



NINTH ITEM ON THE AGENDA

**Report of the Committee on Legal Issues
and International Labour Standards***Contents*

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1. The Committee on Legal Issues and International Labour Standards (LILS Committee) met on 23 March 2007. The following members served as Officers:

Chairperson: Mr G. Corres (Government, Argentina)

Employer Vice-Chairperson: Ms F. Awassi

Worker Vice-Chairperson: Mr U. Edström

First part: Legal issues

I. Resolutions in the International Labour Conference: Additional considerations (First item on the agenda)

2. The LILS Committee had before it a document for information on resolutions relating to an item on the agenda of the International Labour Conference (ILC), which focused on the rules and practice pertaining to their receivability.¹
3. The Legal Adviser recalled that the paper had been requested by the Committee following discussion of another document on resolutions at the Committee's November 2006 session. For this current session,² document GB.298/LILS/1 reviewed the conditions of receivability of resolutions that were related to an item on the agenda, in particular the requirements relating to timeliness of submission and the necessary link to an item on the agenda, as well as the procedure applicable to the examination of such resolutions. She recalled that, in placing an item on the agenda, the Governing Body could define it narrowly or broadly; a broadly worded item would have more topics "related to" it than a narrowly drawn item. The document further reviewed the general orientations that could be discerned from a review of resolutions adopted by the Conference. In this regard, the Legal Adviser informed the Committee that a list of all the resolutions adopted by the Conference since 1919 was now available on the ILO web site.
4. The document also described the roles that might be played by the Conference plenary, the Selection Committee (when available) and the technical committee concerned in determining the receivability of a resolution. It appeared that the technical committee might be best equipped to look at that question, but in all cases tripartite dialogue towards arriving at a solution was critical. Taking into account the somewhat differing expectations for the document that had been expressed by constituents in the Committee in November 2006 and in subsequent consultations, the Office had not made proposals involving changes to the procedural aspects of resolutions, but had pointed out options that were already available, such as the possibility to schedule earlier deadlines for submission and discussion of resolutions, and others that might be developed in the future if constituents so agreed. In the course of any reflection on how the rules governing resolutions could possibly be improved, the functions performed by resolutions in the ILO tripartite system should be kept in mind.
5. The Worker members recalled that resolutions are a vital part of the Organization's ability to look forward and to exercise a political dimension of importance to the world of work.

¹ GB.298/LILS/1.

² GB.297/LILS/4/1 and GB.297/12(Rev.), paras 33–48.

With regard to the time limits for submission of resolutions referred to in paragraph 7 of GB.298/LILS/1, the Worker members stressed that deadlines for earlier submission should be determined by the respective technical committee since it could take into account the specific circumstances of its agenda. As had been already expressed as a concern by the Worker members in the Programme, Financial and Administrative Committee (PFAC) of the present session of the Governing Body, the Workers reiterated their concern that a temporary measure, linked to the need to finance the Maritime Session of the Conference out of savings created by not establishing a Resolutions Committee at the 95th Session of the ILC (2006) for financial reasons, would become the rule. They questioned whether the Governing Body could place itself above the Organization's highest decision-making body. The Worker members pointed to the examples contained in paragraph 12 of the document as demonstrating that the present system worked. With regard to point (iv) contained in paragraph 12, specifically that "neither a committee nor the Conference can adopt a resolution which goes beyond its respective competence," clarification was sought as to whether there were any formal limitations of the competence of the ILC to adopt resolutions. The practical circumstances to "refer the matter back" mentioned in paragraph 19 were noted and, in this regard, the Worker members expressed their view that members of a technical committee would be the most knowledgeable about the substance of the concerned agenda item and therefore were the best placed to examine the receivability and substance of a proposed resolution as had been stated in paragraph 25 of the document. The Worker members once again reaffirmed their commitment to decision-making by consensus, but stressed that every group had an obligation to work in good faith to fulfil the mandate of the Organization.

6. While thanking the Office for the open consultations that had taken place for the preparation of the document by the Office, the Employer members regretted that the paper did not fully respond to their request. It contained no convincing proposals on how to resolve the issues that had been raised in connection with the resolution concerning asbestos adopted at the 95th Session (2006) of the Conference and, in particular, no point for decision reflecting proposals for the amendment of the Standing Orders. The Employers were of the view that delegates both at the Conference and in Conference committees could be adequately technically prepared and have the necessary mandate to address issues only if sufficient time was provided in advance of the discussion of a resolution. In that regard, the deadlines for the submission of resolutions related to an agenda item were too short. Since the interpretation of whether a resolution related to an agenda item or not was left to the committee or the Conference majority to decide, the outcome was not always foreseeable. The approaches suggested in the Office paper did not help in certain critical situations. While a committee could set earlier deadlines than those provided for in the Standing Orders, there was the issue of what the situation would be if there were no consensus. The author of a resolution could sometimes be convinced to withdraw it, but there was the issue of what could be done if this were not possible. While it was possible to refer the question of receivability back to the Selection Committee, there was the issue whether the objection of one group to the receivability would be sufficient to decide that. The Employers requested that the Office prepare a paper for the next session of the Governing Body containing specific proposals on possible amendments to the Standing Orders. As possible amendments, it was suggested that all draft resolutions would have to be submitted 15 days before the opening of the Conference. This time limit could be waived, for example, if the Officers agreed that the draft resolution did not require particular technical preparation.
7. The Employer members recalled the position that their group had taken in the PFAC at the current session of the Governing Body regarding the future of the Resolutions Committee. Since its suppression in 2006 had been justified only by a necessity to create savings to finance the Maritime Session of the Conference the same year, the Resolutions Committee should be reinstated in 2008. The speaker quoted the reply of the Director-General, who

had reserved his position, noting that the Governing Body Working Group on the International Labour Conference was considering alternative ways to deal with resolutions. The Employers wished to have that issue and the issue concerning the resolutions procedure addressed in that document taken up in the framework of the debate on Conference reforms. In the meantime, until the Resolutions Committee was reinstated, they were proposing an interim agreement to govern the receivability of resolutions, in order to avoid having resolutions presented at the last minute and therefore permit more time for the preparation of their consideration and to seek consensus on their receivability. In the absence of consensus, draft resolutions should be submitted to the Conference through the Selection Committee.

8. The representative of the Government of the United States, speaking on behalf of the group of Industrialized Market Economy Countries (IMEC), neither anticipated nor proposed significant amendments to the Conference Standing Orders relating to the introduction (time limits or receivability) and adoption of resolutions that were related to an item on the Conference agenda. Notwithstanding, it was submitted that a careful and dispassionate review could permit some improvements (for example, establishing different time limits for the introduction of resolutions and amendments which were now identical). However, those questions could be addressed, at least initially, in the broader context of the Working Group on the International Labour Conference. In the interim, it was suggested that a resource document that would complement and expand upon the existing Standing Orders might be worthwhile. Such a practical guide could be prepared by the Office.
9. The Government representative of Canada requested that the Office clarify the connection between the question at hand and the work of the Working Group on the International Labour Conference, which did not have the issue of resolutions within its mandate and had not addressed the issue.
10. The Worker members considered the Employers' criticism of the lack of concrete proposals in the Office paper to be unfounded since, in the absence of agreement in the Committee, the Office had not been given such a mandate. The Worker members cautioned that the Committee should not overreact to a problem that had occurred only once. Furthermore, they noted that at the 2006 session of the Conference only one group had not been prepared to discuss the resolution concerning asbestos, which had quite surprised them, since questions on asbestos were topical in occupational safety and health. The Worker members could not support the proposals made by the Employer members or comment on the proposed interim agreement, of which the Worker members had had no knowledge.
11. In response to the previous speaker, the Employer members emphasized the competence of the delegates, but noted that when a resolution was proposed at the last minute, there was insufficient time to discuss it.
12. The Legal Adviser, responding to the request for clarification by the Worker members regarding paragraph 12(iv) of the document, noted that there were indeed certain limitations on the competence of the Conference. Firstly, the Conference could adopt only resolutions on matters that were covered by the mandate of the ILO as defined in the Constitution, including in the Declaration of Philadelphia. Secondly, except for the resolutions submitted under article 17 of the Standing Orders, resolutions had to relate to an item that had been placed on the agenda of the relevant session by the Governing Body. The meaning of the statement quoted by the Workers became clearer in its context if emphasis was put on the word "adopt". Responding to the questions raised by the Employer members, the speaker explained that if there was no consensus in favour of earlier deadlines for the submission of resolutions in a Conference committee, then the time limits provided for in the Standing Orders would apply. Similarly, if the author of a

resolution did not agree to withdraw it, it would be dealt with in accordance with normal decision-making procedures. A proposal to “refer the matter back” was a motion as to procedure provided for in article 63, paragraph 2(2)(a), of the Standing Orders. As for any other motion, to be adopted it needed to be seconded and to obtain consensus or a majority vote. Regarding the request presented by the Government representative of the United States to have a resource document produced, the Legal Adviser drew the Committee’s attention to an already existing booklet on Conference procedure,³ but noted that further practical tools for delegates could be developed and placed on the Web, as such efforts would be fully in line with strategic management as it applied to the Office of the ILO’s Legal Adviser.

13. A representative of the Director-General, the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, clarified that the Director-General had not wanted, by his remarks in PFAC, to prejudge any discussion in the Working Group on the International Labour Conference. The budgetary proposal he had made in his reply to the PFAC only made necessary space for a lower cost mechanism that would enable the constituents to express their concerns in the form of resolutions. The current discussion in the Working Group focused on the 2007 session of the Conference, during which no (non-urgent) resolutions not relating to the agenda items could be moved in accordance with article 17 of the Standing Orders. The mandate of the Working Group continued until November 2007, when it was expected to evaluate the experience of the 2007 session and make further proposals for the functioning of the Conference, including a mechanism for the consideration of resolutions.
14. The Worker members considered that the outcome of the Working Group on the International Labour Conference should be awaited and the Employer members indicated that they had no further comments at that point.

II. **Standing Orders of the International Labour Conference: Status of interim provisions concerning the verification of credentials** (Second item on the agenda)

15. The Committee had before it a document⁴ containing a proposal regarding the validity of the *Interim provisions concerning verification of credentials* of the Standing Orders of the International Labour Conference.
16. The Legal Adviser explained that the Office proposed that the Governing Body extend the validity of the *Interim provisions concerning verification of credentials* until the end of the 97th Session of the Conference (2008). The reason was to clarify which rules would govern the verification of credentials during that session of the Conference given that the evaluation of the operation of those Interim provisions by the Governing Body was supposed to take place in November 2007, as it had been foreseen when the Interim provisions were adopted.
17. The Employer members stated that they had been alerted about this issue early enough by the Office and supported the point for decision. They expected the Office to prepare, in consultation with the members of the Credentials Committee, a document that would serve

³ ILO: *International Labour Conference, Handbook for delegates: The Standing Orders at a glance* (Turin, undated), pp. 38 and 39 of which address resolutions.

⁴ GB.298/LILS/2.

as a basis for the November 2007 session of the Committee and would reflect the assessment of the existing system and the consideration of any changes that might be needed.

18. The Worker members supported the point for decision, arguing that the *Interim provisions concerning verification of credentials* would have otherwise been abandoned before any evaluation of their application could be made. They considered that the Interim provisions had shown their usefulness and allowed the Organization to follow up on matters in relation to genuine tripartite representation at the Conference on a more constant basis.
19. The representative of the Government of the Bolivarian Republic of Venezuela supported the proposed point for decision, as well as the elements of the Interim provisions, which encompassed the possibility to examine objections relating to a failure to deposit credentials; to refer certain questions raised by an objection to credentials to the ILO Committee on Freedom of Association (CFA); and to propose to the Conference certain measures regarding the monitoring of the situation referred to in an objection or a complaint. He considered that fundamental principles of representativity, legitimacy and wide democratic participation should guide all nominations of all tripartite delegations to the Conference and Regional Meetings. He also invited the Credentials Committee – whose work was valued by his Government – to improve further its methods of work, including increased transparency.
20. The representative of the Government of Nigeria, speaking on behalf of the Africa group, endorsed the point for decision, stressing the need for a proper evaluation of the Interim provisions.
21. ***The Committee recommends that the Governing Body invite the Conference, at its 96th Session (2007), to extend the validity of the Interim provisions concerning verification of credentials until the end of the 97th Session (2008).***

III. Other legal issues: Rules of Regional Meetings:

11th African Regional Meeting

(Addis Ababa, 24–27 April 2007)

(Third item on the agenda)

22. The Committee had before it a document⁵ containing a proposal regarding derogation from the Rules for Regional Meetings and adoption of a practical arrangement aimed at proper functioning of the 11th African Regional Meeting.
23. The Legal Adviser explained that, following broad internal consultations and taking into account the experience in similar meetings held in the Americas and in the Asia-Pacific regions in 2006, the Office proposed a derogation to article 10 of the Rules. This would enable the Officers of the Governing Body, if they attended the 11th African Regional Meeting at no cost to the Office, to be able to address the meeting with the permission of the Chairperson. It was also proposed to authorize the Officers of the Governing Body to invite observers to the meeting during the period between the end of the present session of the Governing Body and the 11th African Regional Meeting. It was emphasized that those proposals were without prejudice to any further discussion that the Committee might wish to have regarding the possible revision of the Rules for Regional Meetings as a general matter at its sessions in the future.

⁵ GB.298/LILS/3.

24. The Worker members agreed with the proposed point for decision, while looking forward to a discussion at a proper time in the future on the need to amend the Rules for Regional Meetings.
25. The Employer members expressed their support for the proposals and requested the Office to prepare either for the November 2007 or March 2008 sessions a document that would present recent experiences with the application of the Rules and would identify specific needs for amendments to those Rules. The Employer members also encouraged the governments to submit in advance their credentials to the Regional Meetings.
26. The representative of the Government of Nigeria, speaking on behalf of the Africa group, supported the proposals, but indicated that some members of the group had expressed their concerns regarding a broad definition of liberation movements that could be invited as observers to the Regional Meetings. She invited those governments to express their concerns to the Office.
27. The Legal Adviser clarified that the present proposal simply reflected the already existing provision regarding the possibility for liberation movements to attend Regional Meetings under specified conditions. She also indicated that the Office could prepare a document for the March 2008 meeting of the Committee on proposed revisions to the Rules for Regional Meetings.
28. *The Committee proposes that the Governing Body:*
 - (a) *approve the derogation to article 10 to the Rules applicable to the 11th African Regional Meeting to enable the Officers of the Governing Body to address the meeting with the permission of the Chairperson; and*
 - (b) *authorize its Officers to invite observers to the 11th African Regional Meeting should the need arise in the interval between the present session of the Governing Body and the 11th African Regional Meeting.*

Second part: International labour standards and human rights

IV. Improvements in the standards-related activities of the ILO: From strategy to implementation (Fourth item on the agenda)

29. The Committee had before it a paper⁶ on improvements in the standards-related activities of the ILO, with a focus on an implementation strategy for all four components of the standards strategy with a view to enhancing the impact of the ILO standards system.
30. A representative of the Director-General (Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department) explained that the Office paper gave an overview of possible action to implement the standards strategy that the Governing Body had approved in November 2005, taking account of the views and suggestions made in later Governing Body sessions and in the 2006 informal tripartite consultation. The strategy presented had several components on very different subjects that each gave rise to

⁶ GB.298/LILS/4.

a variety of considerations. While each of those components could have been the subject of a separate document, they needed to be seen together, as they were mutually supportive and as there were common themes running through them. Brought together, they contributed to building a long-term strategy for enhancing the impact of the ILO standards system.

- 31.** The main common theme of the four components related to the efficient use of resources. An important aspect was the need to decide criteria for fixing priorities. The objective was to allow constituents and the ILO Standards Department to use their limited resources to obtain the greatest possible impact. For example, as regarded the first component on standards policy, as it related to the promotion of the ratification of the Conventions, the issue was how to implement the conclusions of the Cartier Working Party, whereby countries that had ratified an older Convention should be invited to ratify the more recent Convention on the same subject, and also give due consideration to the ratification of all up to date Conventions. In that case a progressive approach was needed as it was simply not possible to concentrate on all relevant Conventions at the same time. The answer could lie in what could be called the integration of a country-based approach, which was another theme that ran through several components of the document. With that approach one remained firmly within the set of priorities fixed at the global level – first, fundamental Conventions, then priority Conventions, then the latest revising Conventions and other up to date Conventions. But then a subset of Conventions, to be concentrated upon in each country, would be established in consultation with the constituents of that country. The process was made much easier through the Decent Work Country Programmes (DWCPs) where they existed or were being developed in the context of tripartite structures at the national level.
- 32.** As regarded the only two instruments on which the Cartier Working Party did not reach a consensus, the Termination of Employment Convention, 1982 (No. 158), and Recommendation, 1982 (No. 166), it was proposed that they be re-examined as a matter of priority by the LILS Committee.
- 33.** A common aspect of all four components was the need for creativity and, in particular, to exploit previous creative approaches. In that connection, the document mentioned the approaches of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Maritime Labour Convention, 2006 (MLC) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). The purpose of that was not to suggest that all new Conventions submitted for adoption by the ILC follow one of those three models, but rather that the special features of those Conventions be kept in mind in the preparation of new Conventions, including revising Conventions, to the extent to which they may be relevant to their subject matter or context. Some of those special features might not be relevant. The search for tripartite consensus on the broad lines of the future Convention before the drafting work began, would, however, probably always be a relevant feature.
- 34.** One of the special features of the MLC could be very important in other contexts because it linked the first component on standards policy with the second component relating to the coherence, integration and efficacy of the supervisory system. That special feature was the attention given in the Convention not just to the substantive conditions of workers, but also to the way that compliance with those standards would be monitored and ensured in practice and with strong tripartite participation. The provisions making up that special feature in the MLC were designed for a comprehensive consolidating Convention; so creative thought would need to be given as to how their essence could be adapted to different kinds of Conventions.
- 35.** The basic principle underlying that special feature was relevant to the efficient use of resources so as to increase impact. The question was how Conventions could be designed

to facilitate the monitoring of compliance with the standards they established; first, at the national level (involving not just the national administration but also employers and workers) and, later, at the level of the ILO supervisory bodies. That was why, in relation to the second component of the document (on the supervisory system), the document stressed the importance of taking greater advantage of the contribution that could be made to the effectiveness of the supervisory system by the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

- 36.** The main aspect of the second component to which the document gave importance was the streamlining of the submission of information and reports under article 22 of the Constitution. The questions were how the workload on governments in relation to the submission of reports on the application of an increasing number of Conventions could be eased without compromising the effectiveness of the system, and how the most efficient use could be made of comments from employers' and workers' organizations to ensure the greatest impact.
- 37.** There were clear links between the implementation of the second component and the implementation of the third and fourth components relating to technical cooperation and the communications strategy. Those links would be strengthened even further if it were possible for the Members of the Organization and the world in general to clearly see the progress that each Member was making towards the achievement of complete social justice and decent conditions for the workers.
- 38.** That was why the document dealt, in some detail, with the possibility of having a global approach to streamlining the supervisory system, although the document still suggested specific measures for streamlining. The main specific measure would be through a further adjustment of the reporting cycle for the fundamental and priority Conventions from two to three years. But the alternative global approach suggested was certainly attractive: it would integrate a country-based approach into the supervision of the application of ratified Conventions. Much of the previous discussions had been devoted to that question and the document took account of the many points made.
- 39.** The principal advantages of a country-based approach were set out in the document. Probably the main question that the Office was asking the LILS Committee was whether the design of such a system, which was outlined in the document, fully addressed the concerns that had been referred to in previous discussions. One major concern related to the workload and feasibility for the reporting Governments, particularly those with the best record of ratification of international labour Conventions and, on the face of it, the heaviest reporting responsibilities. The other major concern related to the ability of the system to continue to provide a rapid tripartite response to major problems in the implementation of particular Conventions. It was hoped that the sections of the document setting out the main features of the country-based approach and dealing also with the workload issue for governments offered the necessary reassurance on those issues and highlighted possible solutions to deal with them. If that option were to garner sufficient interest for further reflection, the Office could consider a discussion with the Governments concerned.
- 40.** Finally, with respect to the second component, the document drew attention to the need for study on a subject that had never been discussed as a whole, namely the dynamics of the supervisory system. That system was one of the greatest assets of the Organization. Basically (if the term were used in a wide sense) the system included various procedures and mechanisms designed to ascertain not only the extent to which international labour standards were being complied with, but also the extent to which compliance with those standards was found to be feasible and useful by the individual constituents.

41. Reference was made to the regular article 22 procedure for examination of compliance with ratified Conventions as well as the article 19 procedure for obtaining information from Members on the application or applicability of unratified Conventions and of Recommendations. Reference was also made to the ad hoc procedures for considering allegations of non-compliance with ratified Conventions or with the fundamental principle of freedom of association. All those procedures and mechanisms had shown that they were needed for the various purposes for which they were established. While most of them had been instituted at the same time, there had been relatively little coordination between them and they had evolved over time. A study might show the extent to which those various procedures fitted together, or could be made to fit together, to assist each other in attaining their respective objectives. There were indeed already points of contact between mechanisms – for example, between the article 24 procedures and the regular Committee of Experts procedure – but it would be useful for the picture of the supervisory system to be clearly seen as a whole.
42. The third component focused on improving the impact of standards through technical cooperation and assistance and its role at all stages: pre-ratification, ratification and implementation, including follow-up to the comments of the supervisory bodies. As the document highlighted, integrating standards-related activities into country programming would provide an unforeseen opportunity for leveraging extra-budgetary funding for standards promotion.
43. A focus on enhancing the visibility of the standards capital was the final component of the document. That was an area whose potential and influence may be considered not to be sufficiently exploited, despite the use being made of the web site portal. The document contained ideas for further exploiting the potential in ways that could both help reduce the workload for Governments and make more accessible and user-friendly the wealth of international and national labour standards information of which the ILO is the repository.
44. Only some of the issues raised in the wide range of subjects covered by the document had been highlighted and summarized in a plan of action, which was submitted by the Office for guidance, at the end of the document. There was one element in the plan of action that should also be included under the standards policy component. It related to the need to promote the ratification of the up to date standards either in the context of the DWCPs, where they existed, or through the national tripartite structure, taking into account the specific circumstances of each country. That element was reflected under the section on technical cooperation.
45. The Employer members emphasized that improvements in the standards-related activities were a priority. They commended the Office for the thorough preparation of the document, particularly the consultations with constituents which may serve as a model for the future preparation of major documents for the Committee. They reminded the Office of the importance of preparing short and straightforward reports and requested that executive summaries be included. They supported the statement made in paragraph 5, which they considered to be the leitmotiv for the entire paper, which, taken as a whole, contained relevant and innovative proposals. However, not all proposals, in particular those relating to standards policy, were as forward-looking and concrete as desired.
46. The Employer members recognized the recently developed new approaches to standard setting. The examples of Conventions Nos. 182 and 187, as well as the MLC, were above all relevant as regarded the process preceding their adoption which involved in-depth consultations at several stages, going beyond what was required under ILO rules, and significant efforts to achieve relevant solutions based on consensus. That method should be continued. The success of Convention No. 182 may also be due to the broad acceptance of the topic and its focus on urgent aspects of the problem. That Convention may have been

an exceptional case, but nevertheless focusing on broadly accepted topics may also be an element for a success strategy. While Convention No. 187 and the MLC had yet to prove their success, they contained innovations, which deserved consideration in other standard-setting contexts.

- 47.** The ILO should also look into additional possibilities to improve its standard setting. A more proactive approach should be taken as regarded the participation of developing countries. Their silence in the standard-setting process should not be interpreted as an absence of potential problems of application. Developing countries should be assisted in assessing the relevance and compatibility of proposed new standards with their economic and social situation. Such technical assistance seemed no less required than assistance in the implementation of ratified Conventions. Such an approach would guarantee more universally accepted and relevant standard-setting outcomes. Not only the number of ratifications eventually achieved, but also the number of workers and employers covered by a new instrument were important. An assessment of the economic impact of the proposed instrument could be made. Real workplace experience on economic and social impacts could help in evaluating the relevance of a proposal. The outcomes of the present ILO project in that area could be used in that regard. Account should also be taken of the work of the Employment and Social Policy Committee (ESP) on labour law for small and medium-sized enterprises (SMEs). Developments in other international institutions regarding regulation techniques, such as the European Union (EU) initiative on better regulation, should be monitored and assessed for possible use by the ILO.
- 48.** The Employer members found the section concerning the development of subjects and keeping the body of standards up to date vague and lacking in orientation. The proposal to link future standard setting to the ILO Strategic Policy Framework and to enhance the coherence and impact of the body of standards underpinning the Decent Work Agenda seemed reasonable but needed to be clarified. Referring to paragraph 15, the Employer members asked in what ways the outcome of the 2007 ILC discussion on “Strengthening the ILO’s capacity to assist its Members’ efforts to reach its objectives in the context of globalization” and cyclical reports in relation to the strategic objectives could help in identifying items for future standard setting. Concerning the proposed consultations on new approaches to standard setting, it was unclear what the form and purpose of such consultations would be and what kind of guidance would be expected. However, in their view there was a need for further reflection and consultation on new approaches to standard setting, which was indeed a challenging issue. They hoped that some further analysis and possible direction, taking account of lessons learned from existing standards and their supervision, could be provided in the preparation of further consultations.
- 49.** The Employer members stated that it was a natural development that the creation of new standards was slowing down, as most of the labour issues had been covered by now. The focus was shifting from the setting of new standards to the management of existing ones. Consultations could therefore discuss the ideal size and structure of the body of standards to achieve maximum impact and to allow for efficient and effective supervision. If the size and structure were to be adjusted, a discussion on how to achieve that was needed. The consultations could aim at finding efficient mechanisms to monitor whether standards were up to date and efficient ways to revise standards in need of updating. They suggested that a working group should meet during the 96th Session of the ILC and submit the outcomes of its meeting to the Committee in November 2007.
- 50.** Concerning the promotion of and follow-up on the conclusions of the Cartier Working Party, the Employer members stated that the status of Convention No. 158 and Recommendation No. 166 should be examined on the understanding that, in view of the differences of opinions on that issue, a comprehensive analysis of the law and practice in that field should be prepared as a basis for discussion. That analysis should deal not only

with the issue of protection against dismissal, but also the wider context of interdependence between regulations on protection against dismissal and other regulations, such as on fixed-term employment or part-time work. Approaches in countries emphasizing the promotion of employability and unemployment insurance (“flexicurity”) and the impact of various levels of protection against dismissal on employment creation and informal employment should also be analysed.

- 51.** With regard to the abrogation of outdated Conventions, the Employer members noted that, despite the Office’s campaign for the ratification of the 1997 Instrument of Amendment to the ILO Constitution, only three ratifications had been received since November 2006. They asked the Office to indicate the action taken during that period and what it planned in order to achieve the objective of entry into force by the end of 2007. The Office should provide information on where the ratification process had been initiated, and also on ratification prospects. A personalized approach regarding the countries considering ratification should be pursued.
- 52.** The Employer members also noted that no proposals had been made regarding the continuation of the work of the Cartier Working Party, while the need for updating would not end with the implementation of all its decisions. Further work was necessary concerning the Conventions adopted since 1985, many of which had been very poorly ratified and thus raised questions of relevance. In addition to Convention No. 158 and Recommendation No. 166, the status of five other Conventions and 12 other Recommendations, on which only additional information had been requested, needed to be determined. In order to avoid major and drastic overhauls of the body of ILO standards in future, the Employer members had asked that the present paper discuss the standing review mechanism. In this regard, the following could be envisaged: (1) a standing “LILS Working Party on Policy regarding the Revision of Standards” with a similar mandate to that of the Cartier Working Party which would meet only every two or three years; (2) a half-day session of the LILS Committee every two to three years; or (3) a half-day session of the Conference Committee in the context of its review of general surveys. There might be yet other possibilities or combinations of measures. A constant review of standards was likely to result in an increased need for less far-reaching changes to Conventions, as opposed to replacement of outdated Conventions by new ones. This would call for an examination of revision techniques which allowed efficient adaptation of standards.
- 53.** Regarding possible approaches to streamlining the submission of information and reports under article 22 of the Constitution, the Employers fully approved the proposals for a “personalized follow-up” of instances of serious reporting failures, as well as the use of annual reports on labour inspection as an additional source of information in standards supervision. They had no objections in principle to the proposed lengthening of the reporting cycle from two to three years for fundamental and priority Conventions. However, one should be aware that given the increasing number of ratifications this measure would give only temporary relief. More long-term solutions to keep the reporting burden constant or even to reduce it should therefore be sought, for example, through consolidation of existing Conventions.
- 54.** Regarding the proposal to differentiate between important and less important questions in report forms on ratified Conventions, the Employer members pointed out that Conventions did not distinguish between important and less important obligations. Provisions considered “less important” for supervision should not be contained in Conventions, but should be dropped or included in a Recommendation. There were no objections to training for employers’ and workers’ organizations to strengthen their participation in standards supervision, but giving greater responsibilities to these organizations in standards supervision should not provide governments with an excuse for not reporting.

55. The Employer members viewed positively the proposal for global streamlining by means of a country-based approach. There were obvious advantages to this approach, such as better identification of the reasons for non-compliance by a country and addressing them in a more integrated way through technical cooperation. However, there was uncertainty regarding the functioning and implications of the new approach, which needed to be addressed. They would therefore be in favour of a simulation. They preferred a five-year cycle. “General statements” by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) would have to be closely linked to obligations under ratified Conventions. The Conference Committee on the Application of Standards would continue to be autonomous in organizing its work within its mandate, while measures should be taken to ensure that the overview of compliance by Convention would not be lost.
56. Concerning the dynamics of the supervisory system, the Employer members fully supported the proposals to analyse the relationship between the ILO standards supervisory procedures and the CFA. A better understanding of the differences in mandates, roles and legal basis would allow making the necessary adjustments so as to make overall supervision more efficient and coherent, reducing duplication and increasing synergies and communication. This exercise should be undertaken between now and November so that the Office could report back to the LILS Committee on the issue in November 2007. It would be useful to analyse the potential of article 19, which, among others, could play an important role in measuring the relevance of standards and in identifying revision needs.
57. The Employer members raised doubts concerning the proposal that the Office should actively pursue a strategy to include standards in the broader technical cooperation policies and programmes of other donor agencies. More transparency was needed in regard to the advice given by the Office to other agencies. The Employers cautioned against any measures which would boil down to “conditionality” in the sense that cooperation would be made dependent on compliance with standards. This had been a sensitive area in the past, and they restated their rejection of this kind of “promotion” through conditionality.
58. The Employer members considered the pre-ratification stage as a particularly crucial phase for technical cooperation. An essential element at this stage was a thorough identification of the needs and priorities regarding ILO standards in the national context. The ILO should provide assistance, but the final identification of needs and priorities had to be made by the national constituents. Where needed, the ILO should provide legal advice, legal technical assistance or training and capacity building for constituents to help them fully understand, before ratification, what obligations would arise from ratification. The implementation stage was also of the utmost importance. The speaker highlighted the role of labour administration and the importance of well-trained labour inspectors in the implementation of ratified Conventions. A greater role for the International Training Centre of the ILO (Turin Centre) was necessary. The Employer members considered that the proposals made concerning standards-related technical cooperation were useful, on the whole. Assistance should be provided at all stages of standards-related activities, from standard setting to implementation.
59. Concerning access to and broader visibility of the standards system, the Employer members supported the proposal to upgrade and further increase the relevance and user-friendliness of the existing online databases, particularly the development of the NATLEX portal into a database, which would include complete and integrated standards-related information for each ILO member State. The information provided must be accurate. For instance, the country profiles listed up to date Conventions “proposed for ratification”, while the Cartier Working Party proposed that Members “examine the possibility of ratifying” these Conventions. The language of the NATLEX country profiles should be adjusted accordingly. Information could be included in the NATLEX portal that would

help countries to manage their standards-related obligations, including eliminating those that were outdated or no longer relevant. The proposals made concerning the use of modern information technology should be pursued.

- 60.** The Worker members fully agreed that the ILO's authority rested on international labour standards and its unique supervisory machinery. There was at present a unique opportunity to demonstrate that international labour standards were a fundamental component of the Decent Work Agenda that had been recognized by the whole international community. International labour standards reflected good governance in the world of work. A clear strategy was needed to promote the central role of standards, including a proactive approach at the country level, through DWCPs and other means, for ratification and implementation of international labour standards and for compliance, as a priority, with recommendations of the supervisory bodies. Where relevant, such information should also be brought to the attention of collaborating agencies.
- 61.** Concerning standards policy, the Worker members were pleased to note that the document took into consideration the recommendations based on the work of the Cartier Working Party. Government action, or rather the lack thereof, reflected in the figures in Appendix I of the Office paper and the complementary document distributed during the meeting (Appendix I to this report), showed, however, that substantive work still needed to be done in this respect. The Working Party had identified both obsolete standards and standards that should be revised, as well as standards that were up to date and should be ratified. So far most governments had neither denounced outdated standards nor ratified revised or up to date Conventions, and even the 1997 Instrument of Amendment to the ILO Constitution had not been able to attract enough attention from governments. This lack of progress questioned the value of the work of the Working Party, which had laboured for several years and had been set up in response to insistent requests from Governments and Employers – but also with the support of the Workers.
- 62.** A key concern for the Worker members, in addition to pursuing the promotional campaign for the ratification of the 1997 Instrument of Amendment to the ILO Constitution, was to direct the ILO's activities towards an increased focus on up to date standards, in follow-up activities and in the context of the DWCPs. With reference to paragraph 12 of the document, the Worker members fully agreed with the description of the causes for the success of Convention No. 182. This experience demonstrated that ratification and implementation of standards depended on active promotion by the Office through technical cooperation and other measures. The resources needed in this respect had definitely been underestimated. In most instances, the content of standards was thus not the major obstacle for ratification and implementation.
- 63.** In the view of the Worker members, it was of the utmost importance that the ILO remain relevant by pursuing its work to develop international labour standards in response to emerging problems and challenges in a globalized world of work. There was no dearth of topics to be addressed, and relevant topics could be identified in the various thematic in-depth discussions in the ILO Committees, through reports under article 19, at specific meetings of experts or through research done within the ILO. Standard-setting activities would continue with or without the ILO and, if the ILO did not use its capacity to respond to urgent needs, there was a risk that other organizations, such as the International Organization for Standardization (ISO), would try to encroach on the ILO's specific domain of economic and social standard setting. The negative impression created in paragraph 13 of the document should be dispelled by emphasizing how to move forward. New modalities for the selection of topics could be considered, for example through a technical group, through the LILS Committee, or through the proposal made in the upcoming report to the 2007 session of the ILC on the subject mentioned.

64. With reference to paragraph 16, the Worker members emphasized that the real issue was to identify the current problems which international labour standards – new or revised – should address, and the Office should trust the ability of the ILO’s tripartite constituents in developing and developed countries to adopt universal minimum standards advancing decent work and thereby development.
65. Regarding paragraph 19, the Worker members considered that a specific reference should also have been made to the promotional campaign for all the priority Conventions. They had reiterated on numerous occasions that the universal ratification and implementation of Convention No. 144 was a fundamental precondition to ensure that action would be taken on the ILO’s agenda at national level. They stated that paragraph 20 did not emphasize that the act of ratification was in itself desirable as a member State thereby allowed supervision of application, entered into a legal commitment with the ILO and set an example to other countries. These reasons were laid down in the ILO Constitution. The Worker members agreed that it was useful to develop country profiles and concluded that functioning tripartism at national level would limit the problems concerning the follow-up to the Cartier Working Party.
66. Concerning the second component of the implementation strategy, the Worker members stated that they would actively participate in any change regarding standards-related procedures that were aimed at strengthening international labour standards and the supervisory mechanism and improved their impact. The ILO supervisory mechanism was very specific and efficient, and workers’ organizations now took a very active part. As the report of the CEACR for this year indicated, 518 observations had been received from the social partners, of which 491 had been provided by workers’ organizations. While these submissions did add to the workload of the Office, they were fundamental in giving the experts a comprehensive picture of the actual situation in a given country. In this context, the Worker members emphasized that it was important to fill the vacancies in the CEACR. Maybe also the Standards Department needed more staff.
67. The Worker members were open yet again to discuss the reporting intervals, but it was also clear that – once the first report had been submitted – the workload for governments was not so substantial. The CEACR should indicate the number of reports stating “no change”. They would agree to a simplification of the report forms, but such a revision should not entail losing pertinent information. This question could be further considered in the light of the work of the CEACR on this issue and be examined at a future session of the LILS Committee. The social partners played an important and active role in the reporting system by providing a fuller picture of the situation at the national level, complementing the information on law and, in particular, on practice provided by the Governments. Concerning training activities, the Worker members referred to the work being done by the Turin Centre, and in particular the ACTRAV unit in Turin, and to the need for adequate allocation of resources for training persons responsible for international labour standards.
68. Concerning the integration of a country-based approach, the Worker members considered that a distinction should be made between a useful analysis of available information in NATLEX and ILOLEX regarding the situation at country level – in particular for those countries where the ILO would conduct technical cooperation programmes and other activities – and an analysis by country by the supervisory bodies. According to the proposal, each year 36 countries would be called upon to submit reports on all ratified Conventions. In their view, it was not realistic to assume that countries which had ratified many Conventions would be able to submit all their reports in one year. There was a risk that the response rate would become even lower than it was at present. It was also evident that the Conference Committee would not be able to examine all the 36 countries as well as the cases selected the previous year as being of particular importance and any other relevant comments by the CEACR. They recognized, however, that for the implementation

of ratified Conventions, it could be interesting to have a mechanism that would provide some form of country profile.

- 69.** Concerning the reference in the document to a better balance between regions and types of Convention as an advantage, the Worker members recalled that the working group on the methods of work of the Conference Committee had established that examination had to be based on the most relevant cases. With regard to the need to analyse the dynamics of the supervisory system, the Worker members noted that a discussion on working methods had already taken place within the various supervisory bodies. Further, regarding the reference to links between the various procedures relating to ratified Conventions, they did not consider this to be a real problem. On the contrary, the ILO had been able to establish a system with well-defined procedures for dealing with different aspects. Consideration should perhaps be given to the establishment of another independent mechanism (such as an international labour court or tribunal) which, among other things, could be made responsible for the formal interpretation of the Conventions. There was a need for governments and the social partners to be able, in certain cases, to gain a better understanding of what a possible ratification would imply in relation to their specific national circumstances.
- 70.** Turning to the third component, the Worker members agreed that technical cooperation was vital for the ratification and implementation of international labour standards. In this regard, they welcomed cooperation between the ILO and other agencies and took the view that international labour standards should be part of as many programmes as possible undertaken by other UN agencies. The national needs and priorities should be identified with the active participation of the social partners. It was not up to donor agencies and development banks to define needs and priorities in the ILO's area of competence. In the pre-ratification phase, it was also important to focus on the submission of adopted instruments to the competent authorities.
- 71.** With regard to the fourth component, the Worker members agreed that outreach should be as broad as possible and that better use of information technology – including testing the possibilities to submit reports via the Internet – should be made. However, the use of information technology should respect the obligations of the Constitution, and specifically article 23, under which governments should send copies of their reports to the social partners. Special attention should also be paid to countries where information technology was not very well developed.
- 72.** With reservations on certain points, the Worker members could generally agree with the proposed plan of action. The focus should be on the existing body of up to date Conventions and promoting the establishment of tripartite bodies at national level.
- 73.** Regarding the point for decision, the Worker members stated that they could not support the option to integrate a country-based approach. They also questioned whether they could support the option for a further adjustment to the reporting cycle. They were not convinced that the Organization would benefit from a prolonged reporting schedule for its most important standards, nor that such a prolonged reporting schedule would have any effect on the burden of reporting. A major part of the problem seemed to be related to older reports, which had never been submitted or supervised. They proposed that these questions be examined in more depth and that a joint proposal be submitted for the next meeting of the Committee. They made it clear that any support of this latter option was conditional on an understanding that no future attempts would be made to limit the right to make complaints, representations or observations, as the supervisory system would depend even more heavily on information provided by the social partners.

74. The Worker members commented on the status of Convention No. 158 and Recommendation No. 166 which had remained unclear since the end of the Cartier Working Party. These two instruments were the only ones on which no consensus had been reached, despite considerable efforts made. The Employer members had advocated a revision of these instruments while the Worker members supported their promotion. The result was that no agreement could be reached. The unforeseen effect of this conclusion was that Convention No. 158, ratified by 34 countries, and Recommendation No. 166 were subsequently not included in the list of up to date instruments and were no longer promoted by the Office. The Worker members considered that the only ILO instrument on employment security had thus in effect been shelved by the Office, although no such decision had been taken. The Ventejol Working Party of 1987⁷ had classified these instruments as being up to date. In the General Survey of 1995 on protection against unjustified dismissal, the CEACR stated in its final remarks:

... The Committee trusts that Convention No. 158 will achieve a wider level of ratifications, since these standards make up a coherent set of provisions which may be considered as the means of reconciling the achievements in practice of the promotion of the *right to work*, which requires the creation of employment in particular by financially healthy enterprises, and the minimum protection afforded by labour law, which implies a universal level of protection for workers, both of which are essential for promoting the interest of the society. The Committee also wishes to emphasize that the implementation of the Convention will have a positive effect on the social peace and productivity at the enterprise level and the reduction of poverty and social exclusion, leading to social stability.⁸

75. The Worker members inquired how it was possible that the absence of a decision in the Cartier Working Party regarding these instruments in practice had been allowed to invalidate these conclusions, and expressed their serious concern that the question of employment security had been ignored by the Office in the proposed Programme and Budget for 2008–09. It was uncertain whether any department was in charge of employment security issues and whether employment security was an issue of concern in the DWCPs. They also inquired which organization should advocate employment security concerns in the “One UN” concept.

76. The Worker members stated that one of their main preoccupations was to see to it that unfair dismissals of workers, where there were no valid reasons, did not occur. For workers and their trade unions, a Decent Work Agenda without such protection was unthinkable, and it was a vital component of an employment contract and a decent job. Any disagreement on this point on the part of Governments or Employers in the Committee should be expressed, since the tripartite constituents had a joint responsibility to define what constituted “decent work” and were responsible to their respective constituencies for their actions or inaction. They requested that Convention No. 158 and Recommendation No. 166 retain their official classification as up to date instruments and that a review on their status be held in future by the Committee following informal consultations.

77. The representative of the Government of the United States, speaking on behalf of IMEC, stated that, on the whole, the implementation plan was appropriate for the standards strategy that the Governing Body had endorsed in November 2005, and demonstrated the interdependence of the four components. Acknowledging that international labour standards underpinned the ILO’s Decent Work Agenda, she emphasized the appropriateness of using DWCPs as the main vehicle for implementing the standards strategy. IMEC supported the overall orientation of the action plan as well as the majority

⁷ *Official Bulletin*, Special Issue, Vol. LXX, 1987, Series A.

⁸ ILO: *Protection against unjustified dismissal*, International Labour Conference, 82nd Session, Geneva, 1995, para. 382.

of the specific elements outlined therein, with the exception of the proposal for country-based reporting on a five-year cycle.

- 78.** Regarding the first element of the action plan, concerning standards policy, she queried what was meant by “informal” tripartite consultations on developing and keeping up to date the body of ILO standards, and stated that all interested ILO constituents and groups should have the right to participate in such consultations. She expressed support for postponing the discussion of standards policy questions until they could be resumed in the light of these consultations and of the debate at the 2007 session of the ILC on “Strengthening the ILO’s capacity to assist its Members’ efforts to reach its objectives in the context of globalization”. Regarding the existing body of standards, IMEC supported a resumption of the discussion on the status of Convention No. 158 and Recommendation No. 166. The action plan should include follow-up on the recommendations of the Cartier Working Party to update standards identified as needing revision. More recent standards should also be considered in due course with a view to identifying measures to promote ratification or, if necessary, other appropriate action. She also stressed the importance of the 1997 Instrument of Amendment to the ILO Constitution.
- 79.** With respect to the supervisory system, IMEC agreed with the proposal to lengthen the reporting cycle for fundamental and priority Conventions from two to three years, and suggested that a lengthening of the cycle for the other Conventions to six years be studied, along with a review of the report forms. The CEACR should continue to look into ways to distinguish clearly and consistently between important issues of application and matters of detail. Regarding the country-based approach to supervision, IMEC was of the view that a five-year cycle would risk reducing the visibility and relevance of ILO standards, could have a negative impact on the workload of governments and on the functioning of the Conference Committee on the Application of Standards and would be seriously compromised by late reports. The speaker also expressed concern that the CEACR had been functioning at less than full capacity, since, given its drastically increased workload, it could be argued that even 20 experts were not sufficient. She also stressed that an analysis of the dynamics of the supervisory system was best left to internal discussion within the relevant body.
- 80.** On the issue of technical cooperation, IMEC agreed that the priorities and character of specific standards-related technical cooperation should be designed to reflect the fundamental values and core mandate of the ILO, and that the Office should pursue a strategy to include standards in the broader technical cooperation policies and programmes of donor agencies. IMEC also endorsed designing standards-related technical cooperation in accordance with results-based management, and underlined the important role of standards specialists in the field to develop standards-related technical cooperation. With respect to enhancing the broader visibility of standards, IMEC welcomed the comprehensive proposal for the implementation of an online reporting system. In addition, regarding the measures to improve the readability and consistency of the comments of the Committee of Experts, the standards-related databases should be maintained, upgraded and adjusted to the needs and interests of different audiences and should be made more user-friendly. IMEC also supported further development of the NATLEX country profile portal, as well as targeting journalists to disseminate standards-related information, including raising awareness of progress or good practices.
- 81.** A representative of the Government of China, speaking on behalf of the Asia-Pacific group (ASPAG), thanked the Office for the comprehensive document. Given that international labour standards underpinned the Decent Work Agenda of the ILO, a successful implementation of this strategy would contribute greatly to the objective of realizing decent work for all. ASPAG welcomed the thorough and innovative ideas focusing on implementation and the proposed action plan in the document. ASPAG

considered that developing and keeping up to date the body of standards constituted a key component of standards policy. As ratification and an effective application were the best means for any ILO Convention to serve its ultimate purpose in the world of work, it was disappointing to note that many ILO Conventions did not attract widespread ratification. This was due to the fact that many existing Conventions contained too many prescriptive details. As a result, member States were unable to ratify on technical grounds. Consideration should be given to the new approaches reflected in Conventions Nos. 182, 187 and the MLC, and it should be ensured that extensive consultations were held throughout the whole development process and, in particular, prior to discussions at the Conference. New standards should address issues of high relevance for the ILO's mandate and should have potential for significant impact. Such a consultative approach should also enable the development of a comprehensive reform strategy to ensure that the ILO's code of international labour standards was consolidated, simplified and brought up to date. Priority should be given to revising, updating and consolidating existing standards.

- 82.** ASPAG supported the proposal to extend the article 22 reporting cycle for the fundamental and priority Conventions from two to three years as a means of reducing the workload of both governments and the Office. However, consideration could also be given to extending the cycle of regular reports on non-priority Conventions from five to seven years, with reports only required in the interim if and when employers' and/or workers' organizations raised substantive compliance concerns in the ILO supervisory bodies. ASPAG also welcomed the proposal to review and simplify the report forms, which echoed views expressed by a number of governments that the supervisory system should move beyond its current focus on technical compliance and, instead, concern itself primarily with whether a member State's law and practice were achieving the desired objectives. ASPAG could not, however, support the proposal for a country-based approach to reporting, as this would impose a very heavy reporting burden on governments once every five years. The preference of the group was to spread the reporting workload over the years, as under the current arrangement.
- 83.** ASPAG supported the proposal to examine the way in which the various supervisory mechanisms interacted and to put information received through article 19 reports to more effective use, such as assessing the need for particular instruments to be revised and updated. The group encouraged the Office to take measures to make the comments of the CEACR more readable and user-friendly, so as to provide greater benefit to the constituents, and supported the general thrust of the proposed plan of action. ASPAG also encouraged the Office to engage all the relevant departments and field offices and the Turin Centre in laying a solid foundation for this plan of action, and looked forward to further consultations on certain aspects of the plan. They recommended that the LILS Committee be kept informed on the implementation of the strategy.
- 84.** Another representative of the Government of China expressed her Government's support with the statement made on behalf of ASPAG. She referred to the three Conventions adopted recently and indicated that lessons should be learned from these positive experiences with regard to the adoption of new standards. In terms of standard setting, the priority should be to revise outdated Conventions and identify standards that could address the new labour issues arising in modern society. Concerning the second component presented in the paper, she expressed her appreciation for the creative approach to enhancing the supervisory system. However, she was not in favour of a country-based approach, as this would translate into too heavy a workload for countries to bear in one year. She favoured a five-year reporting cycle for technical Conventions and a three-year cycle for fundamental and priority Conventions. Regarding the issue of technical cooperation, she recalled that developing countries often lacked the technical capacities to meet their obligations and that, therefore, the role played by technical cooperation was essential. With regard to the strategy for improving communication and information with

respect to standards, she looked forward to making ever-increasing use of the various ILO databases and supported the proposals made in the paper on these issues.

- 85.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, noted that an executive summary for such reports would be useful. Reference was made to the interrelated activities of the ILO and the UN in making decent work a global goal. The Africa group fully supported the content of paragraph 3 of the document. Globalization, the rapid technological developments with which Africa had to keep pace and the changing patterns in the world of work did indeed require changes to be made by all. New approaches for the development of standards had achieved results. However, only Convention No. 182, which was linked to a major technical cooperation programme, had so far had demonstrable impact. Linking technical cooperation to an instrument produced better results. Member States should ratify and implement the provisions of already existing standards. The group agreed with the proposal for targeted promotion. The workload under the supervisory procedure had increased over the years, while the size of membership of the CEACR had not. The two vacancies on the Committee needed to be filled. An adjustment of the supervisory system should take account of national situations. A country-based approach would better meet the needs of the African region. The Africa group found the proposed action plan appropriate and preferred the option referred to in paragraph 90(c)(ii). In response to the concerns of the Worker members on the frequency of reporting, the Africa group believed that the rate of reporting would be higher if more time were available, and that application was more important than reporting.
- 86.** The representative of the Government of Mexico, speaking on behalf of the group of Latin American and Caribbean countries (GRULAC), thanked the Office for its innovative proposals, which provided much food for thought. GRULAC would have preferred it if the document had been presented earlier on, in order to give the Governments time to study and assess the repercussions of each of the proposals for the standards and supervisory system. He felt that it would not be possible to make recommendations to the Governing Body at that point because more time was required, owing to the complex nature of the issues raised and the need to hold tripartite consultations in the countries. However, GRULAC could offer some preliminary thoughts. As to the standard-setting policy, the most recent instruments were innovative, in that they focused on achieving consensus and flexibility as regards implementation. Although ratification was important, given the limited budgetary resources available, technical cooperation should be centred, as a matter of priority, on difficulties in the application of ratified Conventions and in ratification in the case of specific countries which had not ratified fundamental or priority Conventions. As to the paragraphs under point 2, it was vital to make provision for a more flexible mechanism regarding the presentation of reports under articles 22 and 19 of the Constitution if the coherence and efficacy of the supervisory system were to be increased. GRULAC welcomed the adjustment of the duration of the reporting cycle, the simplification of the report forms, their grouping by subject matter and a review of observations and direct requests. The document referred to a number of advantages called for by many countries, such as constructive dialogue, with appropriate attention to national circumstances and the manner in which Conventions were implemented.
- 87.** Referring to the country-based approach, GRULAC considered that the difficulties encountered should not automatically lead to the adoption of such a system. More reflection was required regarding that approach. There had not been sufficient time, given the haste with which the document had been presented. Although the country-based approach might have the advantage of providing a more general picture of the level of compliance in each State and enabling a more realistic assessment by the CEACR, that approach generated uncertainty, for example, with regard to the criteria to be applied when determining serious cases of non-compliance and the selection of countries that would be invited to respond before the Conference Committee. Further study was required regarding

that issue, including financial aspects, in order to increase the coherence of the objectives of “Decent work in the Americas. An agenda for the Hemisphere, 2006–15”, of May 2006. The concerns expressed during the discussions should be taken into account and studies should continue to be carried out, including work on the implications of that method for the functioning of the supervisory machinery as a whole and for the Conference Committee in particular. Consequently, GRULAC considered that paragraph 90 should be redrafted so that the document could be referred to the 300th Session of the Governing Body in November 2007. It would thus be possible to hold the consultations and study the various proposals contained in the action plan.

- 88.** The representative of the Government of France endorsed the statement made on behalf of the IMEC group, while expressing the wish to make further comments. With regard to standard-setting policy, her Government supported the Office’s initiatives aimed at keeping the body of standards up to date, in particular the proposal to discuss further the recommendations of the Cartier Working Party. Accordingly, it appeared to be essential to pursue efforts aimed at the entry into force of the 1997 Instrument of Amendment to the ILO Constitution. The Office was also encouraged to continue to examine the questions as to what extent the use of the new standards approaches developed in recent years should be taken into consideration when developing new standards. In this regard, the speaker suggested an analysis of those instruments among the existing 187 Conventions, 198 Recommendations and five Protocols, covering some 20 main labour-related subject areas, which could be grouped together as had been done in the case of the MLC. The aim would be to consolidate in a coherent manner those instruments relating to the same subject matter. As to the second part of the strategy, the most important issue was streamlining the submission of information and reports due under article 22 of the ILO Constitution. Of the two options put forward in the point for decision, her Government would prefer to see an extension of the reporting cycle for fundamental and priority Conventions from two to three years. Her Government shared the concerns expressed by the IMEC group with regard to the integration of a country-based approach in the supervision of ratified Conventions, which, in the case of France, would not lighten the workload since reports were also due for non-metropolitan territories. Finally, the speaker supported the proposal to review the existing report forms by subject in order to simplify them. That review could, if necessary, cover the issue of reports due from a State, including its non-metropolitan territories, in particular when they were subject to the same laws and regulations.
- 89.** The representative of the Government of Kenya supported the statement made on behalf of the Africa group and welcomed the comprehensive and timely report. The quest for improvements had never been greater, considering the ILO’s campaign for DWCPs. While the regular supervisory system called for re-examination, any measures proposed must not cause turbulence, such as would rock the boat that had been afloat and stable. Based on this premise, he agreed with paragraph 15. The valuable recommendations of the Cartier Working Party helped to maintain the relevance of standards. To ensure better reporting, the capacities of governments needed to be strengthened through intensified training. He supported the country-based approach to supervision with a single cycle of five years, which could bring about better compliance and would offer more room for participation by employers’ and workers’ organizations. The proposals concerning online reporting and technical cooperation were acceptable. The wide dissemination of standards-related information to the public was considered important for promoting accountability and transparency beyond the purview of ILO constituents. Finally, the speaker supported the proposed plan of action, and considered that clear timelines should be included. The Governing Body should await the recommendations emerging from the discussion that would be held on these matters at the June 2007 session of the ILC.
- 90.** The representative of the Government of South Africa supported the statement made on behalf of the Africa group. He commended the Office for a comprehensive – albeit

complex – paper and underscored that international labour standards were the backbone of the ILO. While the reporting system should be simplified, it should not be compromised. It was important to focus on capacity building in all member States. His Government was finalizing the process with a view to enabling the ratification of the 1997 Instrument of Amendment to the ILO Constitution. The integration of standards into technical cooperation was long overdue and the DWCPs constituted a perfect platform for doing this. It was important to ensure transparency in the selection of cases for discussion at the Conference. With reference to the proposals regarding increased use of information technology, both the ILO and member States would benefit from this. Account should also be taken, however, of member States without adequate access to such technology.

- 91.** The representative of the Government of Morocco expressed support for the statement made on behalf of the Africa group. Turning back to the main elements of an operational strategy for standards-related technical cooperation, she stressed their importance and relevance. Technical assistance was particularly useful prior to the ratification of a Convention. The harmonization of national legislation at that stage in the process optimized conditions for the successful implementation of international labour Conventions. She expressed her support for the proposed action plan.
- 92.** The representative of the Government of the Bolivarian Republic of Venezuela stated that international standards and multilateralism were the very tools that could be used to overcome the challenges posed by globalization and to strengthen decent and dignified work. It was vital to continue efforts to increase the coherence, transparency, reliable methods of working and efficacy of all labour standards. The speaker referred to article 62 of the new Regulations under the Organic Labour Act. The said piece of legislation amended the old exclusive social dialogue with the most representative organization of employers and the most representative organization of workers; turning it into a new social dialogue with the most representative organizations of employers and the most representative organizations of workers, as well as the most representative organizations of the popular and informal economies. He stated that his Government was increasingly aware of the interdependency between decent work and social dialogue and stressed the importance of coherence in guaranteeing the increased participation of those sectors and eradicating poverty. He gave a detailed presentation, which included figures on poverty across the world and in Latin America, pointing out that the majority of workers were not unionized and that that fact alone was enough to stimulate debate and action. He recalled that, during the 90th Session of the ILC, a request was made for in-depth studies to be carried out into social dialogue and a consultation process on labour reforms so that these studies might yield answers to the contradictions of an entirely unfettered globalization, as opposed to social dialogue held only with the organizations deemed most representative on a quantitative basis (number of affiliates). As to the point for decision, the speaker felt that there was a need to send the action plan to the capitals so that it might be examined in detail, in particular the subject of the country-based approach, which required further thought. He declared that the action plan could not be approved at that session.
- 93.** The representative of the Government of Finland expressed support for the IMEC statement and welcomed the ambitious and comprehensive document. He noted that the action plan required further consultations and suggested that the ILC be given a more prominent role in the context of standards-related activities and the selection of topics, based on relevant and thorough research.
- 94.** The representative of the Government of Canada expressed support for the IMEC statement. With regard to the country-based approach, while she was fully in favour of such an approach in the context of promotional and technical cooperation activities, and stressed that standards should be fully integrated into DWCPs, she did not support the country-based approach to supervision. Beyond the reporting burden that such an approach

would entail, it would also impact on the quality of supervision. Canada, for example, would have to undertake consultations with all the competent authorities, and would need to begin preparing reports at least two years in advance, which meant that, when the CEACR received the reports, they would already be out of date. Such an approach would also undermine the key characteristics that made the ILO supervisory system unique and more effective than those of other UN bodies, and the proposal moved towards an approach that was more in line with the UN bodies. The speaker supported adjusting the reporting cycle for priority and fundamental Conventions.

- 95.** The Employer members noted that a consensus had emerged on the importance of the debate. There was also a consensus concerning the interest in all four components of strategy and that a process for the continuation of the debate was needed. To that end, they suggested a working group meeting during the ILC. They agreed with the Worker members concerning the importance of Convention No. 144, and that tripartite consultation was key to ensuring follow-up at the national level.
- 96.** The Worker members welcomed the numerous interventions from the Governments, but noted that several Governments continued to attribute the low ratification rates to alleged prescriptive details of international labour standards. They reiterated that, as the success with Convention No. 182 demonstrated, the relevant and so far underestimated remedy was to provide for technical cooperation in order to overcome difficulties at the national level. As the 2008–09 programme and budget demonstrated, however, the resources available to IPEC for technical cooperation were significant. With reference to Convention No. 187 and the MLC, it was far too early to draw any conclusions. In response to the statement by the representative of the Government of Nigeria, the Worker members emphasized that their interest was not the number of governments per se, but to ensure that the work of the Committee was effective and that the comments of the CEACR were relevant. Furthermore, the increasing workload, not only for governments but also for ILO staff, appeared not to have been appropriately reflected in the programme and budget. The objective of having an effective supervisory system was shared by most. An alternative, which the Workers' group did not favour, could, of course, be to dispense with the article 22 reports and set up a group of ILO inspectors to be sent out on unannounced inspection tours. Such a system was already used in the private sector in the context of corporate social responsibility auditing systems. Concerning the comments made concerning the revision of standards, the Worker members could agree to discuss proposals for a more systematic consideration of this question, but would nevertheless expect governments to follow up on the conclusions of the Cartier Working Party. Finally, they noted the absence of any comments regarding Convention No. 158 and Recommendation No. 166, and concluded that that implied support for the proposal of the Workers' group.
- 97.** A representative of the Director-General (Ms Anne Trebilcock, the Legal Adviser) stated in reply to the question raised by the Employer members, concerning the 1997 Instrument of Amendment to the ILO Constitution, that the matter had been included in the document under discussion to stress its link with keeping the body of standards up to date. A number of ILO events had been used to promote ratification, including through targeted discussions with countries concerned. Directors of regional and other field offices were equipped with information packages, promotional materials and model letters to contact governments. The standards specialists were briefed on that matter, and efforts were also being made to activate the employers' and workers' specialists. Action planned before June included the following: awareness raising and one-to-one contacts during the African Regional Meeting; making arrangements for raising the visibility of the issue at the ILC; reprinting information material; and soliciting more ideas of what can be done without budgetary implications. The Office welcomed creative, no-cost ideas to help the campaign achieve its ambitious goal by the end of 2007. While employers and workers at the

national level were key allies, ultimately it was up to 29 additional governments to take the action needed (two-thirds of 180 member States). The Office stood ready to assist them.

98. A representative of the Director-General (Ms Cleopatra Doumbia-Henry) noted, in response to the Employer members' statement concerning the vagueness and lack of orientation on the standards policy component, that proper consultations in that area had yet to be held. While it would have been premature to provide detailed proposals in that respect, some elements were included to help the consultations on those issues. The proposal of the IMEC group that such consultations be held with a larger group of constituents, and the Employer members' proposal to establish a standing mechanism, went in the same direction. Consultations could be held at some time during the ILC in June or, if that were not feasible, at some time before or during the November session of the Governing Body. In the light of the present discussion, as well as relevant parts of previous discussions, specific proposals would be prepared for these consultations. In order to reach agreement on any new mechanism and to ensure that its results would be effective, she emphasized the importance of tripartite consensus on the modalities of the process and, in particular, on the *Rules of the Game*. That would mean, for instance, that if there were no agreement on the status of a Convention then the existing classification of standards would remain valid. The major objective of any new mechanism would include a review of measures to promote the ratification of recently adopted ILO Conventions, and an analysis of the obstacles to ratification in order to consider whether other appropriate measures would need to be taken. As regarded the instruments concerning employment termination, the Office had never considered Convention No. 158 shelved. Reports on the application of that Convention had been requested and actively examined, and comments were regularly made on labour legislation, including reference to the termination of employment. Convention No. 158 and Recommendation No. 166 were both included in the Office publication *Rules of the Game*. The technical sector responsible within the ILO was the Dialogue Sector. With regard to the need to examine the dynamics of the supervisory system, it was proposed to prepare an overview of the interaction of the various bodies, with a clear understanding that it was for each of these bodies to examine their own procedures and working methods. With regard to the proposal for a country-based approach, the different comments and suggestions made had been duly noted. The Office would continue to examine how the impact of the supervisory system could be enhanced in the context of a lengthening of the reporting cycle, including instead the consideration of an intensified thematic approach. With reference to the comment made by the Employers on "conditionality" as to the role of donors in technical cooperation, she explained that no such link was intended, nor should one be inferred. However, most countries who received technical assistance did not ignore the fact that those resources should also be used to implement standards. In conclusion, she noted that the discussion had been constructive and useful and would be taken into account in preparing any further documents for the Committee on these questions. The Office documents would, as requested, also include an executive summary.
99. After an exchange of views, the Committee agreed on the point for decision below. The Employer members noted that, on issues concerning which there was consensus, the Office should move forward with the action plan.
100. *The Committee on Legal Issues and International Labour Standards recommends to the Governing Body that it invite the Office to consider the comments made during the discussion and to submit a paper at its 300th Session (November 2007), based on the present discussion and further consultations, on a proposed plan of action, including additional options for the streamlining of information and reports due under article 22, such as the examination of an intensified thematic approach to non-fundamental and non-priority Conventions.*

V. General status report on ILO action concerning discrimination in employment and occupation
(Fifth item on the agenda)

- 101.** The Governing Body had before it a document⁹ on ILO action concerning discrimination in employment and occupation.
- 102.** The Worker members stressed the indivisibility of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the other fundamental principles and rights, as illustrated by the situation of workers in the occupied Arab territories. The serious situation of those workers with respect to social security, wages and lay-offs called for continuous ILO attention, and governments were urged to support the Palestinian Fund for Employment and Social Protection. While noting the important role of the Committee of Experts, the adoption of some progressive legislation, and the acknowledgment of new areas of discrimination such as sexual harassment, the Workers expressed regret that application in practice continued to be a major challenge. The Workers expressed the hope that the new impetus on data collection, analysis and policy guidance for the upcoming biennium would cover discrimination. Governments were invited to extend the prohibited grounds of discrimination pursuant to Article 1(1)(b) of Convention No. 111.
- 103.** The Worker members stressed the need to promote and ensure equal remuneration in law and practice. Regarding promoting action in the workplace, more work was needed to promote better industrial relations so that through collective bargaining, equality and equal remuneration could be addressed. They appreciated the ratification by Vanuatu (Conventions Nos. 100 and 111); Philippines and Albania (Convention No. 143); Bulgaria (Convention No. 156); and the Republic of Moldova (Convention No. 183). The ACTRAV manual on promoting decent work for migrant workers was noted, as well as the ITUC campaign for maternity protection. The efforts of the Office to strengthen national legal and policy frameworks were noted with satisfaction, however, the link with ILO standards and their ratification was not always made clear. Greater use of advisory assistance for developing, implementing and monitoring national equality action plans within DWCPs was seen as a crucial step for the future. The effort to train judges was noted, with a recommendation that that type of training be extended to labour inspectors. The collaboration between the ILO, the Asian Development Bank and the International Finance Corporation was underlined.
- 104.** The Employer members stressed the fundamental and growing importance of the promotion of equality and the elimination of discrimination. That principle was crucial in the promotion of decent work for all, and a key aspect of any viable strategy for development and the eradication of poverty. However, the Employers reiterated their view that the Committee may not be the most appropriate place to discuss those issues, which were becoming increasingly technical. In addition, a number of other committees were discussing discrimination issues. They reiterated their proposal to develop a thematic web site on discrimination.
- 105.** The representative of the Government of Kenya expressed appreciation for the work of the Office in this area, but also concern that despite numerous interventions, injustices continued. His Government called for further action to address the human rights violations of workers of the occupied Arab territories. While commending the legislative work of the Office, he noted that changes in attitudes were still needed, especially in the face of xenophobia and discrimination against migrant workers. The Office was also commended for effectively introducing the Decent Work Agenda into the UN system, successfully

⁹ GB.298/LILS/5.

promoting the ratification of Conventions Nos. 100 and 111, and influencing the international financial institutions. The Office was invited to step up its efforts in the area of equality.

- 106.** The representative of the Government of South Africa expressed appreciation for the ILO's work in eliminating discrimination at work. Against the background of South Africa's history, the milestones reached by the ILO were viewed with satisfaction, though also with caution since the fight against discrimination must be a constant one. While the elimination of discrimination was important, it was also necessary to promote measures to redress its effects. Those who had suffered discrimination lacked the power and resources to enjoy the newly found equality, and hence the duty remained to assist them and to attempt to undo the damage that had been done. Member States who embarked on such a course needed support through ILO technical assistance and training of those having the task of implementing these decisions.
- 107.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, underlined the importance of the issue under debate, particularly in her region, where some of the cultural and traditional practices had not integrated equality principles. The Office was urged to continue its work in addressing discrimination against workers of the occupied Arab territories, and to promote universal ratification of Convention No. 111, labour law review, social dialogue and awareness raising and training of national policy makers and those implementing policies. The influence of the ILO code of practice on HIV/AIDS and the world of work in the African region was highlighted, as many policy documents had been adopted based on the code. The importance of the Multilateral Framework on Labour Migration was also stressed, as well as the project on promoting the employability and employment of disabled workers, and training on the global alliance against forced labour. An integrated and multi-pronged approach to the issue of discrimination was to be promoted.
- 108.** The representative of the Government of Cuba noted the importance of continuing to address the situation of workers of the occupied Arab territories. She stressed the importance her country attributed to the promotion and respect of gender equality, including equal access to education and training, to employment opportunities, and to positions of responsibility. She referred to a recent law on maternity protection, which also provided for parental leave. Regarding equal remuneration for work of equal value, she stressed the need for further studies in that area to provide more clarity regarding that principle. Promotional and follow-up activities under Convention No. 111 should be incorporated into DWCPs, with the aim of identifying technical assistance needs.
- 109.** The representative of the Government of China expressed satisfaction regarding the significant efforts deployed in the fight against discrimination, including by workers' and employers' organizations, and the positive results achieved. She underlined that ratification of Convention No. 111 and legislative efforts were essential first steps in the fight against discrimination, but that other measures were also needed. She noted that her country had recently drafted legislation on employment promotion, containing provisions ensuring equal access to employment. Wide publicity in order to sensitize society as a whole would also be needed, as well as training labour inspectors on discrimination issues. She called on the ILO to allocate further resources in that regard.
- 110.** The representative of the Government of Mexico expressed his Government's commitment to the promotion of equality between women and men. He stressed the importance of the national agreement for equality between women and men, which included affirmative action. He also pointed to the strategy of the National Institute of Women, including sensitization and training on gender issues for civil servants, the private sector and society

at large. Methodologies for training have also been developed, and gender aspects of migration have been targeted.

111. A representative of the Director-General (Ms Cleopatra Doumbia-Henry) responded to the issue raised by the Employer members, noting the history of the Committee and its present mandate to deal with all human rights issues. She stated that the Office would have an internal discussion regarding how to avoid overlap of the work of various committees and to ensure coherence. She stressed that this document was an Office-wide document and that international labour standards regarding non-discrimination and equality provided the foundation for the Office's work in that area. She stated that in the next document on the issue, the history of the item would be set out and it would then be for the Governing Body to determine where the matter should be discussed.
112. The Committee noted the information in the document.

VI. Form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): the Occupational Safety and Health Convention, 1981 (No. 155), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Occupational Safety and Health Recommendation, 1981 (No. 164)
(Sixth item on the agenda)

113. The Committee had before it a document on the proposed form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): the Occupational Safety and Health Convention, 1981 (No. 155), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Occupational Safety and Health Recommendation, 1981 (No. 164).
114. The Worker members agreed with the proposed report form, but proposed an amendment to question XVI(b) by adding at the end of the text a new alinea (iv), which would read "whether they have been discussed in any national tripartite fora with the most representative organizations of employers and workers". They explained that the reason for the proposal was that they considered it important also to gather information on the involvement of the social partners in discussions on intended or initiated ratification procedures.
115. The Employer members agreed with the proposed report form and the amendment suggested by the Worker members and supported the point for decision.
116. The representative of the Government of Nigeria, speaking on behalf of the Africa group, considered the report form adequately covered relevant issues for the General Survey and agreed with the point for decision.
117. *The Committee on Legal Issues and International Labour Standards recommends that the Governing Body adopt the report form on the application of unratified Conventions and Recommendations (article 19 of the Constitution): the Occupational Safety and Health Convention, 1981 (No. 155), the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, and the Occupational Safety and Health Recommendation, 1981 (No. 164), as amended (see Appendix II).*

VII. Form for reports on the application of ratified Conventions (article 22 of the Constitution): the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
(Seventh item on the agenda)

- 118.** The Committee had before it a document¹⁰ on the proposed form for reports on the application of a ratified Convention (article 22 of the Constitution): the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).
- 119.** The Employer members, while they agreed with other parts of the form for reports, proposed to amend the third paragraph of the text in italics after article 2, by inserting the words “periodically to consider measures taken” after the words “the measures taken”. The purpose of that amendment was to reflect more accurately the terms of the Convention.
- 120.** The Worker members expressed their general agreement with the form for reports, but wished to propose some amendments intended to solicit information on consultations held with employers’ and workers’ organizations on different aspects of the application of the Convention. They proposed the following amendments. In the section “Practical guidance for drawing up reports”, subsection “Subsequent reports”, in point (b), after the words “(... administrative decisions)”, the words: “consultations with the most representative organizations of employers and workers” should be inserted. Under Article 2, in the first paragraph in italics, the words “Paragraphs 1–2” should replace the words “Paragraphs 1–3”. Under Article 2, after the first paragraph in italics, a new paragraph should be inserted in italics to read “Paragraph 1. Please indicate measures taken to promote occupational safety and health as set out in the paragraph and the outcome of the consultations held.” Under Article 3, third paragraph in italics, at the end of point (b), the words “, the organizations that have been consulted and the outcome of the consultations held” should be inserted. Under Article 4, at the end of the first paragraph in italics, the words “and the outcome of the consultations held” should be inserted. With reference to the second paragraph in italics after Article 5, the Worker members asked the Office whether the question had been intended to seek information on all five points of Article 5, paragraph 2.
- 121.** A representative of the Director-General (Ms Cleopatra Doumbia-Henry), responding to the query from the Worker members concerning the question on Article 5, paragraph 2, confirmed that that question had been raised to seek information on measures taken to ensure that the national programmes complied with all the requirements listed in paragraph 2, including specific information on 2(d) on objectives, targets and indicators of progress.
- 122.** The Worker members noted that clarification and agreed with the text of the report form regarding Article 5, paragraph 2.
- 123.** The representative of the Government of the United States stated that the report form should not include questions on obligations not explicitly provided for in the Convention. Furthermore, she did not agree with the procedure to consider a series of amendments as proposed by the Worker members as it was difficult to appreciate the implications of these amendments. With reference to the third paragraph in italics relating to Article 2, paragraph 3, she emphasized that the question should follow more precisely the text of the Article of the Convention, considering that it did not do so as currently worded.

¹⁰ GB.298/LILS/7.

124. The Worker members explained that, while the difficulties expressed by the representative of the Government of the United States were understandable, the time available for preparing for the session of the Committee did not allow printing and distribution of the proposed amendments in advance, and the accepted procedure in the Committee was to submit amendments orally.
125. The Employer members stated that they also found it difficult to accept the amendments proposed by the Worker members as they had not had sufficient time to consider them.
126. The representative of the Government of Nigeria, speaking on behalf of the Africa group, noted that no consultations had been held with the Governments on the proposed amendments. That was unfortunate as it was particularly important that Governments who had to prepare the reports agreed with its content. She expressed her agreement with the report form as it had been originally presented and agreed with the point for decision.
127. The representative of the Government of the United Kingdom supported the statement by the representative of the Government of the United States and endorsed the text as originally presented. Amendments such as those presented by the Worker members might require consultations with the capitals.
128. The representative of the Government of Canada supported the statement by the representative of the Government of the United States concerning the question under Article 2, paragraph 3. As regards the amendment to point (b) under the “Practical guidance for drawing up reports for subsequent reports”, she indicated that it was standard text used for all report forms, and stated that the obligation of the government in this regard was to send a copy of the completed report to the most representative organizations of employers and workers, and not to consult with them.
129. The Worker members stated that almost each Article of the Convention referred to consultations with employers’ and workers’ organizations. The intention of the proposed amendments was to know whether the consultations provided for in the Convention had taken place, not to create new obligations. They reiterated their view that a consideration by the LILS Committee of report forms was not necessarily the best use to make of its time. They wondered whether consideration should be given to developing another procedure. They proposed, for example, that a small working party composed of the Officers of the Governing Body, Governments’ regional coordinators and the representative of the Office should examine the proposed report forms and seek agreement on any proposed amendments thereto and report to the LILS Committee.
130. The Chairperson suggested that, in view of the discussion held, the Committee could postpone the consideration of that item and request the Office to re-examine the proposed report form, taking due account of the views expressed in the Committee, and that the Office would submit a revised proposal to the Committee at its session in November 2007. After an exchange of views, the Committee agreed with the Chairperson’s proposal.

**VIII. Report of the Joint ILO/UNESCO Committee of Experts
on the Application of the Recommendations
concerning Teaching Personnel (CEART)
(Eighth item on the agenda)**

131. The Committee had before it a paper prepared by the Office indicating that the full report of the CEART was before the Committee on Sectoral and Technical Meetings and Related Issues (STM) at the present session. The paper further proposed a decision concerning a review of the parts of the CEART’s report treating allegations from teachers’

organizations, communication of the relevant parts to the governments and teachers' organizations concerned, and transmission of the report to the ILC at its 96th Session, in accordance with past practice.

132. The Worker members supported the point for decision.
133. The Employer members also supported the point for decision.
134. The representative of the Government of Japan commended the Joint Committee for a fair evaluation of recent measures taken by his Government on this matter. In line with its respect for the *Recommendation concerning the Status of Teachers*, the Government had made efforts to adhere to findings and recommendations of the CEART's interim report (2005) through a dialogue with the All Japan Teachers' and Staff Union (ZENKYO), which had presented the allegations to the CEART, as well as by providing information on the interim report to members of boards of education in Japan. The Government contended in the additional information provided to CEART on this case in October 2006 that the ZENKYO allegations contained misunderstandings making them inappropriate for consideration by the Joint Committee. Any further consideration should be based on a thorough investigation of the personnel management system for teachers and relevant legislation in Japan. The Government was prepared to provide more information to the Joint Committee, and it expected that a CEART fact-finding mission to Japan would be able to deepen its understanding of these issues by interviewing members of boards of education and various teachers' unions other than ZENKYO. The Government placed the highest priority in its policies on provision of the greatest educational quality benefits to all children, who represented the country's future. As the progress of education depended on teacher quality, the Government intended to promote measures to that end respecting the provisions of the *Recommendation concerning the Status of Teachers* in line with the legislation of Japan.
135. The representative of the Government of Nigeria commended the Government of Japan for its willingness to accept a CEART fact-finding mission, and endorsed the point for decision.
136. The Chairperson noted that the remarks made would figure in the report of the Committee to the Governing Body, and declared approved the point for decision contained in paragraph 4.
137. *The Committee on Legal Issues and International Labour Standards recommends that the Governing Body –*
- (i) *take note of paragraphs 149–158 and Annex II of the report on the Ninth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel, which concern allegations submitted to it by teachers' organizations;*
 - (ii) *authorize the Director-General to communicate the relevant parts of the Annex to the Governments of Australia, Ethiopia and Japan and to the teachers' organizations concerned and, where appropriate, to invite them to take the necessary follow-up action as recommended in the report;*
 - (iii) *forward the report to the International Labour Conference at its 96th Session (May–June 2007) for examination in the first instance by the Committee on the Application of Standards.*

IX. Other questions

Provisional agenda of the next session of the Committee on Legal Issues and International Labour Standards

138. A representative of the Director-General (Mr Tapiola, Executive Director, Standards and Fundamental Principles and Rights at Work Sector), in accordance with usual practice, summarized the items that would be put before the Committee at its next session, as far as had already been determined: Standing Orders of the International Labour Conference; evaluation of interim provisions concerning the verification of credentials; campaign for the ratification of the 1997 Instrument of Amendment to the ILO Constitution; the status of privileges and immunities of the International Labour Organization in member States; improvements in the standards-related activities of the ILO: plan of action for the implementation of the strategy; ratification and promotion of fundamental ILO Conventions; requests for reports on the application of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), under article 22 of the Constitution; form for reports on the application of ratified Conventions (article 22 of the Constitution): the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); report on the project on economic dynamics of international labour standards – on the assumption that it would be ready; interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel. The revision of rules of regional meetings would be dealt with in March 2008. He noted that the Committee had a large number of items on the agenda for its November 2007 session and that it therefore would need to have another extra half day at its disposal. If that was not possible, the Office would consult the Officers of the Governing Body to determine which items should be postponed for consideration until its March 2008 session.

Geneva, 27 March 2007.

Points for decision: Paragraph 21;
Paragraph 28;
Paragraph 100;
Paragraph 117;
Paragraph 137.

Appendix I

Ratifications of revised Conventions/Denunciations of the former corresponding Conventions since 1996 ¹

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
Afghanistan	-	-	(171 or 89 + P89), 176	4,* 41,* 45
Albania	97, 138	5, 10, 21, 58, 59, 112	132	52
Algeria	167, 181	62, 96	118, 121, 130, 132, 146, 152, 160, 165, 168, (171 or P89), 183, 185	3, 17, 18, 24, 32, 42, 44,* 56, 63, 70, 91,* 101, 108
Angola	138	7	118, 121, 146, 169, (171 or P89), 176	4, 17, 18, 45, 91,* 104,* 107
Antigua and Barbuda	-	-	118, 121, 132, 185	17, 101, 108
Argentina	138, 169	5, 7, 10, 15, 33, 107	97, 118, 121, 128, 132, 152, 166, (171 or 89 + P89), 176, 179, (138 or 180), 181, 183, (169 and/or 117, 97, 143)	3, 9, 17, 18, 21,* 23, 32, 35,* 36,* 41,* 42, 45, 50,* 52, 58, 96
Armenia	-	-	121	17, 18
Australia	-	-	118, 121, 138, 180	7, 10, 18, 42, 57, 58, 76, 93, 109, 112, 123
Austria	138, 183	5, 10, 33, 103	97, 118, 121, 130, 132	17, 18, 21,* 24, 25, 42, 45, 101
Azerbaijan	185	108	132, 152, 166, 176, 183	23, 32, 45, 52, 103
Bahamas	138	5, 7, 10	118, 121, 169, 176, 183	17, 42, 45, 50,* 64,* 65,* 86,* 103
Bahrain	-	-	(171 or P89)	-
Bangladesh	-	-	97, 121, 138, 152, 169, (171 or P89), 176, 181	4,* 15,* 18, 21,* 32, 45, 59, 96, 107
Barbados	138	5, 7, 10	121, 132, 160, 169, 185	17, 42, 50,* 63, 65,* 86,* 101, 108
Belarus	183	103	132, 152, 176, 185	32, 45, 52, 108
Belgium	132, 180, 181	57, 96, 101, 21, 50, 64	118, 146, 152, 165, 166, 167, 169, 176, 179	9, 17, 18, 23, 32, 45, 56, 62, 91,* 107
Belize	138, 183	5, 7, 10, 15, 103	118, 121, 132, (171 or P89), 185	42, 58, 101, 108
Benin	138	5, 33	121, (171 or 89 + P89)	4,* 18, 41*

¹ This table does not take into account the Maritime Labour Convention, 2006.

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
Bolivia	138	5	118, 171, 176, 181, 183, (171 or P89)	17, 20, 45, 96, 103, 123
Bosnia and Herzegovina	–	–	118, 130, 146, 152, 157, 165, 166, (171 or P89), 176, 179, 180, 183	3, 9, 17, 18, 23, 24, 25, 32, 45, 48,* 56, 91,* 103, 109
Botswana	–	–	118	–
Brazil	132, 138, 146, 169	5, 52, 58, 91, 101, 107	87, 121, 180, 183, 185	21,* 42, 45, 93, 103, 104,* 108, 109
Bulgaria	179, 180, 181	9, 34, 57	97, 118, 121, 128, 130, 132, (92 and 133), 152, 165, 167, 168, 171, 176, 185	3, 17, 18, 20, 21,* 23, 24, 25, 32, 35,* 36,* 37,* 38,* 39,* 40,* 42, 44,* 45, 52, 54, 56, 62, 72, 75, 108
Burkina Faso	138	5, 33	118, 121, (171 or 89 + P89), 183	3, 4,* 17, 18, 41*
Burundi	138	59	118, 121, 132, 167, (169 and/or 117, 97, 143), (171 or P89)	4,* 17, 18, 42, 50,* 52, 62, 64,* 101
Cambodia	–	–	(171 or 89 + P89)	4*
Cameroon	138	5	118, 169, (171 or P89), 176, 179, 183, 185	3, 9, 10, 15,* 33, 45, 50,* 64,* 65,* 108, 123
Canada	–	–	138, 152	7, 15,* 32, 58
Cape Verde	–	–	121	17
Central African Republic	138	5, 10, 33	121, 132, 153, 167, 169, 183, (171 or 89 + P89)	3, 4,* 17, 18, 41,* 52, 62, 67,* 101, 104*
Chad	132, 138	5, 33, 52	(171 or 89 + P89)	4,* 41*
Chile	121, 138	3, 5, 7, 10, 15, 17, 18, 42	118, 128, 130, 152, 160, 171, 179, 181, 183	9, 20, 24, 25, 32, 34,* 35,* 36,* 37,* 38,* 63, 103
China	138	7, 15, 59	87, 118, 152, 166, 176	23, 32, 45
Colombia	138	5, 7, 10, 15	97, 118, 121, 130, 132, 166, 171, 179, 183	3, 4,* 9, 17, 18, 20, 21,* 23, 24, 25, 52, 101, 104*
Comoros	138	5, 10, 33	118, 121, 132, (171 or P89)	17, 18, 42, 52, 101
Congo	138	5, 33	(171 or P89)	–
Costa Rica	–	–	132, 176, 181, (171 or P89)	45, 96, 101
Côte d'Ivoire	138	5, 33	118, 121, 132, (171 or P89), 176, 181, 183	3, 4,* 18, 41,* 45, 52, 96
Croatia	179	9	118, 130, 146, 152, 157, 165, 166, 176, 180, 183	3, 17, 18, 23, 24, 25, 32, 45, 48,* 56, 91,* 103, 109
Cuba	183	103	118, 121, 132, 171, 146, 153, 160, 166, 169, 176, 179, 180, 181, 185, (171 or 89 + P89)	3, 4,* 9, 17, 18, 20, 21,* 23, 42, 45, 52, 63, 67,* 91,* 93, 96, 101, 104,* 107, 108
Cyprus	138	15, 58, 89	118, 166, 168, 176	23, 44,* 45, 123
Czech Republic	132, 171, 181	89, 52, 34, 40	138, 121, 118, 97, 176, 185	5, 10, 17, 18, 21,* 37,* 38,* 39,* 42, 45, 108, 123

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
Democratic Republic of the Congo	–	–	121, 167, (171 or P89)	4,* 17, 18, 50,* 62, 64*
Denmark	138	5, 7, 15, 58, 112	97, 121, 132, 179, 185	9, 18, 21,* 42, 52, 108
Djibouti	138	5, 10, 15, 33, 58, 123	118, 121, 132, 146, 160, 165, 171, 179, 180, 181, 185, (171 or P89)	9, 17, 18, 20, 52, 56, 63, 91,* 93, 96, 101, 108
Dominica	–	–	118, 185	108
Dominican Republic	138	5, 7, 10, 89	118, 132, 169, 176	45, 52, 104,* 107
Ecuador	169	107	132, 176, 183	24, 45, 86,* 101, 103, 104,* 112, 123
Egypt	–	–	121, 132, 160, 165, 167, 169, (171 or P89), 176, 179, 181	9, 17, 18, 23, 45, 52, 56, 62, 63, 96, 101, 104,* 107
El Salvador	–	–	169	104,* 107
Equatorial Guinea	–	–	183	103
Estonia	–	–	118, 138, 166, 171, 176, 179, 180, 185, (171 or 89 + P89)	5, 7, 9, 10, 15,* 20, 23, 41,* 45, 108
Ethiopia	181	96	–	–
Fiji	138	5, 58, 59	118, 176, 185	45, 50,* 64,* 65,* 86,* 108
Finland	167, 176, 179	9, 45, 62	97, 185	17, 18, 21,* 108
France	179, 180, 185	9, 108, 109	121, 128, 130, 132, 160, 165, 166, 167, 176, 181, 183	3, 17, 18, 23, 24, 35,* 36,* 37,* 38,* 42, 45, 52, 56, 62, 63, 70, 96, 101
Gabon	–	–	118, 132, 138, 176, 181, 183, (171 or 89 + P89)	3, 4,* 5, 10, 33, 41,* 45, 52, 96, 101, 123
Georgia	–	–	132	52
Germany	–	–	165, 179, 183	3, 9, 17, 18, 23, 24, 25, 45, 56
Ghana	–	–	138, 118, 166, 176, 169, (171 or P89), 181, 183, 185, (138 or 180)	15,* 23, 45, 58, 59, 65,* 96, 103, 107, 108
Greece	–	–	179, 121, 118, 166, 176, 132, 167, 183, 185	3, 9, 17, 23, 42, 45, 52, 62, 103, 108
Grenada	138	5, 7, 10, 15, 58	118, 169, 185	50,* 64,* 65,* 86,* 108
Guatemala	–	–	118, 176, (171 or P89), 181, 132, 183, 185, 180	45, 50,* 58, 59, 64,* 65,* 86,* 96, 101, 103, 104,* 108, 109, 112
Guinea	138	5, 10, 33, 112	167, 176, 183, (171 or P89)	3, 17, 18, 45, 62
Guinea-Bissau	–	–	(171 or P89), (138 or 180), 121, 118, 176, 146, 169, 185	4,* 7, 17, 18, 45, 91,* 104,* 107, 108
Guyana	138	5, 7, 10, 15	118, 121, 176, 169, 185	42, 45, 50,* 64,* 65,* 86,* 108
Haiti	–	–	118, 121, 130, 138, 169, 176	5, 17, 24, 25, 42, 45, 107
Honduras	–	–	152, 121, 176, 167, 185	32, 42, 45, 62, 108
Hungary	132, 138, 183	52, 101, 103, 7, 10, 15, 123	121, 118, 97, 130, 176	3, 17, 18, 21,* 24, 42, 45
Iceland	138	15, 58	146, 185	91,* 108

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
India	–	–	87, 121, 138, 118, 97, 152, 176, 171, 169, 185	4, 5, 15,* 18, 21,* 32, 42, 45, 107, 108, 123
Indonesia	–	–	118, 176	45
Islamic Republic of Iran	–	–	118, 169, 185	104, 108
Iraq	–	–	87, 121, 166, 169, (171 or P89), 180, 185	17, 18, 23, 42, 93, 107, 108, 109
Ireland	–	–	97, 152, 166, 167, 168, 181, 185	21,* 23, 32, 44,* 62, 96, 108
Israel	–	–	132, 146, 157, 171, 179, 181	9, 20, 48,* 52, 91,* 96, 101
Italy	152, 181, 183	32, 96, 103	121, 166, 179, 128, 168, 176, 157, 180, 185	3, 9, 18, 23, 35,* 36,* 37,* 38,* 39,* 40,* 42, 44,* 45, 48,* 108, 109
Jamaica	138	7, 15, 58	118, 169	50,* 64,* 65,* 86*
Japan	138, 181	5, 7, 10, 15, 58, 96	118, 179, 97, 176, (169 and/or 117, 97, 143)	9, 18, 21,* 45, 50*
Jordan	138	123	–	–
Kenya	–	–	87, 121, 118, 152, 176, 160, 169, (171 or P89)	17, 32, 45, 50,* 63, 64,* 65,* 86*
Republic of Korea	–	–	118	–
Kuwait	–	–	132, (171 or P89)	52
Kyrgyzstan	–	–	121, 132, 176, 183, 185	17, 45, 52, 103, 108
Lao People's Democratic Republic	–	–	(171 or 89 + P89)	4*
Latvia	138	5, 7, 15	118, 121, 130, 179, 183, 185	3, 9, 17, 18, 24, 108
Lebanon	138	15	118, 121, 132, 176, 179, 180, (171 or P89)	9, 17, 45, 52, 58, 59, 109
Lesotho	138	5	118, 176, 169, (169 and/or 97, 117, 143)	45, 64,* 65*
Liberia	–	–	138, 166, 169, 185, (138 or 180)	23, 58, 65,* 104,* 108, 112
Libyan Arab Jamahiriya	–	–	132, 169, 183, (171 or P89), 181	3, 52, 96, 103, 104*
Lithuania	–	4	118, 130, 185	24, 108
Luxembourg	–	–	183, 179, 118, 97, 165, 181, 185	3, 9, 17, 18, 21,* 23, 24, 25, 56, 96, 103, 108
Madagascar	138	5, 33, 123	(171 or 89 + P89)	4,* 41*
Malawi	–	–	118, 176, 169, (171 or P89)	45, 50,* 64,* 65,* 86,* 104,* 107
Malaysia	–	–	169, (169 and/or 117, 97, 143)	50,* 64,* 65,* 123
Mali	138	5, 33	118, 121, 132, (171 or 89 + P89)	4,* 17, 18, 41,* 52
Malta	–	–	118, 97, 152, 128, 121, 176, 167, 181, 185	21,* 32, 35,* 36,* 42, 45, 62, 96, 108
Mauritania	138	5	183, 121, 166, 132, 167, 146, 181, (171 or P89)	3, 15,* 17, 18, 23, 33, 52, 58, 62, 91,* 96, 112

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
Mauritius	–	–	118, 121, 152, 185	17, 32, 42, 86,* 108
Mexico	166	23	179, 121, 97, 176, 132, 146, 165, 181, 185, 180, 138	9, 17, 21,* 42, 45, 52, 54, 56, 58, 96, 108, 109, 112, 123
Republic of Moldova	183, 185	103, 108	–	–
Mongolia	138	59	183	103, 123
Morocco	138	15	(171 or 89 + P89), 87, 121, 118, 176, 132, 169, 185	4,* 17, 18, 41,* 42, 45, 52, 65,* 101, 104,* 108
Mozambique	–	–	121	17, 18
Myanmar	–	–	97, 118, 121, 132, 138, 160	15,* 17, 18, 21,* 42, 52, 63
Netherlands	152, 181	32, 96	179, 168, 167, 165, 132, 183	9, 17, 21,* 24, 25, 44,* 62, 70, 101, 103
New Zealand	160	63	179, 138, 87, 121, 166, 152, 168, 132, 169, (138 or 180)	9, 10, 15,* 17, 23, 32, 42, 44,* 50,* 52, 58, 59, 64,* 65,* 101, 104*
Nicaragua	–	–	183, (171 or 89 + P89), 179, 121, 118, 97, 166, 130, 152, 176, 160	3, 4,* 9, 17, 18, 21,* 23, 24, 25, 28,* 45, 63
Niger	–	–	121, 169, (171 or 89 + P89)	4,* 18, 41,* 65,* 104*
Nigeria	138, 179	9, 15, 58, 59	118, 152, 176, 169	32, 45, 65,* 104,* 123
Norway	179, 180	9, 109	121, 118, 165, 146, 185	18, 21,* 24, 25, 42, 50,* 56, 91,* 108
Pakistan	138	15	121, 97, 152, 181, 169, (171 or P89), 176	4,* 18, 21,* 32, 45, 59, 96, 107
Panama	138, 160, 181	10, 15, 58, 112, 123, 63, 96	183, 179, 121, 118, 171, 97, 166, 152, 176, 132, (169 and/or 117, 97, 143), 169, (171 or P89), 185	3, 9, 17, 20, 21,* 23, 32, 42, 45, 52, 64,* 65,* 86,* 104,* 107, 108
Papua New Guinea	138	7, 10	118, 121, 176, 183	18, 42, 45, 103
Paraguay	–	–	132, (171 or P89)	52, 59, 101, 123
Peru	138	10	179, 118, 166, 130, 128, 168, 132, 165, 167, 153	9, 23, 24, 25, 35,* 36,* 37,* 38,* 39,* 40,* 44,* 52, 56, 58, 59, 62, 67,* 70, 101, 112
Philippines	138	59	121, 166, (171 or P89), 180	17, 23, 93
Poland	–	123	179, 121, 118, 166, 130, 128, 167, 165, 146, 181, 132, 183, 185	9, 17, 18, 23, 24, 25, 36,* 37,* 38,* 39,* 40,* 42, 45, 62, 70, 91,* 96, 101, 103, 108
Portugal	138, 181	7, 96	118, 121, 166, 183, 169, 185, 180	17, 18, 23, 45, 103, 104,* 107, 108, 109
Romania	–	–	130, 179, 185, (171 or P89)	3, 9, 24, 108
Russian Federation	152	32	132, 166, 176, 183, 185	23, 45, 52, 103, 108
Rwanda	–	–	121, 167, (171 or P89), (169 and/or 117, 97, 143)	4,* 17, 18, 42, 50,* 62, 64,* 123

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
Saint Lucia	–	–	(138 or 180), 138, 121, 118, 169, 132, 185	5, 7, 15,* 17, 50,* 64,* 65,* 101, 108
Saint Vincent and the Grenadines	138	5, 7, 10	118, 132, 185	101, 108
San Marino	–	–	183	103
Sao Tome and Principe	–	–	118, 121	17, 18
Saudi Arabia	–	–	138, (171 or P89), 176	45, 123
Senegal	138	5, 33	118, 132, 181, (171 or P89)	4,* 10, 52, 96, 101
Serbia	–	–	183, 179, 118, 166, 130, 152, 176, 157, 165, (171 or P89), 146, 180, 183	3, 9, 17, 18, 23, 24, 25, 32, 45, 48,* 56, 91,* 103, 109
Seychelles	138	5, 7, 10, 15, 58	(169 and/or 97, 117, 143), 169, 185	50,* 64,* 65,* 108
Sierra Leone	–	–	138, (138 or 180), 121, 118, 152, 176, 169, 132, (169 and/or 117, 97, 143)	5, 7, 15,* 17, 32, 45, 50,* 58, 59, 64,* 65,* 86,* 101
Singapore	138	5, 7, 15	87, 118, 152, 176, 169, (169 and/or 117, 97, 143)	32, 45, 50,* 64,* 65,* 86*
Slovakia	138, 171	5, 10, 89	121, 118, 97, 181, 132	17, 18, 21,* 34,* 37,* 38,* 39,* 40,* 42, 45, 52, 123
Slovenia	180	109	183, 179, 118, 166, 130, 152, 176, 157, 165, (171 or P98), 185	3, 9, 17, 18, 23, 24, 25, 32, 45, 48,* 56, 103, 108
Solomon Islands	–	–	87, 118, 121, 176, 185	42, 45, 108
Somalia	–	–	118, 121, 166, 169, 176	17, 23, 45, 65*
South Africa	–	–	118, 121, 160, (171 or P89)	42, 63
Spain	180, 181	96, 109	118, 121, 130, 167, 168, 171, 179, 183, 185, (171 or 89 + P89)	3, 4,* 9, 17, 18, 20, 23, 24, 25, 42, 44,* 45, 62, 101, 103, 108, 123
Sri Lanka	138	5, 7, 10, 15	121, 176, 181, 183, 185	18, 45, 58, 96, 103, 108
Sudan	–	–	118	
Suriname	181	96	121, 132, 138, 167, (171 or 89 + P89)	17, 41,* 42, 62, 101, 112
Swaziland	138	5, 59	118, 176, 169, (171 or P89), 181, 132, (169 and/or 117, 97, 143)	45, 50,* 64,* 65,* 86,* 96, 101, 104,* 123
Sweden	–	–	97, 179, 185	9, 21,* 108
Switzerland	138	5, 15, 58, 123	118, 121, 166, 167, 176	18, 23, 45, 62
Syrian Arab Republic	–	–	121, 176, 132, 160, 181, 169, (171 or P89)	17, 18, 45, 52, 63, 96, 101, 104,* 107, 123
Tajikistan	–	–	132, 152, 166, 176, 183, 185	23, 32, 45, 52, 103, 108
United Republic of Tanzania	138	15	121, 118, 160, 169, (169 and/or 117, 97, 143)	17, 50,* 59, 63, 64,* 65,* 86*
Thailand	138	123	118, 169	104*

	Revised Conventions that have been ratified	Former Conventions that have been denounced	Revised Conventions proposed for ratification	Former Conventions proposed for denunciation
The former Yugoslav Republic of Macedonia	–	–	118, 130, 146, 152, 157, 165, 166, (171 or P89), 176, 179, 180, 183	3, 9, 17, 18, 23, 24, 25, 32, 45, 48,* 56, 91,* 103, 109
Togo	–	–	(171 or 89 + P89)	4,* 41*
Trinidad and Tobago	138	15	118, 169	50,* 65*
Tunisia	–	123	121, 132, 146, 166, 167, 169, 176, 185	17, 18, 23, 45, 52, 62, 65,* 91,* 104,* 107, 108
Turkey	138	5, 58, 59	121, 176, 181, 185	42, 45, 96, 108, 123
Uganda	138	5	87, 121, 118, 176, 169	17, 45, 65,* 86,* 123
Ukraine	132	52	152, 166, 176, 183, 185	23, 32, 45, 103, 108
United Arab Emirates	–	–	(171 or P89)	–
United Kingdom	138	5, 7, 10, 15	121, 118, 166, 130, 152, 128, 168, 165, 169, 185	17, 23, 24, 25, 32, 35,* 36,* 37,* 38,* 39,* 40,* 42, 44,* 50,* 56, 64,* 65,* 70, 86,* 108
United States	–	–	146, 180, (138 or 180)	54, 57, 58
Uruguay	167, 181	62, 96	146, 152, 160, 166, 179, 180, 183, 185	9, 21,* 23, 32, 54, 63, 93, 103, 108
Uzbekistan	–	–	132, 183	52, 103
Bolivarian Republic of Venezuela	–	–	(171 or 89 + P89), 176, 183	3, 21,* 41,* 45
Viet Nam	138	5	176	45, 123
Yemen	138	15	118, 169, (169 and/or 117, 97, 143)	58, 59, 64,* 65,* 86,* 104*
Zambia	176	45, 123	118, 121, 169, 183	17, 18, 50,* 64,* 65,* 86,* 103
Zimbabwe	–	–	118, 176	45

* Shelved Conventions.

Note: The denunciations include voluntary denunciations and automatic denunciations.

– The invitation to ratify certain Conventions is not accompanied by an invitation to denounce the corresponding earlier Convention.

– In certain cases the ratification of the new Convention only entails the ipso jure denunciation of the former Convention – or is only accompanied by an invitation to denounce the former Convention – when certain conditions are fulfilled.

Appendix II

Appl. 19
C. 155, R. 164, P. 155

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organisation)*

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (No. 155)

OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION, 1981 (No. 164)

**PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND
HEALTH CONVENTION, 1981**

Geneva

2007

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organisation relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;
- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present form of report. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 1 April 2008, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to the matters dealt with in the following instruments:¹

OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (No. 155)**OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION, 1981 (No. 164)****PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981**

The General Survey on the above instruments will seek to provide an overview of existing occupational safety and health law and practice in ILO member States, and to show the extent to which effect has been given, or is proposed to be given, to the provisions of the instruments. The survey will also examine specific articles or other factors that may represent an obstacle for or that may delay ratification of the Convention and the Protocol, as well as possible measures to overcome or remove these obstacles.

The report form is presented as a single text. For ease of reference, the particular provisions of the individual instruments relevant to each question are noted in square brackets. The report form is available on the ILO's web site and member States are encouraged to send their report in electronic form, including any attachments.² Although attachments are welcome, it would be greatly appreciated if member States would summarize their replies to questions, to the extent possible, or clearly identify the relevant portion of any attachment supplied.

Several aspects of occupational safety and health go beyond the immediate competence of the ministry responsible for labour, and the preparation of a full report on the abovementioned instruments may require consultation with the other ministries or government or private agencies concerned, as appropriate.

GENERAL

- I. Please provide information on the extent of coverage of national laws and regulations on occupational safety and health (OSH). If coverage is limited in any respect, please indicate to what extent and, in particular, which branches of economic activity or categories of workers are excluded and provide details regarding:**
- (a) the exclusions and the reasons therefore;**
 - (b) what steps, if any, are envisaged or being taken with a view to extend the scope of national laws and regulations on OSH to those branches of economic activity or categories of workers who have been excluded [Convention No. 155, Articles 1 and 2, Recommendation No. 164, Paragraph 1(2)].**

¹ The texts of the instruments are appended.

² The electronic responses should be sent to normes@ilo.org.

- II. Please indicate whether and in what way *representative organizations of employers and workers* are consulted or else take part in the decisions, implementation and review of matters related to OSH at the national level. Please provide details regarding their participation, as appropriate, in relation to matters provided for in:
- (a) the Convention [Convention No. 155, Articles 1(2), 2(2), 4(1), 8 and 15(1)];
 - (b) the Recommendation [Recommendation No. 164, Paragraph 6];
 - (c) the Protocol [Protocol to Convention No. 155, Article 2].
- III. As regards the *institutional arrangements*, please provide information on:
- (a) how responsibilities and functions in respect of OSH are distributed between public authorities, employers, workers and others [Convention No. 155, Article 6];
 - (b) how coordination and cooperation between these authorities and bodies are organized [Convention No. 155, Article 15.1, Recommendation No. 164, Paragraph 7];
 - (c) whether a central body has been established for the purpose of institutional coordination and cooperation [Convention No. 155, Article 15(2)].

ACTION AT THE NATIONAL LEVEL

- IV. Please provide information on whether a *national OSH policy* has been formulated. If so, please provide details on:
- (a) the *actual* scope and content of the national OSH policy [Convention No. 155, Articles 4, 5(a)–(d); and Recommendation No. 164, Paragraph 3];
 - (b) the extent to which the functions listed in the Convention [Convention No. 155, Article 11] and in the Recommendation [Recommendation No. 164, Paragraph 4] to give effect to the policy are progressively being carried out;
 - (c) the arrangements for periodic review of the national OSH policy [Convention No. 155, Articles 4 and 7], including information on whether and how account is taken in this context to experience and advances in science and technology [Recommendation No. 164, Paragraph 4(b)];
 - (d) to what extent other instruments on OSH are referred to in the development and application of the policy [Recommendation No. 164, Paragraph 19(1) and annex].
- V. Please provide information on the *enforcement* mechanisms of laws and regulations through inspection or other appropriate means and the type and level of *penalties* imposed for violations of OSH laws and regulations [Convention No. 155, Article 9].
- VI. Please provide information on requirements for *recording and notification* of occupational accidents and diseases [Convention No. 155, Article 11(c), and Protocol to Convention No. 155, Articles 1–4].

- VII. Please provide information on the publication of *statistics* on occupational accidents and diseases [Convention No. 155, Article 11(e)]. Please indicate, in particular, whether published statistics:
- (a) are representative of the country as a whole [Protocol to Convention No. 155, Article 6] and, if not, what sectors of the country are covered;
 - (b) include information not only on “occupational accidents” and “occupational diseases”, but also on “dangerous occurrences” and “commuting accidents”, as defined in the Protocol [Protocol to Convention No. 155, Article 6];
 - (c) use classification schemes compatible with the latest international schemes [see <http://unstats.un.org/unsd/cr/family1.asp>] such as those established under the auspices of the International Labour Organization [see <http://www.ilo.org/public/english/bureau/stat/class/index.htm>] [Protocol to Convention No. 155, Article 7].
- VIII. Please provide information on responsibilities placed, in law and in practice, on those who *design, manufacture, import, provide or transfer machinery, equipment or substances* for occupational use [Convention No. 155, Article 12], and on any intended extension of such responsibilities.
- IX. Please provide information on whether there exists in law and in practice *protection for workers from undue consequences* who remove themselves from a work situation, which they have reasonable justification to believe present an imminent and serious danger to their life or health [Convention No. 155, Article 13], or who make, in good faith, complaints about serious shortcomings regarding OSH [Recommendation No. 164, Paragraph 17].
- X. Please provide information on measures being taken or in place to *provide guidance and disseminate information* on applicable national legislation concerning OSH to employers, workers and their organizations as well as to all levels of education and training [Convention No. 155, Articles 10 and 14].

ACTION AT THE LEVEL OF UNDERTAKING

- XI. Please provide information on whether national laws and regulations or other measures provide for *employers’ duties and responsibilities* in the field of OSH. If so, please indicate their nature and extent by reference to the relevant provisions of the instruments [Convention No. 155, Articles 16 and 18, Recommendation No. 164, Paragraphs 10 and 14–15, and Protocol to Convention No. 155, Articles 3(a) and (d) and 4(a)].
- XII. Please provide information on the arrangements in place or being considered to ensure *collaboration and cooperation* in the field of OSH between:
- (a) management and workers and/or their representatives within the undertaking [Convention No. 155, Article 20, and Recommendation No. 164, Paragraph 12(1)];
 - (b) two or more undertakings engaged in activities simultaneously at one workplace [Convention No. 155, Article 17, and Recommendation No. 164, Paragraph 11].

- XIII. Please provide information on law and practice regarding the *responsibilities and participation* at the level of the undertaking in OSH matters of *workers, their representatives and their representative organizations* [Convention No. 155, Article 19, and Recommendation No. 164, Paragraphs 12(2) and 16].
- XIV. Please provide information on the *availability of OSH services and advice* [Recommendation No. 164, Paragraph 13].
- XV. Please indicate whether and, if so, how is it ensured that OSH measures do not involve any *expenditure for workers* [Convention No. 155, Article 21].

EFFECT GIVEN AND ENVISAGED AND RATIFICATION PROSPECTS

- XVI. With respect to the instruments you have not ratified, please provide information on:
- (a) whether any modifications have been made or are envisaged in national law and practice with a view to *giving effect* to certain provisions of either one of the three instruments;
 - (b) whether you have initiated or intend to initiate *ratification* procedures with respect to the Convention and/or the Protocol. With respect to each of the two instruments, please specify:
 - (i) whether any specific articles present an obstacle to ratification, if so, please specify;
 - (ii) whether there are other types of obstacles that prevent or delay ratification;
 - (iii) measures proposed to be taken to overcome or remove these obstacles;
 - (iv) whether they have been discussed in any national tripartite forums with the most representative organizations of employers and workers.

CONSULTATIONS PURSUANT TO ARTICLE 23 OF THE CONSTITUTION

- XVII. Please indicate the *representative organizations of employers and workers* to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organisation.³
- XVIII. Please state whether you have received from the organizations of employers or workers concerned any *observations* concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

³ Article 23, paragraph 2, of the Constitutions reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

DOCUMENTATION

XIX. Please provide

- (a) a list of relevant laws, regulations and other documents on the matters dealt with in the Convention, Recommendation and Protocol, including codes of practice and other guides developed to facilitate the practical application of laws and regulations;**
- (b) a copy of the *national OSH policy* if it is available in the form of a separate document or report, or as part of a document;**
- (c) detailed information on how the enforcement system functions in practice including extracts from *inspection reports*, and, where such statistics exist, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, the number, nature and cause of the accidents reports, etc., court cases and national OSH statistics.**

If the requested information has not already been supplied to the International Labour Office, please attach copies of them. Alternatively, please include references to publicly available web sites from where such laws and regulations may be downloaded electronically.

FEDERAL STATES

- (a) Please indicate whether the provisions of the instruments are regarded by the federal Government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.**
- (b) Where federal action is appropriate, please give the information specified in each of the points of this form.**
- (c) Where action by the constituent states, provinces or cantons is regarded as appropriate, please supply general information corresponding to each of the points of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the instruments, giving a general indication of any results achieved through such action.**

Convention No. 155**OCCUPATIONAL SAFETY AND HEALTH CONVENTION**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Occupational Safety and Health Convention, 1981:

PART I. SCOPE AND DEFINITIONS*Article 1*

1. This Convention applies to all branches of economic activity.

2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.

3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.

2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organisations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.

3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, any limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

Article 3

For the purpose of this Convention –

- (a) the term “branches of economic activity” covers all branches in which workers are employed, including the public service;
- (b) the term “workers” covers all employed persons, including public employees;
- (c) the term “workplace” covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) the term “regulations” covers all provisions given force of law by the competent authority or authorities;
- (e) the term “health”, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

PART II. PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

Article 5

The policy referred to in Article 4 of this Convention shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:

- (a) design, testing, choice, substitution, installation, arrangement, use and maintenance of the material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);
- (b) relationships between the material elements of work and the persons who carry out or supervise the work, and adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers;
- (c) training, including necessary further training, qualifications and motivations of persons involved, in one capacity or another, in the achievement of adequate levels of safety and health;
- (d) communication and co-operation at the levels of the working group and the undertaking and at all other appropriate levels up to and including the national level;

- (e) the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the policy referred to in Article 4 of this Convention.

Article 6

The formulation of the policy referred to in Article 4 of this Convention shall indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others, taking account both of the complementary character of such responsibilities and of national conditions and practice.

Article 7

The situation regarding occupational safety and health and the working environment shall be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results.

PART III. ACTION AT THE NATIONAL LEVEL

Article 8

Each Member shall, by laws or regulations or any other method consistent with national conditions and practice and in consultation with the representative organisations of employers and workers concerned, take such steps as may be necessary to give effect to Article 4 of this Convention.

Article 9

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.

2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations.

Article 10

Measures shall be taken to provide guidance to employers and workers so as to help them to comply with legal obligations.

Article 11

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

- (a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the

safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;

- (b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorisation or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;
- (f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

Article 12

Measures shall be taken, in accordance with national law and practice, with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use –

- (a) satisfy themselves that, so far as is reasonably practicable, the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
- (b) make available information concerning the correct installation and use of machinery and equipment and the correct use of substances, and information on hazards of machinery and equipment and dangerous properties of chemical substances and physical and biological agents or products, as well as instructions on how known hazards are to be avoided;
- (c) undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b) of this Article.

Article 13

A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice.

Article 14

Measures shall be taken with a view to promoting in a manner appropriate to national conditions and practice, the inclusion of questions of occupational safety and health and the working environment at all levels of education and training, including higher technical, medical and professional education, in a manner meeting the training needs of all workers.

Article 15

1. With a view to ensuring the coherence of the policy referred to in Article 4 of this Convention and of measures for its application, each Member shall, after consultation at the earliest possible stage with the most representative organisations of employers and workers, and with other bodies as appropriate, make arrangements appropriate to national conditions and practice to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to Parts II and III of this Convention.

2. Whenever circumstances so require and national conditions and practice permit, these arrangements shall include the establishment of a central body.

PART IV. ACTION AT THE LEVEL OF THE UNDERTAKING

Article 16

1. Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.

2. Employers shall be required to ensure that, so far as is reasonably practicable, the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken.

3. Employers shall be required to provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.

Article 17

Whenever two or more undertakings engage in activities simultaneously at one workplace, they shall collaborate in applying the requirements of this Convention.

Article 18

Employers shall be required to provide, where necessary, for measures to deal with emergencies and accidents, including adequate first-aid arrangements.

Article 19

There shall be arrangements at the level of the undertaking under which –

- (a) workers, in the course of performing their work, co-operate in the fulfilment by their employer of the obligations placed upon him;

- (b) representatives of workers in the undertaking co-operate with the employer in the field of occupational safety and health;
- (c) representatives of workers in an undertaking are given adequate information on measures taken by the employer to secure occupational safety and health and may consult their representative organisations about such information provided they do not disclose commercial secrets;
- (d) workers and their representatives in the undertaking are given appropriate training in occupational safety and health;
- (e) workers or their representatives and, as the case may be, their representative organisations in an undertaking, in accordance with national law and practice, are enabled to enquire into, and are consulted by the employer on, all aspects of occupational safety and health associated with their work; for this purpose technical advisers may, by mutual agreement, be brought in from outside the undertaking;
- (f) a worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

Article 20

Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organisational and other measures taken in pursuance of Articles 16 to 19 of this Convention.

Article 21

Occupational safety and health measures shall not involve any expenditure for the workers.

PART V. FINAL PROVISIONS

Article 22

This Convention does not revise any international labour Conventions or Recommendations.

Article 23

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 24

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 25

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 26

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 27

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 28

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 29

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 25 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 30

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 164

OCCUPATIONAL SAFETY AND HEALTH RECOMMENDATION

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to safety and health and the working environment, which is the sixth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Occupational Safety and Health Convention, 1981,

adopts this twenty-second day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Occupational Safety and Health Recommendation, 1981:

I. SCOPE AND DEFINITIONS

1.

- (1) To the greatest extent possible, the provisions of the Occupational Safety and Health Convention, 1981, hereinafter referred to as the Convention, and of this Recommendation should be applied to all branches of economic activity and to all categories of workers.
- (2) Provision should be made for such measures as may be necessary and practicable to give self-employed persons protection analogous to that provided for in the Convention and in this Recommendation.

2. For the purpose of this Recommendation –

- (a) the term “branches of economic activity” covers all branches in which workers are employed, including the public service;
- (b) the term “workers” covers all employed persons, including public employees;
- (c) the term “workplace” covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) the term “regulations” covers all provisions given force of law by the competent authority or authorities;
- (e) the term “health”, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work.

II. TECHNICAL FIELDS OF ACTION

3. As appropriate for different branches of economic activity and different types of work and taking into account the principle of giving priority to eliminating hazards at their source, measures should be taken in pursuance of the policy referred to in Article 4 of the Convention, in particular in the following fields:

- (a) design, siting, structural features, installation, maintenance, repair and alteration of workplaces and means of access thereto and egress therefrom;
- (b) lighting, ventilation, order and cleanliness of workplaces;
- (c) temperature, humidity and movement of air in the workplace;
- (d) design, construction, use, maintenance, testing and inspection of machinery and equipment liable to present hazards and, as appropriate, their approval and transfer;
- (e) prevention of harmful physical or mental stress due to conditions of work;
- (f) handling, stacking and storage of loads and materials, manually or mechanically;
- (g) use of electricity;
- (h) manufacture, packing, labelling, transport, storage and use of dangerous substances and agents, disposal of their wastes and residues, and, as appropriate, their replacement by other substances or agents which are not dangerous or which are less dangerous;
- (i) radiation protection;
- (j) prevention and control of, and protection against, occupational hazards due to noise and vibration;
- (k) control of the atmosphere and other ambient factors of workplaces;
- (l) prevention and control of hazards due to high and low barometric pressures;
- (m) prevention of fires and explosions and measures to be taken in case of fire or explosion;
- (n) design, manufacture, supply, use, maintenance and testing of personal protective equipment and protective clothing;
- (o) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water, and any other welfare facilities connected with occupational safety and health;
- (p) first-aid treatment;
- (q) establishment of emergency plans;
- (r) supervision of the health of workers.

III. ACTION AT THE NATIONAL LEVEL

4. With a view to giving effect to the policy referred to in Article 4 of the Convention, and taking account of the technical fields of action listed in Paragraph 3 of this Recommendation, the competent authority or authorities in each country should –

- (a) issue or approve regulations, codes of practice or other suitable provisions on occupational safety and health and the working environment, account being taken of the links existing between safety and health, on the one hand, and hours of work and rest breaks, on the other;

- (b) from time to time review legislative enactments concerning occupational safety and health and the working environment, and provisions issued or approved in pursuance of clause (a) of this Paragraph, in the light of experience and advances in science and technology;
- (c) undertake or promote studies and research to identify hazards and find means of overcoming them;
- (d) provide information and advice, in an appropriate manner, to employers and workers and promote or facilitate co-operation between them and their organisations, with a view to eliminating hazards or reducing them as far as practicable; where appropriate, a special training programme for migrant workers in their mother tongue should be provided;
- (e) provide specific measures to prevent catastrophes, and to co-ordinate and make coherent the actions to be taken at different levels, particularly in industrial zones where undertakings with high potential risks for workers and the surrounding population are situated;
- (f) secure good liaison with the International Labour Occupational Safety and Health Hazard Alert System set up within the framework of the International Labour Organisation;
- (g) provide appropriate measures for handicapped workers.

5. The system of inspection provided for in paragraph 1 of Article 9 of the Convention should be guided by the provisions of the Labour Inspection Convention, 1947, and the Labour Inspection (Agriculture) Convention, 1969, without prejudice to the obligations thereunder of Members which have ratified these instruments.

6. As appropriate, the competent authority or authorities should, in consultation with the representative organisations of employers and workers concerned, promote measures in the field of conditions of work consistent with the policy referred to in Article 4 of the Convention.

7. The main purposes of the arrangements referred to in Article 15 of the Convention should be to –

- (a) implement the requirements of Articles 4 and 7 of the Convention;
- (b) co-ordinate the exercise of the functions assigned to the competent authority or authorities in pursuance of Article 11 of the Convention and Paragraph 4 of this Recommendation;
- (c) co-ordinate activities in the field of occupational safety and health and the working environment which are exercised nationally, regionally or locally, by public authorities, by employers and their organisations, by workers' organisations and representatives, and by other persons or bodies concerned;
- (d) promote exchanges of views, information and experience at the national level, at the level of an industry or that of a branch of economic activity.

8. There should be close co-operation between public authorities and representative employers' and workers' organisations, as well as other bodies concerned in measures for the formulation and application of the policy referred to in Article 4 of the Convention.

9. The review referred to in Article 7 of the Convention should cover in particular the situation of the most vulnerable workers, for example, the handicapped.

IV. ACTION AT THE LEVEL OF THE UNDERTAKING

10. The obligations placed upon employers with a view to achieving the objective set forth in Article 16 of the Convention might include, as appropriate for different branches of economic activity and different types of work, the following:

- (a) to provide and maintain workplaces, machinery and equipment, and use work methods, which are as safe and without risk to health as is reasonably practicable;
- (b) to give necessary instructions and training, taking account of the functions and capacities of different categories of workers;
- (c) to provide adequate supervision of work, of work practices and of application and use of occupational safety and health measures;
- (d) to institute organisational arrangements regarding occupational safety and health and the working environment adapted to the size of the undertaking and the nature of its activities;
- (e) to provide, without any cost to the worker, adequate personal protective clothing and equipment which are reasonably necessary when hazards cannot be otherwise prevented or controlled;
- (f) to ensure that work organisation, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health;
- (g) to take all reasonably practicable measures with a view to eliminating excessive physical and mental fatigue;
- (h) to undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary to comply with the foregoing clauses.

11. Whenever two or more undertakings engage in activities simultaneously at one workplace, they should collaborate in applying the provisions regarding occupational safety and health and the working environment, without prejudice to the responsibility of each undertaking for the health and safety of its employees. In appropriate cases, the competent authority or authorities should prescribe general procedures for this collaboration.

12.

- (1) The measures taken to facilitate the co-operation referred to in Article 20 of the Convention should include, where appropriate and necessary, the appointment, in accordance with national practice, of workers' safety delegates, of workers' safety and health committees, and/or of joint safety and health committees; in joint safety and health committees workers should have at least equal representation with employers' representatives.

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- (2) Workers' safety delegates, workers' safety and health committees, and joint safety and health committees or, as appropriate, other workers' representatives should –
- (a) be given adequate information on safety and health matters, enabled to examine factors affecting safety and health, and encouraged to propose measures on the subject;
 - (b) be consulted when major new safety and health measures are envisaged and before they are carried out, and seek to obtain the support of the workers for such measures;
 - (c) be consulted in planning alterations of work processes, work content or organisation of work, which may have safety or health implications for the workers;
 - (d) be given protection from dismissal and other measures prejudicial to them while exercising their functions in the field of occupational safety and health as workers' representatives or as members of safety and health committees;
 - (e) be able to contribute to the decision-making process at the level of the undertaking regarding matters of safety and health;
 - (f) have access to all parts of the workplace and be able to communicate with the workers on safety and health matters during working hours at the workplace;
 - (g) be free to contact labour inspectors;
 - (h) be able to contribute to negotiations in the undertaking on occupational safety and health matters;
 - (i) have reasonable time during paid working hours to exercise their safety and health functions and to receive training related to these functions;
 - (j) have recourse to specialists to advise on particular safety and health problems.

13. As necessary in regard to the activities of the undertaking and practicable in regard to size, provision should be made for –

- (a) the availability of an occupational health service and a safety service, within the undertaking, jointly with other undertakings, or under arrangements with an outside body;
- (b) recourse to specialists to advise on particular occupational safety or health problems or supervise the application of measures to meet them.

14. Employers should, where the nature of the operations in their undertakings warrants it, be required to set out in writing their policy and arrangements in the field of occupational safety and health, and the various responsibilities exercised under these arrangements, and to bring this information to the notice of every worker, in a language or medium the worker readily understands.

15.

- (1) Employers should be required to verify the implementation of applicable standards on occupational safety and health regularly, for instance by environmental monitoring, and to undertake systematic safety audits from time to time.

- (2) Employers should be required to keep such records relevant to occupational safety and health and the working environment as are considered necessary by the competent authority or authorities; these might include records of all notifiable occupational accidents and injuries to health which arise in the course of or in connection with work, records of authorisation and exemptions under laws or regulations to supervision of the health of workers in the undertaking, and data concerning exposure to specified substances and agents.

16. The arrangements provided for in Article 19 of the Convention should aim at ensuring that workers –

- (a) take reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at work;
- (b) comply with instructions given for their own safety and health and those of others and with safety and health procedures;
- (c) use safety devices and protective equipment correctly and do not render them inoperative;
- (d) report forthwith to their immediate supervisor any situation which they have reason to believe could present a hazard and which they cannot themselves correct;
- (e) report any accident or injury to health which arises in the course of or in connection with work.

17. No measures prejudicial to a worker should be taken by reference to the fact that, in good faith, he complained of what he considered to be a breach of statutory requirements or a serious inadequacy in the measures taken by the employer in respect of occupational safety and health and the working environment.

V. RELATIONS TO EXISTING INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS

18. This Recommendation does not revise any international labour Recommendation.

19.

- (1) In the development and application of the policy referred to in Article 4 of the Convention and without prejudice to their obligations under Conventions they have ratified, Members should refer to the international labour Conventions and Recommendations listed in the Appendix.
- (2) The Appendix may be modified by the International Labour Conference, by a two-thirds majority, in connection with the future adoption or revision of any Convention or Recommendation in the field of safety and health and the working environment.

Annex

List of instruments concerning occupational safety and health and the working environment adopted by the International Labour Conference since 1919

Year	Convention	Recommendation
1921	13 White Lead (Painting)	
1929	27 Marking of Weight (Packages Transported by Vessels)	
1937	62 Safety Provisions (Building)	53 Safety Provisions (Building)
1946	73 Medical Examinations (Seafarers)	79 Medical Examination of Young Persons
	77 Medical Examination of Young Persons (Industry)	
	78 Medical Examination of Young Persons (Non-industrial Occupations)	
1947	81 Labour Inspection	81 Labour Inspection 82 Labour Inspection (Mining and Transport)
1949	92 Accommodation of Crews (Revised)	
1953		97 Protection of Workers' Health
1958		105 Ships' Medicine Chests 106 Medical Advice at Sea
1959	113 Medical Examination (Fishermen)	112 Occupational Health Services
1960	115 Radiation Protection	114 Radiation Protection
1963	119 Guarding of Machinery	118 Guarding of Machinery
1964	120 Hygiene (Commerce and Offices)	120 Hygiene (Commerce and Offices)
	121 Employment Injury Benefits	121 Employment Injury Benefits
1965	124 Medical Examination of Young Persons (Underground Work)	
1967	127 Maximum Weight	128 Maximum Weight
1969	129 Labour Inspection (Agriculture)	133 Labour Inspection (Agriculture)
1970	133 Accommodation of Crews (Supplementary Provisions)	140 Crew Accommodation (Air Conditioning)
	134 Prevention of Accidents (Seafarers)	141 Crew Accommodation (Noise Control) 142 Prevention of Accidents (Seafarers)
1971	136 Benzene	144 Benzene
1974	139 Occupational Cancer	147 Occupational Cancer
1977	148 Working Environment (Air Pollution, Noise and Vibration)	156 Working Environment (Air Pollution, Noise and Vibration)
1979	152 Occupational Safety and Health (Dock Work)	160 Occupational Safety and Health (Dock Work)

Protocol to Convention No. 155

PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and

Noting the provisions of Article 11 of the Occupational Safety and Health Convention, 1981, (hereinafter referred to as “the Convention”), which states in particular that:

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

...

- (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;

...

- (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work,

and

Having regard to the need to strengthen recording and notification procedures for occupational accidents and diseases and to promote the harmonization of recording and notification systems with the aim of identifying their causes and establishing preventive measures, and

Having decided upon the adoption of certain proposals with regard to the recording and notification of occupational accidents and diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a protocol to the Occupational Safety and Health Convention, 1981;

adopts this twentieth day of June two thousand and two the following Protocol, which may be cited as the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

DEFINITIONS

Article 1

For the purpose of this Protocol:

- (a) the term “occupational accident” covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;
- (b) the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activity;
- (c) the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;
- (d) the term “commuting accident” covers an accident resulting in death or personal injury occurring on the direct way between the place of work and:
 - (i) the worker’s principal or secondary residence; or
 - (ii) the place where the worker usually takes a meal; or
 - (iii) the place where the worker usually receives his or her remuneration.

II. SYSTEMS FOR RECORDING AND NOTIFICATION

Article 2

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

- (a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
- (b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

Article 3

The requirements and procedures for recording shall determine:

- (a) the responsibility of employers:
 - (i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;
 - (ii) to provide appropriate information to workers and their representatives concerning the recording system;

- (iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and
 - (iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;
- (b) the information to be recorded;
 - (c) the duration for maintaining these records; and
 - (d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

Article 4

The requirements and procedures for the notification shall determine:

- (a) the responsibility of employers:
 - (i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
 - (ii) to provide appropriate information to workers and their representatives concerning the notified cases;
- (b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;
- (c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and
- (d) the time limits for notification.

Article 5

The notification shall include data on:

- (a) the enterprise, establishment and employer;
- (b) if applicable, the injured persons and the nature of the injuries or disease; and
- (c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

III. NATIONAL STATISTICS

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

IV. FINAL PROVISIONS

Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.

2. The Protocol shall come into force 12 months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member 12 months after the date on which its ratification has been registered by the Director-General and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 25, by an act communicated to the Director-General of the International Labour Office for registration.

2. Denunciation of the Convention in accordance with its Article 25 by a Member which has ratified this Protocol shall ipso jure involve the denunciation of this Protocol.

3. Any denunciation of this Protocol in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.