated his view that the issue at hand had to do with governance and legal certainty. He emphasized that the competence of Mr Kreins was not in question, and that his group would have supported his reappointment at the Conference. However, it was clear that only the International Labour Conference had the legal authority to appoint or renew the mandate of a judge. As stated in the revised paper, which should form the basis of the discussions, any negative consequences of the non-renewal of Mr Kreins on the functioning of the Tribunal could be mitigated by reorganizing panels and reassigning cases among the remaining six judges. As such, there were no compelling reasons to justify departing from the rules and setting a precedent.
191. *The Chairperson of the Government group* stated that there were divergent views within regions and sought clarification on when the mandate of Mr Kreins would take effect if renewed in June 2021.
192. *The representatives of the Africa group and GRULAC* stated that while the letter from the President of the Tribunal came as a surprise, it would not change their groups' position that solely the Conference had the authority to appoint judges, and not the Governing Body. Both groups supported the proposal in the Appendix III as revised. *The representative of GRULAC*

emphasized that her group was not in favour of taking any exceptional decision that would depart from the rules and set a precedent. The competence of the ILC must be respected.

- 193.** *The representative of ASPAG* noted that prior to receiving the letter his group had been ready to support the renewal of Judge Kreins. In view of this recent development and the different position indicated in the revised appendix, his group needed more time for consultations.
- 194.** *The representatives of IMEC, Eastern Europe and Western Europe* stated that there were divergent positions within their groups. Members had strong and polarized views both regarding the legal implications of prolonging the mandate of the judge, and on the importance of not jeopardizing the continuity of the work of the Tribunal. More time was needed for deliberations, taking into account the views of the Tribunal, which had yet to be circulated.
- 195.** *The representative of Western Europe* added that many members of his group had expressed support for the original version of Appendix III and requested an explanation in writing for the shift in the position of the Office, and to outline why the rationale supporting the renewal of the judge was no longer valid. He also sought clarification on the number of judges required to reach a verdict. He stated that in the interest of good governance, there should not be a line of correspondence that was not shared with all members of the Screening Group. Before discussions could proceed, it was imperative for the letter to be shared with the governments.
- 196.** *The Vice-Chairperson of the Government group* emphasized the importance of applying rules correctly. Notwithstanding the commendable work the judge has carried out, there were clear legal rules specifying that the only the ILC had the authority to appoint the judges of the Tribunal. Departing from the rules would damage the credibility of the ILO.
- 197.** In response to the question raised by the Chairperson of the Government group, the *Legal Adviser* indicated that the Governing Body decision of March 2020 to recommend the renewal of Mr Kreins taken at a time when the 109th Session of the Conference was still expected to be held in June 2020, had lapsed due to the deferral of the 2020 Conference. If Mr Kreins' term of office were not to be exceptionally extended in 2020, it would expire on 30 June and Mr Kreins would be informed accordingly. Subsequently, a new document would have to be prepared for either the November 2020 or the March 2021 session of the Governing Body proposing that it recommend the appointment of Mr Kreins to the Conference in June 2021 for a three-year term that would start running in July 2021.
- 198.** In response to the question from the representative of the Western European group, the *Legal Adviser* confirmed that the number of judges required to take decisions should be three, five or all seven in plenary. Recent judgements concerning the decisions of the International Civil Service Commission regarding the revised post adjustment index for Geneva were taken with a full panel of seven judges; however, in the vast majority of cases, the Tribunal operated in panels composed of three judges.
- 199.** With respect to questions and concerns as to why the Office had presented two different positions in two versions of Appendix III, the *Legal Adviser* indicated that the consequences of a possible deferral of the Conference had been analysed in the early stages of the pandemic and the conclusion reached from the very beginning was that, should the Conference not take place, there would be no renewal of one judge of the Tribunal, just as there would be no Governing Body elections or vote on the abrogation of standards, as only the Conference had the authority to make such decisions. Under article III of the Statute of the Tribunal, the legal authority for the appointment or renewal of appointment of judges lies exclusively with the International Labour Conference. In addition, there was no direct precedent which would allow to conclude that some other organ, such as the Governing Body or its Officers could act on behalf of the Conference. This was precisely the position that was shared with the

Screening Group by the Deputy Director-General for Management and Reform at the time it considered the possible deferral of the Conference.

- 200.** At the first meeting of the Screening Group, the *Worker Vice-Chairperson* requested the Office to look into creative alternatives and the legal grounds that could possibly enable the judge to continue in his functions notwithstanding the letter of the Tribunal's Statute. As there had been no objection to that request, the Office prepared an analysis on whether it would be possible to exceptionally decide to renew the judge's term before the next session of the Conference, and the legal basis for that possibility in the event the Governing Body was prepared to take such a decision. This was the analysis that was included in the Office paper on the deferral of the Conference and then reproduced in Appendix III to the Annotated agenda for the Screening Group meeting of 8 May. It suggested that a direct analogy could be drawn with the Governing Body elections. Exceptional circumstances had validly – but without any express legal basis – permitted the Governing Body in 1941 to decide that it would continue to function as then constituted until the next regular session of the Conference, when a new election of members of the Governing Body could be held. A provision to this effect was later included in the Constitution through the 1946 amendment and now appears in article 7(5) of the Constitution. Similarly, it could be argued that the Tribunal's Statute did provide for the appointment of judges at three-year intervals but was silent with regard to the specific situation at hand, namely the postponement of a regular session of the Conference, which should have otherwise considered the renewal of the appointment of a judge. One possible way of interpreting that silence would be on the basis of the well-known principle of effectiveness (*principe de l'effet utile* in French or *ut res magis valeat quam pereat* in Latin) that requires that every legal document should be interpreted in a way that produces a meaningful or useful outcome. Such a practically effective and useful result in the case under consideration would be to authorize the judge whose term of office expires to remain in office until the next regular session of the Conference. Further, the Office paper indicated that the renewal of the appointment of Mr Kreins could be justified on institutional reasons as the ILO had special responsibility to afford a well-functioning system of administrative justice vis-à-vis not only its own officials but also the thousands of officials of the 58 other international organizations which had recognized the jurisdiction of the ILO Administrative Tribunal. Moreover, the Office paper presented the view that the non-renewal of Mr Kreins could be considered to be contrary to the principle of continuity of public service (*principe de continuité du service publique*) as the operation of the Tribunal should be ensured in all circumstances and the disruption of its services would prejudice essential needs of all the public organizations under its competence.
- 201.** This was certainly a different approach which was nonetheless tenable from a legal point of view and which could provide the legal basis for a possible decision of the Governing Body to exceptionally renew the appointment of Mr Kreins despite the deferral of the 2020 Conference. However, there was not much support for such different approach among the members of the Screening Group who requested additional clarifications, especially as regards the capacity of the Tribunal to operate with six judges and the possibility of replacing Mr Kreins by other judges who could also work in French.
- 202.** In the supplementary updated paper, the Office explained that there seemed to exist no compelling reasons for taking such an exceptional decision in those circumstances. Further examination of the Tribunal's operation had led to the conclusion that the impact of not renewing Mr Kreins's term of office on the Tribunal's functioning could be mitigated as there were other judges capable of handling cases in French. Furthermore, the Tribunal had in fact functioned in the past with six judges. In this respect, statistical data concerning complaints fielded against the ILO had been shared with some government members who had approached the Office with such a request, while the Office had referred the same government members to the Registrar of the Tribunal for more detailed information on the internal organization of the Tribunal. He drew attention to the possibility that such an

exception being warranted in the future could not be ruled out. In 2021, the term of office of five judges would need to be renewed; in the hypothetical case that the 2021 Conference could not take place, a situation would arise where the five judges and Mr Kreins would not be reappointed and the Tribunal would have to cease to function as a consequence. That situation would clearly provide a compelling reason, under the principle of the continuity of public service, for the Governing Body to take an exceptional decision to ensure that the ILO fulfilled its institutional responsibility towards the 58 organizations and their staff under the Tribunal's jurisdiction. That situation would also represent a direct analogy of the situation prevailing in 1940 when – in the absence of an exceptional decision to keep the outgoing Governing Body members in place – the Organization would have been deprived of its executive organ from 1940 until 1944.

- 203.** *The Legal Adviser* concluded by stating the Office position had not varied. The two different approaches expressed in the two versions of Appendix III did not invalidate each other, and were put forward to support the decision-making process of the Governing Body.
- 204.** He suggested that the Screening Group could also consider recommending to the Governing Body possible amendments to the Tribunal's Statute, in the form of a provision replicating the principle of service continuity relating to the Governing Body elections as reflected in article 7(5) of the ILO Constitution.
- 205.** *The Worker Vice-Chairperson* thanked the Legal Adviser for the clarifications provided, particularly on the key point relating to the silence in the Tribunal's Statute on the issue of renewal, meaning that extension of the term of office of the judge could not be considered as breaking any rules, which should have been stated more clearly in the papers before the Screening Group. The most important issue at hand therefore was whether an exceptional decision was justified for compelling reasons having regard to the proper functioning of the Tribunal. In this regard, she reiterated that her group found it deeply concerning that the Office did not consult the Tribunal on the possible impact on its work of the non-renewal of Mr Kreins. The Tribunal had now given an opinion and requested the Screening Group to take it into account when discussing the matter. It was imperative for the views of the Tribunal to be heard, regardless of what those views might be, before a proper discussion could take place.
- 206.** *The Chairperson of the Government group* requested to put on record the governments' concern that they had not been informed of the Tribunal's letter, and requested that it be forwarded to his group through formal channels of communication. He recalled that the recommendation to renew Mr Kreins had already been made. The remaining issue was whether the Governing Body could exceptionally confirm his renewal pending a decision of the Conference in 2021, and whether there were sufficient reasons for such an exception.
- 207.** On behalf of the *Employer Vice-Chairperson, the Secretary of the Employers' group* reiterated his group's position and highlighted that the proposal to exceptionally recommend the renewal had not received sufficient support and should not therefore be submitted to the Governing Body nor discussed at a future meeting of the Screening Group.
- 208.** In view of the lack of agreement between the Employers' and Workers' groups on the appropriateness and usefulness of circulating the letter from the Tribunal, the Chairperson of the Governing Body informed the members of the Screening Group that the Office would advise the Tribunal to submit the communication through the official channels for it to be distributed in turn to the members of the Screening Group.

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Monday, 25 May 2020**

**209.** The Officers of the Governing Body and the other members of the tripartite Screening Group met through videoconference on Monday, 25 May 2020, to continue the consideration of items previously identified in the annotated agenda, as well as draft decisions urgently needed regarding possible adjustment to member States reporting obligations and the work of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on the Application of Standards (CAS).

**210.** The Chairperson of the Governing Body, H.E. Mr R. Litjobo (Government, Lesotho), chaired the meeting. Participants included the representative of the Employers' group, Mr R. Suárez (Secretary-General, International Organisation of Employers (IOE)), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific (ASPAG): Mr S. Pakseresht (Islamic Republic of Iran)

Latin America and the Caribbean (GRULAC): Ms L. Silva (Uruguay)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms M. Nojszewska-Dochev (Poland)

Western Europe: Mr P. Rochford (Ireland)

Employers' group secretariat: Ms M.P. Anzorreguy

Workers' group secretariat: Ms R. Gonzalez and Ms M. Llanos

**211.** *The Chairperson* recalled that the purpose of the meeting was to consider the following items:

I. Composition of the Administrative Tribunal of the ILO

II. Programme, composition and agenda of standing bodies and meetings

A. Election of the Officers of the Governing Body

B. Composition of subsidiary bodies of the Governing Body

C. Programme of meetings

III. Proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment for the 2021 General Survey

- IV. Draft decisions to be submitted to Governing Body members by correspondence
  - A. Draft decisions urgently needed regarding possible adjustment to member States reporting obligations and the work of the CEACR and the CAS
  - B. Draft decisions resulting from the discussions on 15 May (on items 3.2 and 3.3 and 3.4 of the annotated agenda)
- V. Draft communication with Governing Body members for decision-making by correspondence

**212.** *The meeting adopted the draft agenda as proposed by the Chairperson.*

## **I. Composition of the Administrative Tribunal of the ILO**

**213.** *The representative of the Employers' group* apologized on behalf of the Employer Vice-Chairperson, who could not attend the meeting due to connectivity issues. His group's position on the matter in question remained unchanged, despite the letter received from the President of the Administrative Tribunal. The second version of Appendix III to the annotated agenda prepared by the Office pointed to governance-related issues. The group remained convinced that the item should be dealt with from a governance perspective, and should not be based on the Tribunal President's comments on the workload, nor on the competence of Mr Kreins, who held a remarkable record and the group's full respect. The rules were clear: only the Conference had the authority to appoint or renew Mr Kreins. The Employers' group did not wish to set a precedent. Therefore, the Office should inform Mr Kreins of the expiration of his mandate and of the impossibility to renew his appointment due to the deferral of the 109th Session of the Conference.

**214.** *The Worker Vice-Chairperson* reiterated her group's position. The group welcomed the clarification from the Legal Adviser that the issue was not one of governance; rather, that the Tribunal's Statute was silent on the issue of renewal in the case that the Conference could not take place. It was therefore possible to move forward with the renewal, without breaching the rules, drawing an analogy with the extension of the mandate of the Governing Body in 1941, when the Conference could not take place. The issue was whether there were compelling reasons to exceptionally renew Mr Kreins's term of office. Her group had taken due note of the letter received from the President of the Tribunal, which raised concerns about the functioning of the Tribunal, on which the non-renewal of Mr Kreins would have a significant impact. For that reason, she urged other members to support the renewal of Mr Kreins's term of office in the interest of the proper functioning of the Tribunal.

**215.** *The Chairperson of the Government group* recalled that, at the start of the lockdown, the idea was to focus on issues that required urgent attention. A selection of such issues, which could not wait until the Governing Body met again, had been established. Nevertheless, the Government group felt that issues, which could in fact wait, were now being addressed. That situation was particularly difficult for the Government group, for which the task of aligning its members' views in normal circumstances was already an arduous one. He expressed the Government group's discontent at the way the matter of Mr Kreins's renewal had been presented to the Screening Group. At the last meeting, the group had expressed concern that they had not been privy to the letter from the Tribunal's President. While that letter had since been circulated to all groups, the Government group was handling the matter with caution in view of its legal implications. There was no sense of urgency, as had been indicated by the Legal Adviser; the Tribunal could meet and function without Mr Kreins. While the Governing Body had already agreed to recommend to the Conference the renewal of his term

of office, it was necessary for the Conference to formally meet in order to decide on the renewal of his tenure.

- 216.** *The representatives of the Africa group, GRULAC and the Eastern European group* confirmed that their groups' positions remained unchanged since the last meeting. *The representative of GRULAC* added that while her group supported the adequate functioning of the ILO and all of its bodies, it was very important for them that the rules were respected. It was within the Conference's exclusive mandate to renew the term of office of the judge.
- 217.** *The representative of ASPAG* clarified that his group's views were not related to Mr Kreins himself. He reiterated that the latest document prepared by the Office made it clear that only the Conference had the authority to reappoint a judge. The Governing Body was not competent to do so. Indeed, if the Governing Body were to proceed with the reappointment, there would be a risk that the appointment could later be challenged and invalidated. To avoid that risk and any legal uncertainty that might arise from such a process, the Governing Body should ask the Conference to reappoint the judge in question in June 2021, even if that meant the Tribunal would be deprived of one judge until June 2021.
- 218.** *The representatives of IMEC and the Western European group* reaffirmed their support for the ILO's good governance, but confirmed that they remained divided on the issue at hand. *The representative of the Western European group* added that the EU member States had been agreeable to the Office's original proposal while other member States were uncomfortable with an exceptional renewal for governance reasons.
- 219.** *The Vice-Chairperson of the Government group* remained unconvinced by the suggestion that the issue could be handled through an extraordinary departure from the rules. Article 3 of the Tribunal's Statute clearly referred to the Conference's exclusive role in that regard.
- 220.** Recalling that the Governing Body had already decided to recommend the renewal of the judge's term of office, *the Worker Vice-Chairperson* indicated that it had been very clear in the Office's explanation that there was no provision in the Tribunal's Statute that would prevent an exceptional decision in exceptional circumstances. Furthermore, she sought additional clarification regarding the Screening Group's function. It had been her understanding that the group could not adopt any decisions, but would be playing an advisory role before putting proposals to the Governing Body for decision. She therefore asked for clarity on the situation, as it would be logical and consistent with the procedures governing the functioning of the Screening Group in those circumstances, that the outcome of the group's discussion on that item be put before the members of the Governing Body for confirmation by delegated authority or vote by correspondence. It was very unclear to her group in what capacity the Screening Group was apparently moving forward to adopt a decision to not support the exceptional extension of the mandate of the judge.
- 221.** *The Deputy Director-General for Management and Reform* clarified, in response to the comment made by the Chairperson of the Government group, that no additional item had been added to the Screening Group's agenda since the start of its virtual meetings. The matters being dealt with had been on the original list of items approved by the Screening Group itself. Concerning the Administrative Tribunal, the Tribunal's Registrar had indicated that the intention of the President's letter had been to point out that there would be operational ramifications stemming from the non-renewal of Mr Kreins. The President had not referred to any legal powers of the Governing Body to take such a decision, as he considered it a matter for the Governing Body itself to determine. While some delays could be expected in the delivery of judgments, the Tribunal nonetheless would be able to operate. The Office had offered additional support to the Tribunal if necessary. As regards the question from the Workers group, he reiterated that should exceptional circumstances warrant it, the Governing Body could take the exceptional decision to renew the judge's term of office, as was reflected in the minutes of the previous meeting.

**222.** Responding to a question on the next steps, *the Deputy Director-General for Management and Reform* confirmed that the Office would inform Mr Kreins in writing that, due to the postponement of the Conference session, it would not be possible to extend his term June 2020. However, the intention would be to submit his candidature to next year's session of the Conference. In order to facilitate that process, the Office would first ascertain whether the judge would still be available for reappointment as of June 2021. The necessary document would then be prepared ahead of the November 2020 or March 2021 Governing Body session and would contain a draft resolution for submission to next year's session of the Conference.

**223.** The Deputy Director-General for Management and Reform also explained that the matter differed from others examined by the group in that it was one of the consequences of the deferral of the 2020 session of the Conference. The decision approved by the Governing Body through correspondence in early March had been to recommend the extension of the judge's appointment to the Conference. At that point, the 2020 session had not been deferred yet. Given the lack of support expressed by the Screening Group to propose an exceptional approach, no draft decision could be presented to the Governing Body.

**224.** *The Chairperson of the Governing Body* considered that there was no support to propose to the Governing Body that it make an exception to the rules. As a result, the matter would be deferred to the next session of the Conference.

## **II. Programme, composition and agenda of standing bodies and meetings**

### **A. Election of the Officers of the Governing Body**

**225.** *The Chairperson of the Governing Body* outlined the three issues to be addressed:

- I. to maintain the composition of the Officers of the Governing Body until its next session in October-November 2020, or propose candidates for the next regular term of office (June 2020-21);
- II. to maintain the membership of the subsidiary bodies of the Governing Body until the Conference could hold elections in June 2021; and
- III. to delay the discussion on the programme of meetings for the second half of 2020 and first half of 2021, until there was greater visibility on when face-to-face meetings would be next possible in Geneva.

**226.** *While the representative of the Employers' group* indicated that his group could support either of the two possibilities outlined in Appendix IV, paragraphs 9-10, he asked the Office to clarify section 2.1.3 of the Standing Orders of the Governing Body, namely, on the implications of the provision whereby "The Officers...shall hold office from their election until the election of their successors."

**227.** *The Worker Vice-Chairperson* said that her group was open to the two options suggested in Appendix IV, but that the governments should guide the decision, as the Officers of the Employers' and Workers' groups would remain the same.

**228.** *The representative of the Africa group* said that her group preferred to wait and hold elections at the next Governing Body meeting. However, to the extent that the majority of the Government group supported elections by a decision by correspondence, her group was open to that option.

229. *The representative of ASPAG* supported the proposal for the elections to be held by correspondence, provided that they were in line with the Standing Orders. It would be beneficial for the Governing Body to be informed of its next Chairperson well in advance of its next meeting, and for the next Chairperson to start preparing for the role as soon as possible.
230. *The representative of GRULAC* said that an early decision on the Officers, taken by correspondence, could be beneficial in preparing for the Governing Body to be held in October-November, which would have a highly substantive agenda. Her group, supported by *the representatives of the Eastern and Western European groups* and *the Vice-Chairperson of the Government group*, requested clarification from the Office regarding a possible election via correspondence. *The representative of Eastern Europe* added that her group would support the majority view and reiterated the importance of abiding by the rules. *The representative of Western Europe* indicated that members of his group had no particular position on the matter. They were comfortable with the Chairperson staying on until the next Governing Body meeting but would also support ASPAG's request to assume the role of Chairperson at an earlier date.
231. *The Legal Adviser* explained that, at first glance, section 2.1.3 of the Standing Orders, which provided for elections at the end of every annual Conference, could be understood to mean that the Officers would hold office until next year's Conference in June 2021. In reality, however, in the letter and spirit, section 2.1.3 made provision for the Officers to hold office until elections were next possible, which in the present circumstances would be in October-November 2020. It was true that reference to the one-year term of the Chairperson was made in paragraph 16 of the Introductory Note to the Governing Body Standing Orders as a logical deduction from section 2.1.3 of the Standing Orders; nevertheless that reference was not a binding provision. He recalled that as Governing Body elections could not be held in 1943, Governing Body Members remained in office until the next possible elections took place in the Conference of 1944, and not until 1946 when their three-year term would have normally ended. That precedent demonstrated the interpretation of paragraph 2.1.3 of the Standing Orders whereby the Officers should remain active until the elections of their successors were next possible. That would be in October-November 2020 or earlier if the Governing Body agreed to conduct the elections by correspondence, as it had been doing in the past weeks with respect to a number of decisions.
232. *The Chairperson of the Government group* underlined that the Chairperson of the Governing Body was a rotational role. ASPAG was next in line and had expressed willingness to assume the position. If the Governing Body waited until October-November to hold elections, the new Chairperson would not have sufficient time to become familiar with its decisions and issues.
233. *The Chairperson of the Governing Body* considered that there was consensus to elect the new Chairperson by correspondence. That would be the fair course of action when ASPAG was ready to provide a candidate for the role, and should not be blocked from doing so.

**B. Composition of subsidiary bodies of the Governing Body**

234. With regard to the composition of subsidiary bodies of the Governing Body, *the representative of the Employers' group* said that it was logical to maintain the membership within the ad hoc tripartite committees set up to examine representations under article 24 of the Constitution, the Committee on Freedom of Association (CFA) and the Board of the International Training Centre of the ILO, Turin. Nevertheless, the Standards Review Mechanism Tripartite Working Group (SRM TWG) consisted of persons who were not

necessarily members of the Governing Body. He therefore asked the Office to explain how the proposal would apply to members of the SRM TWG.

- 235.** *The Worker Vice-Chairperson* supported the proposal to maintain the membership of the Committee on Freedom of Association and expressed gratitude that it was willing to hold extended meetings in October-November. With regard to the SRM TWG, she agreed to maintain the membership on the understanding that the members were not always the same; different experts participated depending on the agenda. She also agreed that it was logical to continue the membership of the ad hoc committees dealing with article 24 representations and the Turin Board until June 2021. She was open to either noting the Screening Group's decision in the minutes of the meeting, or submitting it to the Governing Body for confirmation through a vote by correspondence.
- 236.** *The Chairperson of the Government group* asked the Legal Adviser to clarify the issues raised by the Employers' and Workers' groups related to the SRM TWG.
- 237.** *The representatives of the Africa group, ASPAG, GRULAC, IMEC, the Eastern European group, the Western European group, and the Vice-Chairperson of the Government group* supported the proposal to maintain the existing membership of the subsidiary bodies.
- 238.** *The Legal Adviser* recalled that, despite its different composition, the SRM TWG remained a working party established under paragraph 4.2.1 of the Standing Orders of the Governing Body: from that point of view there was no difference between the CFA and the SRM TWG; the latter had however specific terms of reference and rules regarding their composition. As a measure of good governance and efficiency, the Office had proposed a uniform approach in extending the terms of office within these bodies.
- 239.** Further to the request from the Worker Vice-Chairperson for an official outcome of the discussion, *the Deputy Director-General for Management and Reform* confirmed that the decision would be included as a recommendation by the Screening Group, to be endorsed by a vote by correspondence by the Governing Body.

### **C. Programme of meetings**

- 240.** *The Chairperson of the Governing Body* recalled that the Office proposal had been to delay decisions on the programme of official ILO meetings, until the conditions for travel and meetings during the last quarter of 2020 would be known.
- 241.** *The representative of the Employers' group and the Worker Vice-Chairperson* agreed with the Office proposal to decide on the duration of the 340th Session of the Governing Body once the Screening Group had established the agenda for the session. With regard to the CFA, the Employers' group had already confirmed its availability for a longer session in October 2020, but found it too early to confirm if that would be the case for the March 2021 session. He stressed the importance for CFA members to receive, in advance, the list of cases to be reviewed at each meeting. *The Worker Vice-Chairperson* added that the proposed agenda was very full and the decision would need to be taken logically and rationally. She confirmed that the worker members of the CFA would be available for longer sessions in October 2020 and March 2021, if necessary.
- 242.** Recognizing the need to wait and see how the situation would evolve, *the Chairperson and Vice-Chairperson of the Government group and the representatives of the Africa group, IMEC, the Eastern and Western European group* also supported the Office proposal. *The representative of GRULAC* added that her group would need to carefully consider any extension of dates. *The representative of the Western European group* encouraged the Office to look into options for contingency planning.

243. *The representative of ASPAG* indicated his group would prefer to keep the original duration and called upon the Screening Group consider extending meetings as a last resort, taking into account that members of his group would need to travel from afar. Non-urgent matters should be deferred to November 2020 or 2021. He emphasized the importance of efficient time management at Governing Body meetings and proposed setting time limits for interventions, as in other international organizations. Sessions should be managed more efficiently by making the best use of time available and avoiding additional sittings.
244. *The Deputy Director-General for Management and Reform* reiterated the Office's commitment to ensuring that the 340th Session would take place in one form or another, regardless of how the situation would evolve.

### **III. Proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment for the 2021 General Survey**

245. *The representative of the Employers' group*<sup>2</sup> and the *Worker Vice-Chairperson* supported deferring the General Survey by one year to maintain the alignment with the recurrent discussions cycle as well as deferring the consideration of the related report form to the October–November 2020 or March 2021 session of the Governing Body.
246. *The representatives of ASPAG, GRULAC, IMEC, the Eastern European and the Western European groups* also agreed to defer the approval of the report form to the October–November 2020 or March 2021 session.
247. *The representative of IMEC, with the support of the Eastern and the Western European groups*, suggested that the Office set up an online platform through which Governing Body members could submit amendments to the proposed report form and then prepare a revised questionnaire to be considered by the Governing Body in due course.

### **IV. Draft decisions to be submitted to Governing Body members by correspondence**

#### **A. Draft decisions urgently needed regarding possible adjustment to Member States reporting obligations and the work of the CEACR and the CAS**

248. The *Chairperson* recalled that three of the draft decisions that the Office had sent resulted from the meeting of 15 May, including the amendment proposed by the Workers' group to the item concerning sectoral meetings and the proposal from the Office on the matters relating to the CEACR and the CAS.
249. *The Director of the International Labour Standards Department (NORMES)* recalled that in normal circumstances the CAS would have been holding its first session on that very day, Monday 25 May, to examine the two CEACR reports published in February 2020. It was due to the deferral of the Conference session that the Governing Body had been called upon to determine the agenda of the CAS in 2021. Turning to reporting obligations, she indicated that article 22 of the ILO Constitution placed on member States a mandatory annual

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<sup>2</sup> Ms M.P. Anzorreguy, Director of ILO Coordination, IOE.

reporting obligation on ratified conventions, which had been organized in three-year and six-year reporting cycles by the Governing Body. In accordance with that decision taken by the Governing Body, each Member had its own schedule of reports to submit each year on specific ratified Conventions. On that basis, the Office had sent a letter to member States on 5 March requesting them to send the reports under article 22 that were due in 2020 by 1 September.

- 250.** The course of action proposed in the draft decision had been designed in light of two considerations. First, to ensure that the CAS would have a meaningful discussion of the CEACR reports in 2021, as it would have all the necessary information; and second, to simplify the reporting obligation of governments in light of the exceptional circumstances. To do so, it was proposed to defer the reports due in 2020 by one year and to instead ask governments to send updated information concerning the reports submitted in 2019.
- 251.** *The representative of the Employers' group*<sup>3</sup> thanked the Office for the explanation and looked forward to hearing the views of governments and the Workers' group. She indicated that her group had sent some amendments to the draft decision with a view to strengthening the voluntary aspect of the requested updates and to emphasize that it needed to focus on the implementation of the provisions of the conventions.
- 252.** *The Worker Vice-Chairperson* welcomed the explanation provided by the Office. While understanding the need to reduce the reporting burden in 2020 given the situation, she stressed that her group did not agree with introducing suddenly a voluntary notion in article 22 reporting. The considerable impact of the COVID-19 crisis on the matters under review should be taken seriously. It was important to highlight the difference in the nature of reporting obligations under article 19 and article 22.
- 253.** *The representative of the Africa group* indicated that her group had no objection to the draft decision as proposed.
- 254.** *The representative of ASPAG* put forward two comments. First, concerning the deadline of 1 September for sending information: as governments had already started to prepare the reports that should have been submitted in 2020, they would need more time to put together updated information for reports submitted in 2019 under article 22. The group would therefore be grateful if the deadline could be extended. Second, concerning article 19 and 22 reports, both requests to submit updated information should be voluntary. If a question were to be added to the questionnaire for the next general survey, responding to it should remain voluntary in order to avoid setting a precedent of adding questions depending on special circumstances.
- 255.** *The representative of GRULAC* stated that the issue was of great importance to her group given the significant levels of ratification in the region. She agreed in general with the proposal, with a view to avoiding a situation in which the CAS would need to examine two reports in 2021. Provision of additional information should be voluntary for both article 19 and article 22 reports as the cycle was already closed for governments. Although her group understood the interest in adding updated information, for some governments it might not be possible to send such information given that the region was facing the worst peak of the crisis. Some members of the group had questions on how the additional information would be presented in the report – whether it would be in a new chapter or if existing chapters would be updated. As many governments were already working on 2020 reports, she sought clarification on how the Office would communicate that the reports would be postponed to

<sup>3</sup> Ms M.P. Anzorreguy, Director of ILO Coordination, IOE.

2021. Finally, she requested the Office to consider drafting detailed and clear decision points, as it would facilitate the work of governments.

- 256.** *The representatives of IMEC and the Western European group* indicated that they could support the deferral of article 22 reporting cycle by one year, but had significant concerns on the proposals to ask governments to send additional information for reports already submitted in 2019 and to add a question to the report form for the following General Survey. The proposal did not seem to be adequate. The constitutional obligation was to report on the implementation in law and practice of the provisions of ratified Conventions. Submitting other types of information could set a dangerous precedent. Additionally, the deadline for sending COVID-19 related information was too tight, taking into account that the situation was changing rapidly and would continue to evolve. The 2019 reports should not be reopened. Governments would not have enough time to review and respond to observations from the social partners and from the CEACR. In conclusion, IMEC was of the view that the impact of COVID-19 should be dealt with only outside those reporting obligations.
- 257.** *The representative of the Eastern European group* said there were different views within the group. Nevertheless, all members understood the importance of reporting obligations and keeping the reporting procedures intact. The group could accept subparagraphs (a), (c), (d) and (e) of the draft decision as the request to send additional information under article 19 was voluntary. They could support subparagraph (g) (extending the deadline for responding to the questionnaire on apprenticeships) only if those who had submitted their replies early would not be required to send updated information. Concerning subparagraph (b), any additional reporting burden should be avoided – the reports that had already been submitted should not be reopened. Providing additional information should be voluntary also for article 22 reports.
- 258.** *The Vice-Chairperson of the Government group* thanked the Office for the effort to come up with a reasonable and balanced proposal, but emphasized that governments had legitimate concerns and doubts on the additional mandatory and voluntary reports. To ensure that the submission of additional information would actually be voluntary, there should be no setting of deadlines nor interpreting the absence of response as a breach of the obligation to report. For 2019, the reporting obligation had already been fulfilled and the obligation under article 22 was to report on the implementation of ratified Conventions in law and practice.
- 259.** *The representative of the Employers' group* said that she understood the legitimate concern of many governments, and was also of the view that the reporting obligation for 2020 had been fulfilled and that any supplementary information could only be requested on a voluntary basis. She asked the Office to clarify what “annual reports” meant in article 22 of the Constitution.
- 260.** *The Worker Vice-Chairperson*, while understanding the difficulties governments were facing, emphasized that the Office had already clarified that the burden was being reduced in the proposed course of action. The situation concerning the implementation of the Conventions under review would be different one year later when the reports would be considered, therefore it was necessary to request governments to update their reports. In her view, in 2021, every single issue would need to be discussed in the light of the impact of COVID-19.
- 261.** *The Director of NORMES* explained that according to article 22, annual reporting was mandatory and could not be disposed of. The Governing Body had simply scheduled the reporting obligations by cycles depending on the subject covered by the instruments. Simply deferring by one year the full 2020 cycle would mean not having any annual reporting in 2020 and would create a gap in between reporting cycles that would be against the Constitution. Another consideration was to ensure that the CAS would have discussions that would be meaningful to the world of work, which would not be possible if the discussions

were only based on 2019 information. It was not possible to consider that reporting under article 22 could be done on a voluntary basis for 2020. If there was no agreement among the groups, the letter sent by the Office on 5 March asking governments to submit article 22 reports under the 2020 reporting cycle would remain valid.

- 262.** Concerning the General Survey on nursing and domestic workers instruments, it was logical to add a question related to the impact of COVID-19 as the subject matter was particularly relevant. Concerning reporting deadlines, she said that the Office needed time to deliver the files in three languages to the CEACR, but taking into account the circumstances, the experts would show some flexibility concerning the strict respect of deadlines set for submission of article 22 reports. The updated information would be presented as an addendum to the 2019 CEACR report. Finally, she said that as soon as the Governing Body took a decision, the Office would communicate it to governments immediately.
- 263.** In response to the request for clarifications on the scope and meaning of the constitutional obligation for annual reporting under article 22, *the Legal Adviser* recalled that the Legal Office had analysed various aspects of the draft contingency plan prepared by NORMES. For instance, the notion of *force majeure*, which had been validly invoked to justify the deferral of the Conference, could not be invoked to justify the postponement of either the meeting of the Committee of Experts or the reporting obligations under article 22. That analysis also provided clarifications on the nature and scope of article 22 obligations. Interpreting the reporting “obligation” under article 22 as including the possibility for “voluntary” reporting would be paradoxical and would amount to a contradiction in terms. The Legal Adviser cautioned that pursuing such an approach would lead to a clear and major deviation from the ILO’s constitutional theory and practice.
- 264.** In that regard, the Legal Adviser recalled that during the Second World War, reporting on ratified conventions had not been discontinued. He further clarified that since 1959, the Governing Body had been spacing out the reporting cycle, now at three and six-year cycles. The idea to do so originated from the Experts themselves, when it became apparent that their work was fast becoming unsustainable. They concluded that article 22 required an annual report, but possibly not on all ratified conventions. It was proposed that member States report annually but on a two-year cycle, and that each year, they would report on half the ratified Conventions, and in addition, prepare a compendious report on the other half. The following year, they would provide a detailed report on the second half and a compendious report on the first half. The Governing Body at that time rejected the Experts’ proposal, considering it a misinterpretation of article 22, that clearly stated that member States must report on conventions they had ratified. Annual reporting was therefore a non-negotiable constitutional requirement. It has since been clearly accepted that all member States are under the obligation to report annually on some of the conventions to which they are parties. The scheduling of regular reports still guaranteed that every member State must report each year on some of the conventions it has ratified, despite the three and six-year reporting cycles. In addition, the Legal Adviser recalled that the possibility of granting exemptions from the annual reporting obligation on an ad hoc basis had been considered in recent times. For instance, a proposal to that effect had been presented at the Governing Body in the event of a major national crisis and subject to a “tripartite certification”, but had been forcefully rejected.
- 265.** Moreover, the Legal Adviser clarified that the rationale behind deferring the reporting cycle by one year was to create space for a special report related to the pandemic, and not to leave a gap in reporting. Doing so would be tantamount to an effective suspension of the annual reporting obligations and would run counter to the provisions of the ILO Constitution. There was no doubt that member States had met their reporting obligation for 2019; what was being discussed was whether the report form for 2020 should be modified to address the specific implications of the pandemic on the implementation of specific conventions. It was in that sense that reference was made to the conventions which were the subject of the 2019

reporting obligations. While the Governing Body had the authority to decide on the form and particulars of reports, as expressly provided for in article 22, deciding on the mandatory or voluntary nature of reporting was not within its purview.

266. In view of the clarifications provided by the Office, *the Chairperson of the Government group* requested to defer the issue to the next meeting, so that governments could consult their respective groups and capitals. *The representatives of IMEC, GRULAC and the Western European group* fully supported the request, adding that the information just received contained new elements that were not clear when the groups were defining their positions, namely the implications of deferring the reporting cycle, and specifically, the possible gap that could result in the absence of reporting. They requested the Office to reproduce the explanations in a document, for consultation with their respective groups, and to facilitate discussions at the next meeting of the Screening Group.
267. *The Worker Vice-Chairperson* welcomed the explanations provided and urged governments to recognize the merits of a generous and reasonable proposal, which consisted of updating the information already provided. Her group could not support a deviation from the obligations, and emphasized the importance of ensuring that the discussions next year were relevant and meaningful. The decision to request the endorsement of the Governing Body should be taken urgently within the next days, and not weeks, for the reasons mentioned by the Director of NORMES.
268. *The Deputy Director-General for Management and Reform* confirmed that the Office would distribute the written explanation shortly in order to clarify the misunderstanding and facilitate the discussions in the Screening Group.
269. *The representative of the Employers' group* also welcomed the clarifications provided by the Office and emphasized the importance her group placed on complying with constitutional obligations. The Employers' group was mindful of the urgency in taking a decision, as well as the legal implications of such a decision for member States. In that regard, she proposed to further amend the changes her group had proposed earlier, which read as follows, while acknowledging that members of the Screening Group would need time to consider them:

*In light of the deferral of 109th Session of the Conference to June 2021, the Governing Body decided by correspondence:*

- (a) *to invite member States to provide by 1 September 2020, should they so wish, supplementary information on the article 19 report submitted in 2019 on employment related instruments (Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), highlighting ~~only~~ new developments related to the position of national law and practice in regard to ~~matters dealt~~ the provisions ~~with~~ in the instruments under review that might have occurred since their submission;*
- (b) *to request member States to provide by 1 September 2020, supplementary information on the article 22 reports submitted based on the 2019 reporting cycle, highlighting ~~only~~ new developments, if any, related to the application of the provisions of Conventions under review that might have occurred since their submission;*
- (c) *to invite the CEACR to review the supplementary information provided by member States with respect to developments that occurred in 2020 and to up-date their reports accordingly;*

- (d) *to invite ~~that~~ the Committee on the Application of Standards (CAS) to examine in 2021 both the General Survey entitled “Promoting employment and decent work in a changing landscape” and the 2020 General Report and observations concerning particular countries, ~~both~~ as updated by the Committee of Experts on the Application of Conventions and Recommendations at its 91st session in December 2020;*
- (e) *to defer by one year the subsequent art 22 reporting cycles;*
- (f) *to defer by one year the article 19 reports requested and the General Survey on the Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157), and the Domestic Workers Recommendation, 2011 (No. 201) to which the following question should be added: “Please indicate the manner in which the COVID-19 pandemic and measures taken to protect public health have impacted the application of the provisions in the instruments under review concerned in the General Survey upon the matters raised in the questionnaire”; and*
- (g) *to extend until 31 March 2021 the deadline for submitting replies or supplementary information to the questionnaire for the first discussion of the standard-setting item on a framework for quality apprenticeships so as to capture in those responses the impact that the crisis might have had in law and practice in member States.*

## B. Decision-making process

270. *The Chairperson* recalled that the IMEC and the Western European group had proposed adaptations to the process, which the Office had taken into account, as reflected in the last draft that had been circulated.
271. *The representatives of IMEC and the Western European group* reaffirmed that their groups’ intention was simply to replicate in these extraordinary times, to the extent possible, the normal Governing Body procedure at its physical meetings. *The representative of the Employers’ group* welcomed the proposal, which in his view, provided clarity on what consensus implied.
272. *The Worker Vice-Chairperson* stated that while she recognized the intent of the proposal, it was important to clarify in very clear terms what the term consensus meant, given that, unlike in a physical meeting, it would not be possible to easily discern the positions members of the Governing Body would be taking. She requested that the communication to Governing Body members include a clear definition of consensus as it appears in paragraphs 46 and 47 of the Introductory Note to the Standing Orders of the Governing Body.
273. *The Deputy Director-General for Management and Reform* added that the Office proposal was closely based on the IMEC proposal but with slightly different terminology, precisely to avoid the confusion referred to by *the Worker Vice-Chairperson* with regard to the term “join consensus”. The proposed Office formulation comprised the following options, in line with the normal Governing Body terminology: “agree”, “do not agree but without blocking consensus”, and “do not agree and block consensus”. He confirmed that the revised letter would include a definition of consensus.
274. *The representative of the Africa group* stated that members of her group found the changes confusing and would have preferred for the changes to have been discussed first in the Screening Group. Nevertheless, her group’s position was flexible on the proposed draft.
275. *The representative of ASPAG* stated that consultations within his group were progressing. They were open to the Office proposal, but requested that the approach be applied separately to each decision and not to a consolidated decision point.

- 276.** *The representatives of GRULAC, the Eastern European group and the Vice-Chairperson of the Government group* welcomed the proposal from IMEC and Western European group. It was important to provide a clear explanation of the decision-making process for the benefit of relevant officials in capitals taking the decisions, for whom the intricacies of the Governing Body decision-making practices were not necessarily evident. *The representatives of GRULAC and the Eastern European group* emphasized that the priority for their groups' was that the decision-making would be done through a vote by correspondence.
- 277.** In closing, *the Chairperson* confirmed that an agenda of items to be discussed at the next meeting would be drawn up as requested by the Worker Vice-Chairperson, for the items to be discussed in the order in which they are listed.

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Wednesday, 3 June 2020**

- 278.** The Officers of the Governing Body and the other members of the tripartite Screening Group met through videoconference on Wednesday, 3 June 2020, to continue the consideration of items previously identified in the annotated agenda, with a view to finalizing the draft decisions for submission to the members of the Governing Body.
- 279.** The Chairperson of the Governing Body, H.E. Mr R. Litjobo (Government, Lesotho), chaired the meeting. Participants included the representative of the Employers' group, Mr R. Suárez (Secretary-General, International Organisation of Employers (IOE)), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators and group secretariats:
- Africa: Ms F. Abdulkadir (Ethiopia)
- Asia and Pacific (ASPAG): Mr S. Pakseresht (Islamic Republic of Iran)
- Latin America and the Caribbean (GRULAC): Ms L. Silva (Uruguay)
- Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)
- Eastern Europe: Ms M. Nojszewska-Dochev (Poland)
- Western Europe: Mr P. Rochford (Ireland)
- Employers' group secretariat: Ms M.P. Anzorreguy
- Workers' group secretariat: Ms R. Gonzalez and Ms M. Llanos
- 280.** *The Chairperson* recalled that the purpose of the meeting was to consider the following items:
- I. Finalization of the draft decisions urgently needed regarding possible adjustments to Member States' reporting obligations and the work of the CEACR and the CAS
  - II. Finalization of the draft communication to Governing Body members, including the deadline for the submission of responses

- III. Submission of draft decisions to the Governing Body for a decision by correspondence, as appropriate, on the outcome of the Screening Group on items 3.2 (composition of the CEACR), 3.3 (Programme of Sectoral activities in 2021), 3.4 (preparations of the V Global Conference on Child Labour) and 3.7 (Programme, composition and agenda of standing bodies and meetings)
- IV. Dates of the next meetings of the Screening Group to discuss:
- (i) the agenda of the Conference in 2021;
  - (ii) outstanding draft decisions on the program of sectoral meetings and other official meetings in the second half of 2020; and
  - (iii) the format and agenda of the 340th Session of the Governing Body (October-November 2020).

**281.** *The meeting adopted the draft agenda as proposed by the Chairperson.*

**I. Finalization of the draft decision urgently needed regarding possible adjustments to Member States' reporting obligations and the work of the CEACR and the CAS**

**Subparagraph (a)**

*(a) to invite member States to provide by ~~1-September~~15 October 2020, should they so wish, supplementary information on the article 19 report submitted in 2019 on employment related instruments (the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), highlighting ~~only new significant relevant~~ developments related to the position of national law and practice in regard to ~~matters dealt~~the provisions ~~with~~ in the instruments under review that might have occurred since their submission;*

**282.** *The representative of the Employers' group<sup>4</sup> thanked the Office for incorporating her group's amendments and circulating them to the meeting participants. Her group supported IMEC's first amendment to extend the reporting deadline to 15 October. That extension would give governments enough time to prepare supplementary information and the social partners more time to prepare their submissions. She assumed that if that extended deadline were to be retained, the Office would make necessary arrangements to ensure the experts had sufficient support to carry out their work. She also supported the second amendment from the Workers' group, to replace "significant" with "relevant".*

**283.** *The Worker Vice-Chairperson said that her group could agree with most of the earlier amendments put forward by the Employers' group. She had understood that the original deadline set by the Office had been chosen to ensure it had sufficient time to prepare the documents for discussion by the Committee. It was important that Member States fulfil their*

<sup>4</sup> Ms M.P. Anzorreguy, Director of ILO Coordination, IOE.

reporting obligations, but 15 October could possibly be too late for the Office to prepare for the meeting.

- 284.** *The Director of NORMES* stated that the normal reporting period was from 1 June to 1 September. Given the special circumstances, the Office had proposed to retain the later part of that deadline, giving governments the choice to submit at the end of the reporting period. The proposed extended deadline of 15 October would give the Office only six weeks to prepare the files for the CEACR, reducing its working time by a third. The Office expected to receive over 2 000 reports and would therefore not be in a position to process all those files in six weeks, including legal analysis and translation. Instead, she suggested 15 September as the new deadline, which would give the Office ten weeks to prepare and do justice to the reports.
- 285.** *The representative of the Africa group* said that her group was flexible on the matter and was open to proposals necessary to reach agreement.
- 286.** *The representative of ASPAG* expressed no objection to the new date proposed by the Office.
- 287.** *The representative of GRULAC* called for flexibility in the current situation, given the severe impact of the pandemic on her region. Her group supported the deadline extension, considering that the reporting period had already begun. Her group was also flexible on the use of “relevant” in lieu of “significant”, as proposed by the Workers group.
- 288.** *The representative of IMEC* reiterated her group’s longstanding support for the supervisory system, demonstrated through its active and constructive engagement in the Standards Initiative and review of the working methods of the CAS. Her group remained committed to the integrity of the system, by ensuring it continued to function effectively and that the reporting obligations of Member States were met. However, given the exceptional circumstances, it was necessary for all ILO constituents to make adjustments and compromises. In that regard, her group’s amendments would ensure that Member States could meet their obligations. Her group strongly preferred “significant,” as “relevant” suggested a broader scope of developments; it was also redundant, as any information provided under article 22 should be relevant to the Conventions. With regard to the reporting deadline, she had proposed 15 October as a compromise. She had understood that the CEACR would meet later than usual in 2020 and that it would have less material to review. Under the existing deadline, it would be difficult for governments from her group to provide accurate, well-consulted and significant information. While some members of IMEC were open to 1 October as a deadline, she would prefer to maintain 15 October, to ensure compliance with the reporting obligations.
- 289.** *The representative of the Eastern European group* recognized the importance of the reporting cycle and respecting the deadlines in place. While her group expressed appreciation for IMEC’s proposed deadline, her group found 1 October to be more realistic.
- 290.** *The representative of the Western European group* aligned himself with the statement made by IMEC. He reiterated that his group fully supported maintaining the cohesiveness and effectiveness of the supervisory system, and did not want to make hollow promises in terms of fulfilling their reporting obligations. October was the preferred deadline to ensure members could meet such obligations. He supported the wording of “significant” as it expressed more clearly what Member States should focus on. For some members of his group, particularly those in federal systems, tripartite consultations could present a challenge within the normal reporting deadline. He had discussed with the Director of NORMES on the need for Member States to understand on which basis they should reopen tripartite discussions, if any new information was to be provided. They did not want to reopen discussions on certain reporting obligations that had already been fulfilled.

291. *The Vice-Chairperson of the Government group* said that there seemed to be a mismatch in terms of challenges. Most, if not all governments were dealing with situations whereby hundreds of millions were at risk of unemployment. While he was committed to the supervisory system, it was necessary to view reporting obligations in the light of the exceptional circumstances, in which the focus was on how to protect businesses and workers worldwide. There was also a mismatch with regard to expectations. He had understood that subparagraph (a) involved an *invitation* for Member States to present information if they wished. However, the current discussion gave the impression that Member States were obliged to do so. If it was in fact an invitation, it should be possible to set a different timeline.
292. *The Director of NORMES* clarified that subparagraph (a) concerned the voluntary reporting with regard to the general survey. Although her response had focused on the mandatory article 22 reporting obligation under subparagraph (b), she had addressed both subparagraph (a) and (b), in which the deadline was the same.
293. While taking the Government group's views into account, *the Worker Vice-Chairperson* considered that the Office needed sufficient time to process all of the reports received by Member States. She fully agreed with the importance of consulting social partners on those matters, but did not see why reporting exercises should be extended. Such consultations should be organized with the schedules of the social partners also in mind. She expressed concern that, as the Screening Group had postponed the discussion on the matter, governments had yet to receive information on their reporting obligations. It was therefore important that a decision be made urgently so that they could be informed accordingly. She also requested flexibility from IMEC with regard to the replacement of "significant" with "relevant".
294. *The Deputy Director-General for Management and Reform* proposed the reporting period from 15 September to 1 October as the deadline in subparagraphs (a) and (b). That would allow Member States in extreme situations to report by the later date, although the Office's preference would be that all reports arrive by 15 September.
295. *The representative of the Employers' group* stated that it was important to balance Office constraints with what governments could realistically achieve. They should be encouraged to report, as it was likely they would have additional information to provide. She agreed that governments would need to consult with the social partners on the updated information, and should be granted sufficient time to do so and prepare adequately. She asked if it would be possible for the Office to provide extra support to the team working with the CEACR, for the work to be accomplished within the proposed new timeframe. In the letter addressed to governments concerning the new deadline, the Office should encourage Member States to provide information before the end date if possible.
296. In the light of the discussion, *the representative of IMEC* stated that her group could accept the Office's proposed reporting period. While her group expressed a strong preference for "significant", it could also accept "relevant" in the spirit of consensus.
297. *The Chairperson* concluded that convergence had been reached both on the wording of the draft decision and on the dates of the reporting period.

### Subparagraph (b)

*(b) to request member States to provide by ~~15 September~~October 2020, ~~form of a simple letter to the Head of the Norms Department in the format of their choosing,~~ supplementary information on the article 22 reports submitted based on the 2019 reporting cycle, highlighting ~~only new significant~~relevant developments, if any, related to the application of the provisions of Conventions under review that might have occurred since their submission;*

298. *The representative of the Employers' group* suggested maintaining the same deadline as in subparagraph (a). She agreed with IMEC's proposal on the date and also supported the wording of "relevant".
299. *The Worker Vice-Chairperson* accepted the draft decision in subparagraph (b) with the new reporting period
300. *The representative of the Africa group* also supported subparagraph (b) with the new reporting period.
301. *The representative of ASPAG* supported subparagraph (b) with the amendments proposed by IMEC.
302. *The representative of GRULAC* reiterated the comments made earlier by the Vice-Chairperson of the Government group concerning a mismatch in terms of challenges and expectations. Her region faced serious challenges, which had become even more difficult to cope with in the context of COVID-19. In that respect, reporting under article 22 should also be voluntary because her group had already fulfilled the obligations of the 2019 reporting cycle. She also pointed out that many members of her group had a high number of ratifications. Her group recognized the exceptional circumstances and the importance of ensuring the CEACR and the CAS would have a substantial discussion. Nevertheless, she wished to state on record that for her group, the obligations of Member States were clear. As had been stressed on many occasions, her group was opposed to setting a precedent that would reopen cycles that had already been closed. She expressed interest in the amendments presented by IMEC, as the proposed wording could grant countries some flexibility. She also requested that the Spanish version of the draft decision be aligned with the English.
303. *The representatives of IMEC and the Western European group* indicated that their groups would have preferred to maintain their original position with regard to the deadline, but would agree to the new reporting period proposed by the Office. *The representative of the Western European group* highlighted that it was important to maintain consistency in the language used in (a) and (b).
304. *The representative of the Eastern European group* underlined the importance of respecting reporting obligations: only substantial new developments related to the application of provisions of Conventions should be reported on. As many countries had already started preparing their national reports under the normal procedure, it would create double work for them. However, she expressed a willingness to go with the consensus, as reporting was an issue of critical importance.

### **Subparagraphs (c) and (d)**

- (c) *to invite the CEACR to review the supplementary information provided by member States with respect to developments that occurred in 2020 and to up-date their reports accordingly;*
- (d) *~~to invite that~~ the Committee on the Application of Standards (CAS) ~~to will~~ examine in 2021 both the General Survey entitled "Promoting employment and decent work in a changing landscape" and the 2020 General Report and observations concerning particular countries, ~~both~~ as updated by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) at its 91st Session in December 2020;*
305. *The representative of GRULAC* stated for the record that her group did not have a defined position on subparagraph (d).

306. As there were no amendments or further comments on subparagraphs (c) and (d), the Chairperson concluded that consensus had also been reached on those two points.

### Subparagraphs (e) and (f)

- (e) *to defer by one year the subsequent art 22 reporting cycles;*
- (f) *to defer by one year the article 19 reports requested and ~~to~~ invite Member States – if they so wish – to provide by 28 February 2021 supplementary information on the article 19 report submitted in 2020 ~~General Survey on the Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157), and the Domestic Workers Recommendation, 2011 (No. 201) to which the following question should be added: “Please indicate whether recent measures to protect public health have impacted the application of the provisions of the instruments under review”~~; ~~to which especially with regard to the following question should be added: “Please indicate the manner in which the COVID-19 pandemic and measures taken to protect public health have impacted the application of the provisions in the instruments under review concerned in the General Survey upon the matters raised in the questionnaire”~~; ~~for those countries not yet having submitted the report, the deadline is extended until 28 February 2021; and~~*

307. The Worker Vice-Chairperson said that her group was concerned that in the IMEC’s proposals, every reference to the current situation had been deleted. The group also found it contradictory that the ILO was constantly confronted with urgent requests that it undertake more explicit work in relation to the COVID-19 crisis. Yet, suggestions were being made to delete all references to the current challenges from the text. She therefore proposed to add a compromise text on the article 19 reports on the instruments concerned, which were even more relevant in that day’s context:

- (f) (...) to which the following question should be added: “Please indicate whether recent measures to protect public health have impacted in Member States”.

With that proposal, her group was ready to accept the amendments from other groups.

308. The representative of the Employers’ group said her group could support IMEC’s amendment proposed. With regard to the Workers’ compromise proposal, she wished to hear from IMEC on the subject. Her group had doubts as to whether the amendment presented by the Workers was truly necessary. Given the new deadline of 28 Feb 2021 for the requested article 19 reports, Governments would in any case report on the law and practice until that time, which would cover the period of the COVID-19 pandemic. It was to be expected, therefore, that governments would address the impact of COVID-19 in their reports.

309. The representative of IMEC said her group was not in a position to support the Workers proposal. Concerns had been raised in her group on adding a question retroactively, which could put member States on an unequal footing since some of them had already submitted their reports and would not have answered that question. Furthermore, many might chose not to provide additional information, while others would be asked to answer the additional question. IMEC’s preference was therefore to revert to their proposal. With the intention of finding common ground, she proposed to add instead the following text:

- (f) (...) and the Domestic Workers Recommendation, 2011 (No. 201), so as to capture recent developments that might have had an impact in member States.

310. The representatives of the Africa group and the Eastern European group said their groups did not have a strong position on the matter and could show flexibility. The Eastern European group could accept IMEC’s revised proposal.

311. *The representative of ASPAG* said his group had examined IMEC’s proposed amendments and supported them.
312. As she had stated earlier in the discussion of subparagraph (b), *the representative of GRULAC* emphasized that reopening a closed cycle was not acceptable to her group. They understood that what was expected was an update building on the commitments governments undertook for 2019. For that reason, they could not accept the addition of any questions, for the reasons previously stated. However, in the interest of moving the discussion forward, her group could accept IMEC’s most recent proposal.
313. *The Worker Vice-Chairperson* recalled that the issue was not about generating new reporting obligations. She asked the Office to clarify if their proposal would open up a precedent. She expressed concern once again that although governments repeatedly asked the ILO to focus its efforts in 2020 and 2021 on the COVID-19 crisis, there were objections to adding a related question when the supervisory system was involved. Emphasizing that the instruments related to nursing personnel, her group had come up with a compromise that was very relevant, as it included the words “public health”. While some Member States would naturally include COVID-19 information in their replies, she did not see any harm in asking the question explicitly.
314. In response to a request for clarification from *the representative of the Employers’ group* on whether the language proposed by IMEC on subparagraph (e) was identical to that proposed by the Workers to subparagraph (g), *the representative of IMEC* confirmed that it was similar, except that it did not include the words “in law and practice”. She stated that her group had shown flexibility and had tried to present text that was similar to the one being put forward by the Workers on subparagraph (g) in an effort to reach consensus.
315. *The Worker Vice-Chairperson* said that, with a view to reaching consensus, her group had been ready to accept the language they were proposing for subparagraph (e) in subparagraph (g) as well. Her group could accept IMEC’s proposal for subparagraph (f), on the condition that the minutes clearly reflect the concerns stated earlier, and in addition, that for her group it was unclear and vague how member States would give effect to what was proposed in the amendment.
316. *The representative of the Employers’ group* expressed support for IMEC’s latest proposal.
317. *The Chairperson* considered that an agreement had been reached on subparagraph (f), which was adopted as amended by IMEC in the course of the discussion.

### **Subparagraph (g)**

- (g) *to extend until 31 March 2021 the deadline for submitting replies or supplementary information to the questionnaire for the first discussion of the standard setting item on a framework for quality apprenticeships so as to capture in those responses recent developments ~~the impact that the crisis that might have had an impact in~~ on the law and practice in Member States.*
318. *The representative of the Employers’ group* reiterated that her previous comments in relation to the preceding subparagraphs as to why the proposed amendments from the Workers’ group were unnecessary also applied to subparagraph (g).
319. *The Worker Vice-Chairperson* recalled that the issue at hand was the preparation of a standard-setting discussion on quality apprenticeships. As such, the debate would have an impact on law and practice in member States.

320. *The representatives of the Africa group, ASPAG, IMEC, and the Eastern and Western European groups* said their groups were flexible on this subparagraph.
321. *The representative of GRULAC* stated that her group had a preference for the amendment presented by the Employers' group.
322. *The Chairperson* considered there was sufficient flexibility to accommodate the Workers' proposal. The text was therefore adopted, as amended by the Workers' group.

## **II. Finalization of the draft communication to Governing Body members, including the deadline for the submission of responses**

323. *The representative of the Employers' group* expressed his support for the text proposed by the Office and for sending the communication the next day.
324. *The Worker Vice-Chairperson* thanked the Office for having incorporated the comments received from Screening Group members and proposed some editorial changes. In the third paragraph, reference should be made to all decisions to be taken, not only the one concerning adjustments to the supervisory system cycle. In the paragraphs referring to what was expected from regular members and deputy members, the sentence needed to be reformulated so that it was clear that there would only be one communication.
325. *The Chairperson of the Government group* requested the Office to send the final texts to all members of the Screening Group first for clearance, before transmission to Governing Body members.
326. *The representative of the Africa group* said that her group had no comments on the text, but wished to explore the possibility of moving the deadline for Governing Body members to reply from 9 to 10 or 11 June.
327. *The representatives of ASPAG, GRULAC, IMEC, the Western and Eastern European groups and the Vice Chairperson of the Government group* agreed with the changes proposed by *the Worker Vice Chairperson*. *The representative of GRULAC and the representative of the Western European group* also supported the request from *the representative of the Africa group* to move the deadline. Governing Body members would need to have at least one week after receiving the letter to communicate their responses as they needed time to undertake the necessary consultations.
328. *The representative of the Western European group* stated that it would be important for the text to reflect that all decisions were to be considered separately. He supported the suggestion to circulate the text of the letter and the draft decisions among the members of the Screening Group for review before their submission to the members of the Governing Body.
329. *The Deputy Director-General for Management and Reform* confirmed that the Office would send to the members of the Screening Group the final text of the draft decisions and the letter that evening, taking on board the proposals received during the meeting, in particular the suggestion relating to the votes of regular members in the event that consensus would not be reached. If no comments were received by 1 pm the following day, the texts would be considered as approved and sent out to Governing Body members in the afternoon. The deadline would be set for 10 June, giving Governing Body members one week to respond.

### III. Submission of other draft decisions to the Governing Body for a decision by correspondence

330. *The representative of the Employers' group* expressed support for all the draft decisions. With regard to the composition of the CEACR, he acknowledged the need to improve the transparency and tripartite governance in the selection process of experts. Concerning subparagraph (a) of the decision on sectoral meetings, his group agreed with the proposal from the Workers' group to include the reference to rotation among the groups in the appointment of chairpersons of official meetings. He asked the Office to clarify if it was a consolidated practice to be applied only to the sectoral meetings referred to in document GB.338/POL/3, or to all official meetings.
331. *The Worker Vice-Chairperson* said that her group could agree with the draft decision concerning the composition of the CEACR and acknowledged that governments had expressed a clear preference for making decisions by correspondence rather than through delegation of authority. Her group supported subparagraph (a) and (b) of the draft decision concerning sectoral meetings. It was her group's understanding that the rotation among the groups for the appointment of chairpersons for sectoral meetings was based on practice, which could be codified when the standing orders are reassessed. She asked when subparagraph (c) of that decision was going to be considered and decided upon.
332. The Workers' group supported the draft decision concerning the preparations for the V Global Conference on Child Labour as amended by IMEC. Concerning the composition, agenda and programme of standing bodies and meetings, she understood that the Officers of the Governing Body would be appointed when the Government group would put forward a nomination for the new Chairperson. Her group agreed with maintaining the composition of the Board of the International Training Centre in Turin (Turin Centre) and the other bodies.
333. *The Chairperson of the Government group* acknowledged that the texts of draft decisions had been discussed extensively in previous meetings, but pointed out that regional groups still had minor changes to suggest.
334. *The representative of the Africa group* stated that her group's position was flexible.
335. *The representative of ASPAG* expressed support for all the draft decisions, and added that he was agreeable to the texts as drafted in all subparagraphs of the decision concerning sectoral meetings. He stressed that his group was opposed to making any decisions through delegation of authority, and that all decisions should be taken by correspondence.
336. *The representative of GRULAC* also emphasized her group's view that all decisions must be taken by correspondence and thanked the social partners for their flexibility in accepting governments' preference in that sense. With regard to the draft decision concerning the composition of the CEACR, she recalled that her group's position was very clear: the appointment of an expert was not an urgent matter and the selection process needed to be reviewed as it was not transparent and participatory.
337. Concerning subparagraph (a) of the draft decision on sectoral meetings, she supported the request from the *representative of the Employers' group* for the Office to clarify the practice of rotation among the groups for the appointment of chairpersons for official meetings and provide information on the type of expertise required for such a position. Subparagraphs (b) and (c), could be dealt with at the 340th Session (October-November 2020) of the Governing Body. More details were needed on the proposed meetings on whistle-blowers, COVID-19 impact in the tourism sector, and on skills before taking a decision on subparagraph (c). *The representative of GRULAC* also supported the draft decision on the V Global Conference as

amended by IMEC and the text concerning the composition and agenda of standing bodies and meetings as it was.

- 338.** *The representative of IMEC* said that her group agreed with the texts of all draft decisions. Concerning the decision on sectoral meetings, her group had specified, like other regional groups, that all decisions must be taken by correspondence and thanked the social partners for their understanding. With regard to the V Global Conference, she stressed the importance of keeping the process moving; this was the rationale behind the amendments submitted by her group. Concerning the proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment, she reiterated her group's suggestion of using an online platform to engage constituents informally in modifying the questionnaire before it would be considered by the Governing Body. *The representatives of the Eastern and the Western European groups* aligned themselves with IMEC's position.
- 339.** With reference to the Committee of Experts, *the Vice Chairperson of the Government group* reiterated the urgency in having a structured discussion in the Governing Body, to ensure that the selection process be more open, transparent, and conducted in a fully tripartite manner in the future.
- 340.** *The Clerk of the Governing Body* responded to the questions raised and summarized the positions expressed by the different groups, as follows:
- *Composition of the Committee of Experts on the Application of Conventions and Recommendations (CEACR).* While GRULAC had expressed opposition to the proposal, the Office understood from previous discussions that it would not block consensus, provided its position was reflected on record and that the selection process would be discussed at a future session of the Governing Body. He recalled that it was within the purview of the Screening Group to decide if and when it wished to place that item on the agenda. It could consider that possibility at its next meeting when the agenda of the 340th Session would be discussed.
  - *Sectoral meetings held in 2019 and proposals for 2020–21.* All items would be decided by Governing Body members through correspondence, and not through a delegation of authority. Only paragraphs (a) and (b) would be submitted to the Governing Body for decision, with paragraph (c) to be dealt with at a later stage, at the end of June, when information on the possibility of holding physical meetings for the rest of 2020 would be available. On the issue of chairing of meetings, he recalled that the previous standing orders provided for a rotation system among groups for chairing technical meetings. There was no mention of it, however, in the revised standing orders. Several groups had now expressed interest in reinstating the rotation system for technical meetings (while independent chairs for meetings of experts would continue to be designated by the Office). The chairing of meetings could be discussed at the Policy Development Section at a future session of the Governing Body.
  - *Preparations of the V Global Conference on Child Labour.* The text as amended by IMEC had received support from all groups.
  - *Proposed form for reports requested under article 19 on instruments concerning equality of opportunity and treatment for the 2021 General Survey.* The item had been deferred to October-November 2020 or March 2021 session for decision in view of the decision to postpone the general survey by one year. The Office took note of the request from IMEC and the Western European group for an online platform to be set up, to which constituents could contribute and help shape the form of the report.
  - *Programme, composition and agenda of standing bodies and meetings.* The only aspect of the document to be submitted to a vote by correspondence was the item on retaining

the current membership of the subsidiary bodies until the next elections of the Governing body in 2021. The programme of meetings would be discussed at the end of June in the light of the evolution of travel and meeting restrictions.

#### IV. Dates of the next meetings of the Screening Group

341. *The representative of the Employers' group and the Worker Vice-Chairperson* agreed with the new proposed dates of 9 and 16 June.
342. For planning purposes, *the Worker Vice-Chairperson* sought clarification on which documents would be discussed at the next meeting, with a view to identifying those that would require more time for discussion, such as the agenda for the 340th Session. Several discussions could be required for that, as well as on contingency planning and the agenda of the Conference. It was at her request that the Office had provided the tentative dates for meetings to take place before July, in view of the ILO virtual summit foreseen for mid-July.
343. *The Deputy Director-General for Management and Reform* explained that the key document (list of items proposed for the agenda of the 340th Session) had already been distributed. At the next meeting, the Screening Group would need to consider the items proposed and agree on which ones would be retained and borne in mind when making contingency plans, in the event that a regular physical meeting could still not take place in October-November. The paper on sectoral meetings would also need to be discussed, and lastly, the paper on the agenda and format of the 2021 Conference session, which was still in preparation. As a minimum, two or three meetings would be required.
344. *The Chairperson of the Government group*, supported by all government members, emphasized that governments needed additional time before the next meeting. The diversity within the group and the need to consult with capitals as well as within and among regions, had to be taken into account. Furthermore, he did not see the urgency in discussing issues relating to the October-November agenda and the June Conference.
345. *The representatives of the Africa group, IMEC and the Eastern and Western European groups* agreed that holding a meeting in the following week would not be convenient in view of the 10 June deadline for Governing Body members to submit their votes. Consulting them on other issues arising from the Screening Group would generate confusion.
346. *The representative of GRULAC* indicated that the dates proposed were also not convenient due to the change of Regional Coordinators in her group. She took the opportunity to thank colleagues for their support during her term as Regional Coordinator.
347. *The Vice Chairperson of the Government group* stressed that only urgent matters should be dealt with, and cautioned against adding new items for discussion that would require consultation with capitals. This would create an unnecessary diversion at a time when governments were dealing with critical matters arising out of the pandemic. There was a need to take stock of the format and working methods of the virtual Screening Group. Better preparation was required for meetings to be more efficient.
348. *The Deputy Director-General for Management and Reform* confirmed that the Office would reach out to governments and the social partners to find dates agreeable to all parties. In response to a request from *the representative of IMEC* for information on the format of the 340th Session, he indicated that it was difficult to provide more precise information until approximately six weeks before the start of the session. Apart from the Swiss guidelines on the conduct of meetings, travel restrictions in other countries also had to be considered. In view of the uncertainties ahead, the Office would prepare proposals for three different

scenarios: a full Governing Body session, a reduced Governing Body session, and a virtual session. While clarity on the situation would not be possible until September, it was important to decide as soon as possible what the agenda of the Governing Body would be if a full session proved possible so that the Office could start preparing the corresponding documents.

349. The *representative of IMEC* requested the Office provide options and agenda items for the potential scenarios for the 340th Session of the Governing Body.

## **Decisions by correspondence on various items on the agenda of the 338th Session and arising from the deferral of the 109th Session of the International Labour Conference**

350. In a communication dated 4 June 2020 (see [Appendix V](#)), all Governing Body members were invited to express their views by correspondence on a number of urgent decisions submitted by the tripartite Screening Group, which needed to be made to ensure the proper functioning of ILO governing bodies and its supervisory system.

351. Based on the responses received within the deadline set for 6 p.m. on Wednesday, 10 June 2020, the Chairperson of the Governing Body considered that all draft decisions except one were approved by consensus. As no consensus was reached with respect to draft decision 1(b) (regarding Member States' reporting in 2020 under article 22 of the Constitution), a count of the votes of regular members of the Governing Body was undertaken with the following results: 52 members agreed with the draft decision (including 14 members whose absence of a response was considered as support for the decision), three disagreed with the draft decision and one member abstained. The Chairperson of the Governing Body accordingly determined that decision 1(b) was adopted by a very large majority of the votes cast.

352. The results of the vote by correspondence and the Chairperson's determination were communicated immediately to the Vice-Chairpersons of the Governing Body, the tripartite Screening Group, all members of the Governing Body, and all Member States through their Permanent Missions in Geneva. The results of the vote by correspondence, including explanations of vote or other comments received from Governing Body members in relation to the vote, are included in [Appendix VI](#).

### **1. Decision concerning Member States reporting obligations and the work of the CEACR and the CAS as a result of the deferral of the 109th Session of the International Labour Conference to 2021**

353. *In light of the deferral of 109th Session of the Conference to June 2021, the Governing Body decided by correspondence:*

- (a) *to invite Member States to provide between 15 September and 1 October 2020, should they so wish, supplementary information on the article 19 report submitted in 2019 on employment related instruments (Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy*

*(Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198) and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), highlighting relevant developments related to the position of national law and practice in regard to the provisions in the instruments under review that might have occurred since their submission;*

- (b) to request Member States to provide between 15 September and 1 October 2020, in the format of their choosing, supplementary information on the article 22 reports submitted based on the 2019 reporting cycle, highlighting relevant developments, if any, related to the application of the provisions of Conventions under review that might have occurred since their submission;*
- (c) to invite the Committee of Experts on the Application of Conventions and Recommendations to review the supplementary information provided by Member States with respect to developments that occurred in 2020 and to update their reports accordingly;*
- (d) to invite the Committee on the Application of Standards to examine in 2021 both the General Survey entitled “Promoting employment and decent work in a changing landscape” and the 2020 General Report and observations concerning particular countries, as updated by the Committee of Experts on the Application of Conventions and Recommendations at its 91st session in December 2020;*
- (e) to defer by one year the subsequent article 22 reporting cycles;*
- (f) to defer by one year the article 19 reports requested and to invite Member States, should they so wish, to provide by 28 February 2021 supplementary information on the article 19 report submitted in 2020 on the Nursing Personnel Convention, 1977 (No. 149), the Domestic Workers Convention, 2011 (No. 189), the Nursing Personnel Recommendation, 1977 (No. 157), and the Domestic Workers Recommendation, 2011 (No. 201) so as to capture recent developments that may have had an impact in Member States; for those countries that have not yet submitted the report, the deadline is extended until 28 February 2021, and*
- (g) to extend until 31 March 2021 the deadline for submitting replies or supplementary information to the questionnaire for the first discussion of the standard-setting item on a framework for quality apprenticeships so as to capture recent developments that might have had an impact on the law and practice in Member States.*

**2. Decision concerning the composition of the Committee of Experts on the Application of Conventions and Recommendations**  
**([GB.338/INS/16/1](#))**

**354. The Governing Body, on the recommendation of its Officers, decided by correspondence to appoint Justice Sandile Ngcobo (South Africa) as a member of**

*the Committee of Experts on the Application of Conventions and Recommendations for a period of three years, in order to fill the current vacancy.*

(GB.338/INS/16/1, paragraph 6)

**3. Decision concerning the membership of the subsidiary bodies of the Governing Body and the Board of the International Training Centre of the ILO in Turin pending Governing Body elections**

*355. The Governing Body decided by correspondence to maintain the composition of its Committee on Freedom of Association, the Standards Review Mechanism Tripartite Working Group, the ad hoc tripartite committees appointed under article 24 of the Constitution, as well as the Board of the International Training Centre of the ILO in Turin until the Conference can hold Governing Body elections in June 2021.*

**4. Decision concerning sectoral meetings to be held in 2020 and 2021**  
(GB.338/POL/3(Rev.1))

*356. The Governing Body decided by correspondence:*

- (a) to appoint, for each of the technical meetings listed in paragraph 7 of document GB.338/POL/3(Rev.1), one of its members as Chairperson on a rotating basis between the three groups or, in the absence of a candidate one month prior to the meeting, to request the Office to select as Chairperson an independent person with expertise on the matters covered by the agenda and to notify the meeting accordingly;*
- (b) to endorse the proposals contained in Appendix I to document GB.338/POL/3(Rev.1), relating to the dates, duration, official title, purpose and composition of the meetings listed therein.*

(GB.338/POL/3(Rev.1), paragraph 11, as amended by the Governing Body).

**5. Decision concerning the preparations of the V Global Conference on Child Labour**  
(GB.338/POL/4)

*357. The Governing Body decided by correspondence to request the Office:*

- (a) to undertake close engagement with constituents ahead of the V Global Conference on Child Labour, including identifying a suitable host country and working closely with that country, in order to facilitate timely progress;*
- (b) to convene tripartite consultations before the 340th Session (October–November 2020) of the Governing Body; and*
- (c) to inform the Governing Body at its 340th Session (October–November 2020) of any relevant development and to take into account its guidance in the preparation of the V Global Conference.*

(GB.338/POL/4, paragraph 21, as amended by the Governing Body).

## **Minutes of the meeting of the Officers of the Governing Body and the members of the tripartite Screening Group of Thursday, 16 July 2020**

**358.** The Officers of the Governing Body and the other members of the tripartite Screening Group met via videoconference on Thursday, 16 July 2020, to continue the consideration of items for the agenda of the 340th Session of the Governing Body (October–November 2020), the programme of official meetings, and the agenda of the 109th Session of the International Labour Conference (2021).

**359.** The Chairperson of the Governing Body, H.E. Mr R. Litjoko (Government, Lesotho), chaired the meeting. Participants included the representative of the Employers' group, Mr R. Suárez, Secretary-General, International Organisation of Employers (IOE), the Worker Vice-Chairperson, Ms C. Passchier (Netherlands), the Chairperson of the Government group, Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr C. Nunes (Brazil), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific (ASPAG): Mr A. Nakajima (Japan)

Latin America and the Caribbean (GRULAC): Mr R. Kellman (Barbados)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms N. Skoro (Croatia)

Western Europe: Mr P. Rochford (Ireland)

Employers' group secretariat: Ms M.P. Anzorreguy

Workers' group secretariat: Ms R. Gonzalez.

**360.** *The Chairperson* recalled that the purpose of the meeting was to consider the following items:

- I. Agenda of the 340th Session (October–November 2020) of the Governing Body;
- II. Programme and composition of official meetings;
- III. Agenda of the 109th Session of the International Labour Conference (2021).

**361.** *The meeting adopted the draft agenda as proposed by the Chairperson.*

### **I. Agenda of the 340th Session (October–November 2020) of the Governing Body**

**362.** The members of the Screening Group continued their discussions on the proposed items for the agenda of the 340th Session of the Governing Body. They agreed that the agenda would be finalized at their next meeting foreseen for the end of August, taking into account the evolving situation relating to travel and meeting restrictions.

363. Should a physical meeting of the 340th Session of the Governing Body not appear possible by then, the Screening Group would finalize the agenda based on the various categories of items already suggested in the current agenda proposals. The Office would prepare in advance a paper with details on various possible formats of the Governing Body session, whether face-to-face, virtual, or a hybrid of both.
364. In keeping with the standard practice of the Screening Group when dealing with its normal business of setting the agenda of an upcoming session of the Governing Body, no formal minutes of the meeting will be published.

## II. Programme and composition of official meetings

### ***Draft decision concerning the postponement of meetings scheduled in September 2020***

365. All members of the Screening Group expressed support for the proposal contained in the following draft decision to postpone two official meetings scheduled for September 2020.

*The Governing Body decided by correspondence:*

- (a) *to postpone the Sixth Meeting of the Standards Review Mechanism Tripartite Working Group from 14–18 September 2020 until a date in 2021 to be determined by the Governing Body at its 340th Session (October–November 2020) and to request the Office to continue its preparation of the sixth meeting and its follow-up of all previous decisions; and*
- (b) *to postpone the Technical meeting on the future of decent and sustainable work in urban transport services from 21–25 September to 7–11 December 2020.*

366. *The Chairperson* confirmed that the text of the draft decision would therefore be submitted to the Governing Body for a ballot by correspondence.

### ***Draft decision concerning the election of the Officers of the Governing Body for the period 2020–21***

367. *The Chairperson of the Governing Body* recalled that if nominations for the Officers of the Governing Body for the period up to June 2021 were confirmed by the time the above draft decision was put to the Governing Body for a decision by correspondence, the election of the Officers of the Governing Body for that period could be included in the same decision-making process.
368. *The Chairperson of the Government group* confirmed the nomination of the Government group of Mr Heeralal Samariya, Secretary, Ministry of Labour and Employment of India, as Chairperson of the Governing Body for the period August 2020–June 2021.
369. *The Chairperson of the Governing Body* recalled that the Employers' and Workers' groups had already indicated that they would propose to keep their respective Vice-Chairpersons (Mr Mthunzi Mdwaba (South Africa) and Ms Catelene Passchier (Netherlands)) in office for the same period. *The representative of the Employers' group*<sup>5</sup> said that her group's official nomination would be sent to the Office in the subsequent days.

<sup>5</sup> Ms M.P. Anzorreguy, Director of ILO Coordination, IOE.

- (a) *The Governing Body elected by correspondence Mr Heeralal Samariya (India) as Chairperson of the Governing Body for the period 2020–21.*
- (b) *The Governing Body elected by correspondence Mr Mthunzi Mdwaba (South Africa) as Employer Vice-Chairperson for the period 2020–21.*
- (c) *The Governing Body elected by correspondence Ms Catelene Passchier (Netherlands) as Worker Vice-Chairperson for the period 2020–21.*

**370.** *The Chairperson of the Governing Body* confirmed that upon receipt of the official confirmation from the Employer’s group of its nomination, the draft decision would be included in the same submission to the members of the Governing Body for decision by correspondence.

### **III. Agenda of the 109th Session of the International Labour Conference (2021)**

**371.** *The Deputy Director-General for Management and Reform* recalled that the agenda of the 109th Session of the International Labour Conference planned for June 2020 comprised the following standing and technical items, in addition to the elections of Governing Body members for the 2020–23 three-year term of office.

*Standing items:*

- I. Reports of the Chairperson of the Governing Body and of the Director-General;
- II. Programme and budget and other questions;
- III. Information and reports on the application of Conventions and Recommendations;

*Technical items:*

- IV. Inequalities and the world of work (general discussion);
- V. A recurrent discussion on the strategic objective of social protection (social security), under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization;
- VI. Skills and lifelong learning (general discussion);
- VII. Abrogation of eight international labour Conventions and withdrawal of nine international labour Conventions and 11 international labour Recommendations.

**372.** When initial discussions had been held in early May on the agenda of the 109th Session, agreement had been reached in general on the standing items and on other issues relating to the agenda. What remained for decision was the confirmation, or otherwise, of the retention of the three technical items on the agenda of the 2021 session, and how best to incorporate the issue of COVID-19 into the discussions and potentially produce an outcome around it.

**373.** At the request of members of the Screening Group, the Office had put forward three proposals, as outlined in detail in the annotated agenda ([Appendix VII](#)) for the meeting:

- I. establish an additional committee on COVID-19;
- II. defer one of the three current technical committees and replace it with one on COVID-19; or
- III. build a formal structure into the plenary to deal with COVID-19.

**374.** The first option of establishing a fourth technical committee could not be explored further due to purely logistical reasons, namely the lack of sufficient conference rooms at the Palais des Nations. As regards the second option, no agreement could be reached on which

committee could be replaced. The Workers' group had emphasized the relevance of the committee on inequalities in the discussion on COVID-19. Similarly, the Employers held the strong view that the committee on skills and lifelong learning was equally relevant to the discussion on the crisis. As no strong objections had been expressed with regard to the recurrent discussion committee, the possibility to replace it with a committee on COVID-19 was considered.

- 375.** The third option proposed by the Office was to incorporate into the plenary a negotiation-oriented discussion that could potentially lead to an outcome document highlighting a global response to the crisis using the framework of the ILO Centenary Declaration for the Future of Work. He recalled the strong references made by global leaders at the recent virtual ILO Global Summit, to the Centenary Declaration as a vehicle for recovery. While the focus of the Director-General's Report would be on the recovery from the COVID-19 crisis, and notwithstanding the fact that all technical reports would be updated to reflect the pandemic, there was a view, however, that not enough emphasis would be given to COVID-19 and the role of the ILO. The Office proposal, therefore, consisted of allocating a certain number of days in the plenary for a debate around COVID-19, which would be open to all delegates and would allow for inputs from the three technical committees. An outcome document could potentially arise from some form of a plenary committee. The Office would organize extensive consultations well in advance on a possible outcome document, including at the coming Governing Body session and in the months leading up to the Conference. What was required of the Screening Group at the next stage, apart from endorsing the standing items, was a decision on those three options proposed.
- 376.** *The representative of the Employers' group*<sup>6</sup> stated that her group would not support deferring the recurrent discussion on social protection. Doing so would give the wrong message to the outside world. Social protection was essential in dealing with the crisis, and in the medium- and long-term recovery. Her group favoured retaining the three technical committees and adding a COVID-19 dimension to each of them. That would entail redrafting the titles of the committees to reflect the COVID-19 dimension, and the questions that would frame the discussions. An innovative way to raise the profile of the ILO as a key player in the recovery from the crisis could be for each technical committee to highlight three very concrete actions coming out of each discussion that could then be compiled into an outcome document. She emphasized that her group was not open to renegotiating the Centenary Declaration, which had gone through an extensive negotiation process. It provided a very good basis for guiding the way forward in terms of crisis recovery. As far as the Director-General's Report was concerned, the group felt it should focus on COVID-19 and on recovery, with a very strong component on productivity, which was key to addressing recovery in a meaningful way.
- 377.** *The Worker Vice-Chairperson* reiterated her group's position that was strongly in favour of retaining the 2020 agenda items and discussing them in 2021, particularly because the issues of inequalities and social security were central to the COVID-19 crisis recovery. Both discussions needed to be held in 2021, with a strong focus on COVID-19, as the Employers had suggested. That same focus needed to be present in the Director-General's Report and in the World of Work Summit. The Office proposals contained in paragraphs 13 to 22 of the annotated agenda were acceptable. However, the group strongly disagreed with deferring the recurrent discussion on social security. At the virtual Global Summit held in July, the importance of universal social protection had been significantly highlighted. The ILO needed to strengthen its efforts to show it was a central actor in terms of labour market, social and economic issues related to the COVID-19 pandemic. The message stemming from the virtual Global Summit was clear: the Centenary Declaration needed to be implemented immediately, and the ILO had an important role to play in that. The Screening Group had

<sup>6</sup> Ms M.P. Anzorreguy, Director of ILO Coordination, IOE.

already decided to include the COVID-19 topic on the agenda of the High-Level Section of the November 2020 Governing Body session. It would also be discussed within the framework of the Preview of programme and budget proposals and the Strategic Plan, which would take into account the COVID-19 crisis and the role of the ILO. Rather than producing another outcome document, the focus should be on the implementation of the Centenary Declaration, which already provided an excellent framework for tackling all COVID-19-related challenges. Her group needed more time to consult before taking a decision on that matter.

- 378.** *The representative of the Africa group* stated that her group endorsed most of what had been identified in the paper as issues that had previously been discussed and agreed. Her group favoured maintaining the three technical committees as originally proposed. They could not support deferring the recurrent discussion on social security, not just because of its impact on the cycle of discussions, but, more importantly, because it was a major challenge for Africa, and even more so in the current context. She recalled that the social protection gap had been highlighted during the virtual Global Summit. The Africa group was looking forward to concrete conclusions from the recurrent discussion on social security, as it was a key component of social protection. Finally, her group was flexible with regard to discussing COVID-19-related issues in plenary.
- 379.** *The representative of ASPAG* stated his group's preference for the option presented in paragraph 24(b) of the annotated agenda, to replace the committee on social security with one on COVID-19. This was due to the practical difficulties in handling a de facto fourth committee and the significant impact that would have on the conventional format of the Conference, mainly with regard to high-level interventions. His group felt the discussion on social security could be encompassed in a broader discussion related to COVID-19.
- 380.** *The representative of GRULAC* stated that his group had initially favoured the retention of the three technical items. GRULAC had reservations regarding the option suggested in paragraph 24(b), since the discussion of COVID-19 would take place at committee level, which would not allow for full participation by all stakeholders. All interested parties should have access to the discussion. Concern had also been expressed within the group on the deferral of the recurrent discussion on social protection. Further consideration of the item was necessary. The group requested the Office to propose another way forward.
- 381.** *The representative of IMEC* agreed on the need to hold advance consultations on the 2021 session of the Conference to pave the way for the adoption of a meaningful outcome document. Many members of her group had expressed concern about reopening the discussion on or undermining the Centenary Declaration. Any potential outcome document should reinforce the Centenary Declaration. The group still had questions about each of the options and was not ready to decide on the way forward. The proposal in paragraph 24(a) of the annotated agenda could present difficulties for Governments that would in effect need to cover four committees. Such arrangements would also reduce the time allotted for high-level interventions in the plenary. The group wondered how an outcome document could be possible in a reduced drafting committee and how that would be brought back to the Committee of the Whole for amendments, finalization and adoption. Her group also had questions on how and if the World of Work Summit would feed into the outcome document at all. With regard to the proposal in paragraph 24(b), the group wanted to know if the discussion would also take place in a Committee of the Whole, as had been done in 2019 in negotiating the Centenary document and in 2009 for the Global Jobs Pact. She queried as to whether the disruption in the cycle of recurrent discussions would be mitigated if the discussion on social security in 2022 could also cover labour protection.
- 382.** *The representative of the Eastern European group* said the Centenary Declaration should serve as the basis for further discussions around the COVID-19 recovery process. Further discussions were necessary, as there were divergent views within her group. However, as a

preliminary observation, her group would prefer and support the proposal in paragraph 24(b) to replace one of the committees with a COVID-19 committee. The group supported the remaining proposals on the standing items and was open to finding solutions to pending issues.

- 383.** *The representative of the Western European group* said there were diverging views also within his group on the different options. There was strong support, however, for ensuring the Centenary Declaration was not duplicated or substituted in any way. It was necessary to have an action-oriented outcome on COVID-19 based on the ways to operationalize the Centenary Declaration. The group favoured a discussion on COVID-19 in all three technical committees. Given the concerns raised by many that a resulting outcome document might compete with the Centenary Declaration, he expressed doubts on the need to establish a Committee of the Whole, if a formal outcome document was not intended. He called for an innovative approach that would capture the cross-cutting discussion on COVID-19 across the committees, plenary and World of Work Summit.
- 384.** *The Deputy Director-General for Management and Reform* reassured participants that the Office agreed in clear and unambiguous terms that the Centenary Declaration was not to be renegotiated, undermined, or replaced in any way. The intention, as had been reiterated during the virtual Global Summit, was for the Centenary Declaration to provide a framework for the recovery. The objective was to hold a Conference discussion on how best for the ILO and for Member States to use the Centenary Declaration to move forward and out of the crisis. It was clear that there was strong support for each of the three technical committees to have a strong COVID-19 component. The question was how to shape that into a Conference outcome and the role of the plenary in supporting it.
- 385.** Responding to the request from the representative of GRULAC for the Office to put forward further alternatives, he recalled that options were extremely limited. There was no physical or logistical capacity for additional committees. Either one of the three committees was replaced, or the issue was dealt with in another way (primarily in plenary). Lastly, he took note of the wide support for the standing items and the remainder of the Conference agenda as outlined in the document; as such, the next meeting of the Screening Group would need to focus solely on how the three technical committees, the plenary, and the World of Work Summit would bring together the COVID-19 discussion.
- 386.** *The Worker Vice-Chairperson* reiterated her group's position that the priority was to implement the Centenary Declaration, with concrete action and not a new declaration or outcome document. She expressed satisfaction at the strong support expressed for keeping the items on the original Conference agenda, which were all important to the ILO as a leading actor in the recovery effort.
- 387.** *The representative of ASPAG* expressed appreciation for the pragmatism shown by the Office in putting together the proposals and encouraged the same approach for the next stages.
- 388.** *The Deputy Director-General for Management and Reform* confirmed that the Office would prepare the draft decisions agreed upon during the meeting with regard to the postponement of two official meetings, and to the election of the Officers of the Governing Body, pending confirmation from the Employers' group of its nomination. Advance copies would be sent to members of the Screening Group before the ballots were submitted to Governing Body members for decision by correspondence.
- 389.** The next meeting of the Screening Group would be convened for the end of August, at which the agenda of the 340th Session of the Governing Body would be finalized, as well as the proposals for the agenda of the 2021 Conference session. The Office would prepare a paper

with details on the various possible formats (face-to-face, virtual, or a hybrid of both), when more clarity on the situation relating to travel and meeting restrictions would be available.

## **Decisions by correspondence on the election of the Officers of the Governing Body and the postponement of some official meetings**

**390.** In a communication dated 23 July 2020 (see [Appendix VIII](#)), all Governing Body members were invited to express their views by correspondence, in line with the same procedures followed in the previous consultations by correspondence, on two urgent decisions submitted by the tripartite Screening Group: the election of the Governing Body Officers for the period 2020–21, and the postponement of two official meetings scheduled for September 2020.

**391.** Based on the responses received within the deadline set for midnight of 31 July 2020, the Chairperson of the Governing Body considered that all decisions were approved by consensus.<sup>7</sup> The Chairperson's determination was communicated immediately to the Vice-Chairpersons of the Governing Body, the tripartite Screening Group, all members of the Governing Body, and all Member States through their Permanent Missions in Geneva.

### **1. Decision concerning the election of the Officers of the Governing Body for the period 2020–21**

**392.** *The Governing Body elected by correspondence:*

- (a) *Mr Heeralal Samariya (India) as Chairperson of the Governing Body for the period 2020–21;*
- (b) *Mr Mithunzi Mdwaba (South Africa) as Employer Vice-Chairperson for the period 2020–21;*
- (c) *Ms Catelene Passchier (Netherlands) as Worker Vice-Chairperson for the period 2020–21.*

### **2. Decision concerning the postponement of some official meetings**

**393.** *In the context of the COVID-19 epidemic and uncertainty related to the travel restrictions in many Member States, the Governing Body decided by correspondence to postpone:*

<sup>7</sup> The Government member of Switzerland sent the following comment in the reply to the ballot: Switzerland hopes that constituents and the ILO find innovative and proactive solutions in this extraordinary situation. The Standards Review Mechanism Tripartite Working Group is a restricted group which allows discussions to be held and decisions to be taken online or by videoconference. Compromise is not always easy to achieve online but all the issues where progress or decisions can be made must be pursued. Switzerland would like the Standards Review Mechanism Tripartite Working Group to be able to meet online before the end of 2020, even to make progress on a limited number of decisions which could then be continued in face-to-face meetings. All innovative working methods must be sought in this exceptional period.

- (a) *the Sixth Meeting of the Standards Review Mechanism Tripartite Working Group from 14–18 September 2020 until a date in 2021 to be determined by the Governing Body at its 340th Session (October–November 2020) and to request the Office to continue its preparation of the sixth meeting and its follow-up of all previous decisions; and*
- (b) *the Technical meeting on the future of decent and sustainable work in urban transport services from 21–25 September 2020 until a date in 2021 to be determined at a later stage.*

## **Conclusion of the discussion on the agenda of the 109th Session of the International Labour Conference (2021)**

394. The Officers of the Governing Body and the other members of the tripartite Screening Group met on Thursday, 3 September and Friday, 9 October 2020 to continue the discussion about the agenda of the 109th Session of the International Labour Conference (2021), among other matters related to the 340th Session of the Governing Body.<sup>8</sup>

### **Meeting of Thursday, 3 September 2020**

395. The ILO Deputy Director-General for Management and Reform, Mr G. Vines, facilitated the meeting in the absence of the Chairperson of the Governing Body. Participants included the representative of the Employers' group, Mr R. Suárez, Secretary-General, International Organisation of Employers (IOE), Ms C. Passchier (Netherlands), Worker Vice-Chairperson, the representative of the Workers' group, Ms R. Gonzalez, Secretary-General, International Trade Union Confederation (ITUC), the incoming and outgoing Chairpersons of the Government group, H.E. Mr C. Gómez (Panama) and Mr A. Essah (Nigeria), the Vice-Chairperson of the Government group, Mr N. Dytz (Brazil), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific (ASPAG): Mr A. Nakajima (Japan)

Latin America and the Caribbean (GRULAC): H.E. Mr C. Blackman (Barbados)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms N. Skoro (Croatia)

Western Europe: Mr P. Rochford (Ireland)

Employers' group secretariat: Ms M.P. Anzorreguy

Workers' group secretariat: Ms M.T. Llanos

396. *The Deputy Director-General for Management and Reform* stated that the proposal in the annotated agenda had been based on the common views expressed at previous discussions on how best to deal with the response to the pandemic at the next Conference. There had been general agreement to make it the focus of the Director-General's report, the discussions

<sup>8</sup> Minutes of the discussion on those other matters will be included in the minutes of the 340th Session.

in the plenary and in the World of Work Summit, and that it would be integrated in the discussions of the three technical committees. More details on the arrangements would be provided in the document that would be presented at the March session of the Governing Body concerning arrangements for the 109th Session of the Conference.

- 397.** *The representative of the Employers' group* reiterated his group's position on the need to have a specific outcome on COVID-19 impact at the end of the Conference session, which was key for the relevance of the ILO. Acknowledging the difficulties that the other groups had, in particular the Workers', with replacing one of the technical items on the agenda, the approach proposed by the Office to mainstream the topic in all of the items on the agenda was the right one. The possibility to adopt a resolution on the impact of the pandemic could accommodate the need for an outcome document. It was important for all groups to endorse and be fully engaged in this proposal as a way forward. He also stressed that the report of the Director-General, although devoted to the crisis, should integrate the issue of productivity, as this topic would be essential in the agenda of the ILO for the future.
- 398.** *The representative of the Workers' group* said that the document prepared by the Office was a fair and accurate reflection of previous Screening Group discussions in which there had been no support for an outcome document as such. Her group agreed on the importance of updating the content of the reports of the three technical items to include the impact of the pandemic. She recalled that paragraph 5(f) of the annotated agenda left open the possibility to have a resolution and that there would be a discussion on productivity at the Governing Body before the Conference. Productivity was only one of the important issues to be addressed in the context of the COVID response and build back. Her group supported the draft decision.
- 399.** *The representatives of the Africa group, GRULAC, IMEC, the Eastern and Western European groups* expressed support for the proposed approach and the draft decision.
- 400.** *The representative of ASPAG* stated that his group understood the effort made by the Office to maintain the three technical items on the agenda and the integration of COVID-19 and its impact. His group had no objections to the proposal.
- 401.** *The representative of IMEC* recalled that her group had expressed interested in having an outcome at the end of the Conference session and would circulate some proposals to the other groups.
- 402.** *The Deputy Director-General for Management and Reform* concluded that there was consensus to submit the draft decision to the Governing Body for ballot by correspondence. The debates at the subsequent sessions of the Governing Body, as well as informal consultations to be held including on the proposals to be put forward by IMEC, would contribute to the preparations for the Conference session.

## Meeting of Friday, 9 October 2020

- 403.** The ILO Deputy Director-General for Management and Reform, Mr G. Vines, facilitated the meeting in the absence of the Chairperson of the Governing Body. Participants included the representative of the Employers' group, Mr R. Suárez, Secretary-General, International Organisation of Employers (IOE), the representative of the Workers' group, Ms R. Gonzalez, Secretary-General, International Trade Union Confederation (ITUC), the Chairperson of the Government group, H.E. Mr C. Gómez (Panama), and the following Regional Coordinators and group secretariats:

Africa: Ms F. Abdulkadir (Ethiopia)

Asia and Pacific (ASPAG): Mr A. Nakajima (Japan)

Latin America and the Caribbean (GRULAC): H.E. Mr C. Blackman (Barbados)

Industrialized Market Economy Countries (IMEC): Ms J. Kruger (Canada)

Eastern Europe: Ms N. Skoro (Croatia)

Western Europe: Ms K. Neu-Brandenburg (Germany) in the absence of Mr P. Rochford (Ireland)

Employers' group secretariat: Ms M.P. Anzorreguy

Workers' group secretariat: Ms M.T. Llanos

**404.** *The representative of IMEC* confirmed that, in the spirit of consensus, her group was withdrawing the amendment submitted earlier in the week. It was nevertheless important that her group's position be placed on record. While IMEC regretted that its proposed amendment had not been accepted, it welcomed the recognition by all constituents that the 2021 session of the Conference should take into account the COVID-19 crisis. The ILO, with its unique tripartite membership and mandate, had a responsibility to provide leadership in the recovery from a pandemic that was having such a significant impact on the world of work.

**405.** *The Clerk of the Governing Body* stated that the ballot on the Conference agenda would be sent out on 15 October 2020.

## **Decision by correspondence on the agenda of the 109th session of the International Labour Conference (2021)**

**406.** In a communication dated 15 October 2020 (see [Appendix IX](#)), all Governing Body members were invited to express their views by correspondence, in line with the same procedures followed in the previous consultations by correspondence, on the draft decision concerning the agenda of the 109th Session of the Conference (2021).<sup>9</sup>

**407.** Based on the responses received within the deadline set for midnight of 21 October 2020, and in the absence of a Chairperson of the Governing Body, the Worker Vice-Chairperson considered that the decision was approved by consensus. The two comments received with the response to the ballot are included in Appendix IX.

## **Decision concerning the agenda of the 109th Session of the International Labour Conference**

**408.** *Recalling its [decision of 3 April 2020](#) to defer to 2021 the 109th Session of the International Labour Conference, the Governing Body:*

<sup>9</sup> The communication also involved the draft decisions on four items on the agenda of the 340th Session, which will be included in the minutes of that session.

- (a) *decided by correspondence to approve the following adjustments to the agenda of the 109th Session of the International Labour Conference (2021):*
- (i) *under item I (Reports of the Chairperson of the Governing Body and of the Director-General), the Conference will consider: the Director-General's programme implementation report for 2018–19, the report of the Director-General (devoted to the impact of the COVID-19 crisis), the reports concerning the situation of workers of the occupied Arab territories for 2019 and for 2020, and the report of the Chairpersons of the Governing Body covering the 2019–20 and 2020–21 periods of office;*
  - (ii) *under item II (Programme and Budget and other questions), the Conference will consider: the draft programme and budget for 2022–23, the audited and consolidated financial statements for 2019 and for 2020; and other administrative matters, including the composition of the Administrative Tribunal of the ILO and of the ILO Staff Pension Committee;*
  - (iii) *under item III (Information and reports on the application of Conventions and Recommendations), the reports as specified in its earlier [decision of 10 June 2020](#);*
  - (iv) *under items IV (a general discussion on Inequalities and the world of work), V (a recurrent discussion on the strategic objective of social protection - social security-, under the follow-up to the ILO Declaration on social Justice for a Fair Globalization) and VI (a general discussion on Skills and lifelong learning), the reports will be updated to reflect the developments emerging from the COVID-19 crisis and its impact on the world of work; and*
  - (v) *under item VII, the Conference will consider the withdrawal of the Fee-Charging Employment Agencies Convention, 1933 (No. 34) in addition to the abrogation of eight international labour Conventions and withdrawal of nine international labour Conventions and 11 international labour Recommendations.*
- (b) *requested the Office to prepare proposals on arrangements for the 109th Session of the Conference (June 2021), including a programme of work for the Plenary and committees, for consideration at its 341st Session (March 2021).*