



TWELFTH ITEM ON THE AGENDA

**Reports of the Committee on Legal
Issues and International Labour
Standards**

First report: Legal issues

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1. The Committee on Legal Issues and International Labour Standards (LILS) met on 23 March 2001 and elected the following officers:

Chairperson: Mr. V. Rodríguez Cedeño (Government, Venezuela).

Employer Vice-Chairperson: Mr. D. Funes de Rioja.

Worker Vice-Chairperson: Mr. J.-C. Parrot.

I. Revision of the Rules for Regional Meetings

2. The Committee had before it a paper prepared by the Office¹ following consultations with the Officers of the Governing Body and containing a number of proposed amendments to the Rules for Regional Meetings adopted provisionally by the Governing Body in 1996 pursuant to a decision to replace regional conferences with shorter Regional Meetings with a single agenda item. The proposed amendments, which were based on the experience of a cycle of four Regional Meetings under the interim Rules, are intended to consolidate all the relevant provisions in a single text, to make certain adjustments to the functioning of Regional Meetings and to clarify certain aspects of their composition, all with a view to seeking confirmation by the Conference of new permanent Rules for Regional Meetings.
3. The Employer members considered that the first cycle of Regional Meetings introduced in 1996 had led to valuable and diverse experience on the new formula of shorter Regional Meetings with a single agenda item, conducted in a more flexible manner based on the subjects under discussion and the needs of each region. That experience seemed an adequate basis for a review of the interim Rules. Nevertheless, further consultations were essential before any definitive solutions could be submitted to the Conference for approval. If a single set of permanent rules was to govern the functioning of meetings in all four regions, taking into account the specific needs and preferences of each one, it might be possible for those Rules to take the form of guidelines, along the lines of the Introductory Note suggested in Appendix II of the Office paper, rather than a set of regulations like the old Rules for Regional Conferences. In order to ensure that there was sufficient time for such discussions, the Employer members had proposed that the matter be deferred until the autumn 2001 session of the Governing Body, it being understood that any Regional Meeting that had to take place in the meantime, in particular the next Asian Regional Meeting, would continue to be governed by the interim Rules currently in force.
4. The Worker members, in view of certain difficulties in carrying out meaningful consultations with their various regional groups on the proposals contained in the Office paper, indicated their agreement with the suggestion made by the Employer members to defer examination of the question until November 2001. Irrespective of any observations which they might make to the Office before that date, they had already identified certain difficulties with regard to articles 5 and 9 of the proposed Rules, as well as the provisions concerning resolutions in the proposed Introductory Note reproduced in Appendix II of the Office paper.
5. The representative of the Government of India affirmed the importance for his country of the ILO's regional activities, including the Regional Meetings, as means for bringing home

¹ GB.280/LILS/1.

and putting in perspective the social and economic problems of each geopolitical grouping. The Regional Meetings were particularly relevant in the context of the decent work programme, given that they provided the only forum for discussion and consultation that made it possible to identify concrete solutions to meet the particular needs of each region. He therefore favoured the new system of Regional Meetings of shorter duration, with a single agenda item, as a platform for more targeted discussions on the problems of each region.

6. The representative of the Government of Mexico had supported the proposal to defer examination of the question until November and indicated that she would present her observations on the proposed amendments to the Office.
7. The representative of the Government of the Russian Federation, while supporting the proposal for deferred examination of the question, wished to emphasize, for the purposes of revision of the document for November, his opposition to changes in the criteria concerning the composition of the different Regional Meetings. For the Russian Federation, with a vast proportion of its territory in Asia, the right to participate in European and Asian Regional Meetings was of particular importance.
8. Noting the Committee's agreement that the question should be deferred until November and that the current interim Rules be kept in force for any Meetings scheduled to take place in the meantime, the Chairperson encouraged the members of the Committee to send any observations which they might have on the matter to the Office to allow the Office to take them into account in drafting a revised paper for the next session of the Committee.
9. *In the light of the foregoing considerations, the Committee recommends the Governing Body to invite the Office to prepare a new paper for the November 2001 session which takes into account the observations communicated by the members of the Committee.*

II. The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up: Review of the report forms for the annual review under the follow-up

10. In his introductory statement to the examination of the Office paper² and its corrigendum, the Chairperson recalled that the Governing Body had, at its 277th Session, approved a recommendation that the report forms for the annual review under the follow-up to the ILO Declaration on Fundamental Principles and rights at Work be revised. Based on experience under the first two annual reviews, the ILO Declaration Expert-Advisers – who were appointed by the Governing Body – had suggested the revision to take into account a gender dimension, the inclusion of socio-economic data and to add questions dealing with the worst forms of child labour, among other aspects. The document now before the Governing Body reflected a draft by the Office to which the Expert-Advisers had recommended a number of changes that had been incorporated after their meeting (held 29 January-2 February 2001).
11. The Chairperson of the Committee explained that the principal idea behind the proposed revisions was to facilitate the task of governments to identify their needs in relation to

² GB.280/LILS/2.

technical cooperation with regard to the promotion of fundamental principles and rights at work, while at the same time generating information appropriate to the promotional spirit of the Declaration. If approved, the forms would be used for the next round of reporting, i.e. for reports due 1 September 2001. Recalling that information from the annual review was one of the sources for the preparation of global reports under the follow-up to the Declaration, and the need to take into account the principles and rights deriving from the Worst Forms of Child Labour Convention, 1999 (No. 182), the Chairperson proposed that the proposed revised forms be considered by the Committee in the following order: first, effective abolition of child labour (Appendix III to GB.280/LILS/2), then elimination of discrimination in employment and occupation (Appendix IV), freedom of association and effective recognition of the right to collective bargaining (Appendix I), and the elimination of all forms of forced or compulsory labour (Appendix II).

12. The Employer members, referring to question 4 of the proposed report form, were of the view that a definition of light work was not encompassed by the principle of the effective abolition of child labour. As regards the second portion of question 17, they were puzzled by the apparent restriction of “type of activity” appearing in subsection (d) as being limited to industry, which was inappropriate. Otherwise, they could accept this proposed report form.
13. The Worker members, pointing to various discrepancies between the three language versions of all of the draft report forms, asked the Office to review them with utmost care. Referring to question 1 of the proposed report form on the effective abolition of child labour, they requested addition of a mention of collective agreements. They queried what was meant by the term “general minimum age” in question 6, and asked that work performed in export processing zones be added to the list of types of work appearing in that question. In relation to question 9, they also wondered about apparently inconsistent terminology relating to compulsory schooling. In questions 15 and 23(d), they stated their preference to have a reference to “other organizations” rather than “non-governmental organizations”. In question 19, the reference to the social partners should be to employers’ and workers’ organizations. They also wished to see export processing zones added to the list in question 6.
14. The representative of the Government of Namibia endorsed the draft revised report form, but noted that his country’s main problem with child labour lay in the informal sector. He suggested that the report form should address this in a special section. The representative of the Government of Trinidad and Tobago also thought that the report form as now drafted might fail to capture the reality of child labour in her country. She suggested that question 3, and indeed all closed (“yes” or “no”) questions, should add space to permit governments to explain particular realities, and that question 3 should be followed by question 6. To stimulate social dialogue, she urged the Office to encourage governments to involve the social partners in the preparation of the reports. Several speakers stressed the importance and promotional nature of the Declaration and its follow-up.
15. The representative of the Government of Croatia asked for clarification about the relationship of reporting under the Declaration follow-up, which related to article 19 of the ILO Constitution, and under ratified Conventions, which fell under article 22 of the Constitution, when a country had ratified the Minimum Age Convention, 1973 (No. 138), but not the Worst Forms of Child Labour Convention, 1999 (No. 182). Her Government, for instance, had already provided article 22 reports in relation to Convention No. 138.
16. In a question applicable to all of the reports, the representative of the Government of the United States asked about the introductory note specifying that if a government had already provided a full report, it could skip to a later section of the form. Who would decide whether a “full report” had been provided? There could be very different views on

this. The representative of the Government of Canada shared this concern, as well as those expressed by the representative of the Government of Trinidad and Tobago. In addition, she feared that the form would elicit information only about legal provisions, whereas an accurate picture of the actual situation was needed in order to have an effective reporting mechanism, which was an important goal. The representative of the Government of India was also of the view that information more relevant to ground realities should be sought. He stressed that the reporting system should not add to the burden on governments and, while he saw the new report forms being easier to use in some respects, he questioned whether they would be able to obtain some of the data being sought, such as statistics set out separately by sex. He urged that greater flexibility be allowed in responding, with the addition of more space for explanation of nuances.

- 17.** In response to these comments, the Executive Director for Fundamental Principles and Rights at Work recalled that the proposed report forms had been worked out by the Expert-Advisers with a view to capturing better the situation in reality. The Expert-Advisers would be determining whether a full report had already been provided by a country, thus establishing a baseline of information on which it could measure its own progress. However, the introductory note suggesting that part of the form could be skipped would not apply in the same way to the form relating to child labour as it did to the other categories of fundamental principles and rights at work, given the entry into force of Convention No. 182, and he therefore suggested that it could be deleted. The reference to the general minimum age was related to the meaning of that phrase in Convention No. 138. The nature of questions 3, 4 and 9 could be reviewed by the Office in line with comments made by the Committee, and the changes suggested to questions 1, 6, 15, 17, 19 and the deletion of question 23(d) could be made. In addition, a special question could be added on the informal sector. Several questions in the report form were intended to encourage social dialogue.
- 18.** As regards the obligation to report, he noted that all countries that had ratified Convention No. 138 but not Convention No. 182 would now be sent the report form on the effective abolition of child labour, to indicate the efforts being made in relation to the promotion of the principles and rights relevant to this category. The same idea in fact applied to all the categories. A representative of the InFocus Programme on Promoting the Declaration added that countries that had ratified Convention No. 182 but not Convention No. 138 would continue to be called upon to provide an annual report under the Declaration follow-up, and recalled the distinct purposes that reporting under the Declaration served, as contrasted with the supervisory procedures.
- 19.** The Employer members stressed that the report forms should relate to principles, not provisions of Conventions, and that any questions asked should be practical and realistic. The informal sector resembled the dark side of the moon, and they thus questioned what could usefully be asked about it given the absence of a proper research methodology. In their view, all questions posed must be clear and self-contained and must serve a useful purpose.
- 20.** The Worker members saw the issue of the informal sector differently, since they recognized the importance of dealing with it. However, this would not lend itself to a yes or no reply; the real question was what was to be done about child labour in the informal sector.
- 21.** The Executive Director noted that many of the reports received from governments had referred to the informal sector, and he suggested that a new question be introduced between questions 13 and 14. It could ask about the extent of information available on child labour in the informal sector, without presupposing the ways in which this was measured by different countries. The Employer members found this approach acceptable.

The Executive Director suggested that the report forms be edited and aligned linguistically along the lines indicated by the Committee. He further recommended that, given the lateness of the hour and the number of other items remaining on the Committee's agenda, the other three proposed report forms be postponed for consideration at a later session of the Governing Body once further consultation of the groups had taken place. The Chairperson of the Committee put this proposal to the Committee, which endorsed it.

22. The Committee took note of document GB.280/LILS/2 and adopted its paragraph 10 as regards use of the revised report form relating to the effective abolition of child labour (Appendix III to that document, with adjustments indicated by the Committee). It decided to defer to a later session of the Governing Body the examination of the other three proposed revised report forms under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. The revised report form adopted by the Committee is appended to the present report.

23. *The Committee recommends to the Governing Body that it:*

- (a) *approve the revised report form regarding the effective abolition of child labour, appearing in Appendix I to the report of the Committee, for use by the Office as from April 2001 in the annual review under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work;*
- (b) *defer a decision regarding proposed revised report forms relating to the other three categories of fundamental principles and rights at work covered by the follow-up to the Declaration until a later session of the Committee.*

III. Possible improvements in ILO standards-related activities

24. The Committee had before it a paper on possible improvements in ILO standards-related activities.³

25. A representative of the Director-General introduced this agenda item with a brief presentation of the existing supervisory system of the ILO including the regular reporting mechanisms pursuant to article 22, as well as of the Committee of Experts on the Application of Conventions and Recommendations and the Conference Committee on the Application of Standards. An overview was also provided of the special procedures pursuant to articles 24 and 26 of the Constitution as well as concerning freedom of association. In conclusion a summary was made of the main points raised in the context of the previous discussions and consultations.

26. The Employer members expressed satisfaction at the general principles adopted by the Office regarding standards-related policy. They expressed appreciation for the document submitted to them and the oral presentation on the supervisory system. The Office's experience had been enriched by the various informal consultations that had taken place before the Governing Body had convened. The necessary elements were in place to allow solid proposals to be made, and those proposals were indeed being received very favourably. It was essential that the supervisory system should be linked to standard-setting system. The Employer members felt that progress was being made in the right

³ GB.280/LILS/3.

direction, in the sense that an attempt was being made to adapt to an integrated approach aimed at achieving greater efficiency. It was the standard-setting system that was under discussion here, not the Declaration follow-up mechanism, which would still need to be kept separate. It was necessary to advance in stages, but each stage formed a part of the whole. The various elements of the supervisory mechanism in their totality – both the regular and special procedures – were all interconnected. It was nonetheless important to begin with one particular element, namely, the reports. The review should not be restricted to the reporting cycle but should also cover the content. The work involved concerned not only the governments but also the social partners, which governments were obliged to consult. The Employer members wanted to be fully involved. The question that arose concerned both quantity, owing to the increasing number of reports requested, and quality, since the information supplied needed to be relevant and the substance of the reports needed to be of the highest possible quality. It was also important to bear in mind that the process of analysis ceased to be useful if it failed to take into account the broader view, covering such aspects as the drafting of new instruments, ratification and abrogation, monitoring application and the role of the various supervisory bodies. All the efforts currently being made were intended to give the ILO greater vigour. If the Organization was to continue to play a key role, it needed to be credible and effective; the Employer members were committed to that principle and were prepared to undertake the review process in accordance with it. They agreed that the information mechanism in the form of the existing reporting system needed to be adapted to serve the purposes of the different bodies. With regard to the question of simplification, the use of information technology needed to be considered.

27. With regard to the possible approaches that might be explored and were set out in paragraph 23 of the paper, none could be ruled out a priori. Subparagraph (a) referred to the possibility of spreading out the reporting cycle, while subparagraph (b) indicated that some form of lighter reporting might be feasible. The important thing was to ensure that the information supplied lost none of its relevance if a novel form of report were adopted. As was suggested in subparagraph (c), a second detailed report might not be necessary; it might be restricted to responses which the Committee of Experts might request. Subparagraphs (d) and (e) referred to tripartite consultation and social dialogue mechanisms at the national level. Where tripartism functioned well, it was an excellent solution. It was not, however, a universal one. It was an additional option which should be explored. The option described in (f), namely, the grouping together of instruments in “families” for the purpose of examination, appeared to be potentially very useful. The Office should submit proposals to the Governing Body or the LILS Committee for discussion, or to the Working Party on Policy regarding the Revision of Standards, if that particular option were chosen. To summarize, options (b), (c) and (f) merited further detailed study, although the other options should not be discarded. The Employer members agreed with paragraph 24, which suggested that it was not necessary to change the basic two-year cycle for the priority Conventions. The tenor of paragraph 26, referring to requests for additional reports and the concomitant increased workload in cases of representations or complaints under articles 24 or 26 of the Constitution, was important.
28. With regard to the supervisory bodies and in particular the Committee of Experts, the Employer members had a number of other wishes regarding mandates, the duration of mandates and professional training of Experts, given that times were changing. Certain practices allowed interpretations of standards that went beyond the text of the instruments and that had not been foreseen at the time of their adoption. The Experts should concentrate more on the ILO’s fundamental principles. Promotion and technical cooperation were important. The essence of the Organization was to contribute to a world in which its own principles were applied. As for the Conference Committee, its work was both difficult and fundamental. Its work needed to be strengthened and better targeted to make it more effective. The Committee, which had the advantage of being tripartite, thus

allowing all the constituents to express their views, needed to be more operational and needed more flexible working methods. It especially needed to have a better understanding of the cases that were to be submitted to it in order to be better prepared. Clear rules, on which further comments would be made later, needed to be defined. The Committee should not simply be the “bogeyman” but needed to draw attention to progress made. With regard to articles 24 and 26 of the Constitution, the constitutional procedures needed to be placed within an appropriate framework and that would require a mechanism that included criteria for receivability and filtering. With regard to the Committee on Freedom of Association, it was essential that it should be able to continue playing its part. Its task was a difficult one. Particular problems arose from the length of sessions and there were difficulties with the documents which the Committee required. In conclusion, the Employer members supported the proposal in paragraph 47. With regard to subparagraph (a), however, they considered that it should not be restricted to the matter of the reporting cycle but should also consider the contents of reports, and therefore also the methodology adopted in compiling the reports. The Office should pursue such an approach, which would facilitate a gradual improvement in standards-related policy and greater efficiency.

29. The Worker members initially underscored the uniqueness and the special nature of the ILO supervisory system which was one of the most advanced and effective systems of international supervision and monitoring of the implementation of international treaties and instruments. This comprehensive system had been developed over a number of years to further the aims and objectives of the Organization and particularly to ensure that all human beings, irrespective of race, creed or sex, were able to pursue their material well-being and their spiritual development in conditions of freedom and dignity, economic security and equality. All member States, by virtue of their membership, had an obligation and a common responsibility to work towards the achievement of these objectives. The Worker members entirely subscribed to the objective of the current review “[...] to strengthen the supervisory machinery to ensure that the obligations resulting from ratification of Conventions were fulfilled in law and practice”⁴ and that this examination should lead to a reinforcement of the effectiveness of the supervisory machinery.
30. The Worker members highlighted the main features of the system which were the foundation of its effectiveness and which included the following elements: (1) the supervisory system had developed into a system in which communication of government reports was a key element; (2) the obligations resulting from the ratification of ILO standards were generally defined in a precise manner, as compared to other international or regional instruments; (3) the ILO supervisory system was coherent and cohesive – for example, a single set of procedures operated in respect of all Conventions, whereas in the United Nations, for instance, distinct and varying supervisory arrangements existed for each instrument adopted; (4) the ILO supervisory bodies benefited from the technical support of a qualified and competent staff; (5) the ILO system combined technical evaluation by independent experts and tripartite review; (6) independence and objectivity were the life breath of the system; and (7) the ILO system involved the active participation of employers’ and workers’ organizations in the implementation of standards at three levels: (a) adoption and review of implementing measures at the national level; (b) provision of information to the supervisory bodies and submission of complaints and representations; and (c) direct participation in the supervisory work, especially in the Conference Committee.
31. The Worker members stressed that the ILO supervisory system was based on the obligation of governments to report on measures taken to give effect to ratified

⁴ GB280/LILS/3, para. 3.

Conventions, on the position of their national law and practice with regard to unratified Conventions and to Recommendations, as well as procedures for the presentation of complaints and representations. Therefore, the submission of reports by governments was an important element in the supervisory work of the Organization. As suggested in paragraph 5, it was appropriate to start this exercise with a review of the regular reporting system, as was agreed five years ago. However, this review should not be done in isolation. It should take into account the work that had been done by the Working Party on Policy regarding the Revision of Standards. For instance, the Office should assess the impact of the implementation of the recommendations of the Working Party on the reporting system. First, it was relevant to determine whether and to what extent the number of reports requested would be reduced if those member States concerned were to ratify the revised Conventions while at the same time denouncing the corresponding old ones and if this were to ease the burden of reporting for some member States. Secondly, the reporting implications of the recommendations of the Working Party concerning obsolete Conventions – in cases in which withdrawal or abrogation had been recommended – should also be assessed.

- 32.** With reference to paragraphs 12-19 of the document, which dealt with the evolution in the number of reports and the changes that had been made to the reporting cycle in 1958, 1976 and 1993, the Worker members noted that one of the main reasons for the increase in the number of reports was governments' failure to report when reports were due. In 1996, 20 per cent failed to report while this figure had risen to 33 per cent in 2000. In case of a failure to report, the penalty was to produce a detailed report the following year. Thus by not providing reports which were due, governments were themselves increasing their workload. Furthermore, in many cases, reports from governments would contain only one sentence as follows: "There is no development to report this year". The Office was requested to provide statistics on how many such reports it received each year. As regards the statements in paragraph 20, they would have to be examined by the Office as it had the necessary expertise and experience with the reporting system and the question to address was whether adjustments could be made that would not impair the effectiveness of the system. Concerning paragraph 23 which contained a list of options that could be further explored the Worker members agreed at the outset that it was not appropriate further to spread out the reporting cycle from six to ten years. They were, however, prepared to examine proposals for some lighter reporting regarding Conventions other than the up-to-date ones. In this context they underscored the importance of addressing possible problems in a proper order and not to start "by the tail end" of the problems. In discussions on previous occasions on the periodicity it had been decided not to increase further the reporting cycle. In the present situation, when we yet again were faced with an increasing workload, the reasons for this increase should be examined in the first place. These reasons included an increase in the number of Conventions, the number of member States, as well as the number of reports requested in the context of the follow-up on the recommendations of the Working Party. As regards the latter, the Working Party was on the verge of concluding its work. The guiding principle should be to seek the best way to ensure that the system protected the workers it was supposed to protect. Likewise, if there was an increase in the number of cases in the context of the different complaints procedures or representations, this should be seen as a positive development and not as a reason for changing the system. Such an increase demonstrated a success in the ILO's promotional efforts translated into increased levels of ratifications, and understanding of the system and the means available to seek redress.
- 33.** The Worker members also agreed to examine further the suggestion to change the practice and no longer request a second detailed report. It was true that there were quite a number of new ratifications, particularly of the fundamental ones and this could ease the burden on a number of countries. But first of all the reasons for requesting such a second detailed report should be examined. If these reasons were still valid, it could be considered either to

request a simplified second report or a second report only upon the request of the Committee of Experts. With reference to the 70 Conventions up to date, the Worker members voiced a word of caution. Until such time that the recommendations of the Working Party had been fully implemented, there were still a number of Conventions which remained valid for a certain number of member States as they had not yet ratified the new and up-to-date Conventions. Furthermore, the Working Party had yet to complete its work and this figure might be subject to change. The Worker members were favourable to the proposal in the document to examine means to place greater reliance on the tripartite consultation mechanism and social dialogue at the national level, but such a system should only be applicable to countries which had ratified the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and which had functioning, fully tripartite consultation bodies such as the ILO committees or Labour Advisory Boards.

- 34.** The Worker members deemed it appropriate to entrust the task of grouping instruments and families by sector or by topic to the Working Party, which was close to completing its work. Only after such an exercise would it be possible to evaluate the merits of requesting reports concerning a group or “family” of Conventions in the same year. This process would require a lot of discussions and it would therefore not be appropriate to start the discussion in the LILS Committee directly. The Working Party should carry out this process on the same factual basis as it has carried out in previous tasks rather than embarking on a political discussion. The developments in the maritime sector should be followed closely although this sector was very specific. A decision had also been taken to discuss another group of instruments relating to the subject of occupational safety and health at the Conference. This was positive as this will be a general discussion with a purpose.
- 35.** With reference to paragraph 24, the Worker members agreed that there should be no change to the two-year reporting cycle for the fundamental and priority Conventions. Any change would, in fact, be detrimental to the work being done by the Office to ensure the implementation of these Conventions. As regards the statistics referred to in paragraph 25 the Office should look at the actual situation and take into account that the Working Party would complete its work in March next year. The Worker members supported the proposal to prepare a more user-friendly handbook than the technical one which already existed but which was not easily understood by many people. Increased efforts should also be deployed to train the representatives of Governments, Employers and Workers to understand better the role of international labour standards and the supervisory mechanisms.
- 36.** As concerned the question of selection of cases for consideration by the Conference Committee and developing criteria for this selection (paragraph 37), the Worker members agreed that there should be a better balance between consideration of Conventions on fundamental rights and other Conventions. Steps had already been taken in this direction but there was certainly room for further improvements. They stated that they intended to ensure that the final list of cases would comprise a mix of different Conventions. As regards the proposal that the Governing Body should examine the list of cases, this was practically impossible and they would not agree with a situation where a government would be a judge and a party at the same time. Another reason was that the limited use of the article 26 procedures also seemed to indicate a certain understandable reluctance on the part of governments to take part in processes involving complaints against another government. The Worker members therefore deemed it preferable to maintain the present procedure, while agreeing to pursue their efforts to have a good balance of cases.
- 37.** With reference to the question of article 24 representations, the Worker members noted that this Committee had already previously had a long discussion on this matter. They saw no justification for a renewed discussion on this issue, in particular as the Office noted that

there were no indications that a number of representations would increase. Furthermore, if the number of representations increased, this should be seen as a demonstration of a better understanding of the process and not as a reason to review this procedure yet again or to make it less efficient. The Worker members fully supported the promotional activities described in paragraphs 42-45 and the Office was encouraged to implement fully the 1999 conclusions and resolution on the role of the ILO in technical cooperation.

- 38.** The Worker members supported the approach indicated in paragraph 46 as a way forward in looking at the specific questions in the context of the improvement of the supervisory system as well as the point for decision in paragraph 47. They also agreed with the suggestion made by the Employer members that the examination should not be confined to the reporting cycle but should also include the reporting methodology. As a final point, they noted that according to their information, when a country failed to respond to requests for reports, the regional offices or headquarters did not always make a direct contact with that country. The Worker members considered that such contacts should be made both with the countries in question and with the trade unions in order to encourage an examination of why they failed in fulfilling their obligations.
- 39.** The representative of the Government of the United States, speaking on behalf of the governments of the industrialized market economy countries (IMEC), stated that it was important to cover all aspects of ILO standards-related activities because they were interrelated. He thanked the Office for the document submitted to this Committee to serve as a basis for the ongoing discussions concerning improvements of ILO standards-related activities and strengthening the supervisory machinery. The overarching goal of the current review should be to increase the effectiveness, visibility, and transparency of ILO standards-related activities while not reducing the level of protection they offered to workers. It was thus necessary to maintain the integrity of the entire system of standards-related activities. On the basis of the debate in this Committee as well as the discussion in plenary on the “integrated approach”, the Office should present, at the November 2001 session of the Governing Body, a clear, coordinated process, timetable and workplan for going forward on all of the issues raised, with definable targets and objectives. Emphasizing that reporting was the foundation for the entire standards process, the IMEC group looked forward to the statistics promised in paragraph 25 of the document and presented some ideas that could be taken into consideration in the document prepared for November. First, reporting responsibilities should be concentrated on the 70 Conventions – including the eight fundamental and four priority Conventions – that had been identified as up to date by the Working Party on Policy regarding the Revision of Standards. Second, the number of reports requested from governments inevitably led to duplication in reporting. The Office should therefore propose means for sharing information among the ILO departments in order to limit the number of questionnaires sent to governments. For example, governments submitted reports in connection with articles 19 and 22 of the Constitution, the follow-up to the recommendations of the Working Party on Policy regarding the Revision of Standards, special surveys, law and practice reports for a variety of meetings, etc. Third, the Office should propose means of using the Internet and e-mail to the greatest extent possible and feasible, in order to transmit and receive responses to questionnaires, and should create databases of the information received. Fourth, the Office should review the questionnaires in order to simplify the questions asked and to indicate clearly the information required. Fifth, as governments had to consult the appropriate national agencies for technical input when responding to questionnaires, the number of times that the Office made such requests should be limited. In this context, the Office should propose a means of harmonizing the cycle of reports by grouping them in families, or creating country-specific reporting cycles. For similar reasons, the reporting cycle for the fundamental Conventions should include all Conventions in the “family” in a given year, rather than examine each of the eight Conventions separately. For example, reports on the Freedom of Association and Protection of the Right to Organise Convention, 1948

(No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), should be requested in the same year, which should also be the case for reports on the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105).

- 40.** Regarding the specific approaches contained in paragraph 23 of the document, the IMEC group did not agree with the suggestion in subparagraph (a) further to spread out the reporting cycle to six or to ten years; endorsed and agreed with the suggestion in subparagraph (b) to find a form of lighter reporting for the Conventions that did not belong to the 58 up-to-date and non-priority Conventions and to forego the practice for requesting a second detailed report as proposed in subparagraph (c). The IMEC group especially urged the Office to pursue its suggestion in subparagraph (f) to group Conventions and Recommendations in “families” for the purposes of the integrated approach and supervision. The IMEC group considered the proposals in subparagraphs (d) and (e) to place greater reliance on the tripartite consultation mechanism and social dialogue at the national level to be interesting, but these proposals needed to be further explained – particularly in the light of the need to ensure the integrity of the system – before they could be endorsed. The IMEC group underscored that while the ILO’s supervisory machinery was unique in the United Nations system, improvements should be considered in order for it to remain efficient, effective and meet the challenges of the twenty-first century. The regular and special procedures were very complex and, to improve transparency, the Office needed to lead the constituents through them, provide briefings, and familiarize delegates and users with these procedures. With regard to the review of the working methods of the Committee of Experts by an internal working group, the IMEC group suggested that the results of the review be reported to the Conference in order to provide the delegates with a clearer understanding of these working methods.
- 41.** All while underscoring the importance of the Conference Committee on the Application of Conventions and Recommendations, the IMEC group proposed to consider some ideas on how to enhance its operation and effectiveness. First, the briefing session at the beginning of the sessions of the Committee was of value for new delegates unfamiliar with the Committee’s operations and as a refresher for returning delegates, and the IMEC group encouraged its continuation. Second, as the general discussion in its present form did not represent a significant added value the IMEC group suggested that it be focused on emerging issues of high importance, and limited to the shortest possible time. Furthermore, the so-called “automatic” cases could be considered already during the first week, as the governments in question were informed of these cases already through the publishing of the report in March. Third, the IMEC group agreed that article 19 reports could be focused on “families” of Conventions. Fourth, the Committee could be invited to reach a tripartite consensus on specific criteria for the selection of cases, keeping in mind the need to ensure that such criteria were fair and equitable and applied in an appropriate manner. The IMEC group thanked the Workers for presenting the criteria they applied and suggested that these could be the starting point for a discussion on this question. Fifth, while the IMEC group had no interest at all in participating in the identification of the individual cases to be discussed, the governments in question needed to be fully prepared to participate in the discussions of their cases. To that end, the IMEC group strongly urged the Conference Committee to determine the list as early as possible, and to explore all constitutionally acceptable means of doing so. Sixth, the IMEC group further believed that the list should be balanced and include not only cases concerning the fundamental and priority Conventions or cases arising out of the special procedures, but also groups of cases concerning emerging technical issues involving a number of countries. Time should be allotted so that a technical, pragmatic, solution-oriented discussion would be possible on such groups of technical cases. Seventh, the conclusions on each case should be drafted clearly to reflect the discussion that actually took place. In addition, the Conference Committee could be invited to consider whether or not it was necessary to adjourn a case

before adopting the conclusions and return at a designated time for their consideration and final adoption. Eighth, the IMEC group suggested that consideration be given to ways to reorganize the contents of the Committee of Experts' report to the Conference in order to make it more user-friendly, and to increase its visibility for non-Committee members. These ways could include a presentation by "families" of Conventions, or by observations on similar issues, or include introductions to highlight specific issues.

42. Regarding the special procedures, the IMEC group took note of the fact that the Committee on Freedom of Association (CFA) was embarking on a review of its own rules of procedure and looked forward to that review. The CFA was an important committee, vital to the functioning of the supervisory machinery. In order to increase the transparency of its operations, the CFA should report the results of its review to the Governing Body at a future meeting. Either the Office or the CFA should inform the Governing Body on the criteria applied to distinguish the jurisdiction between the CFA and the Committee of Experts, so that all Members of the ILO could understand how cases were processed. Noting that the procedures and receivability criteria for representations under article 24 of the Constitution were complicated to all but a very few, very experienced members, the IMEC group encouraged the Office to prepare comprehensible publications in order to increase an understanding of the procedures, including a user-friendly version of the *Handbook on procedures relating to international labour Conventions and Recommendations*.
43. The IMEC group agreed with the statement contained in the Office document that technical assistance on the application of Conventions was a key to effective supervision and thanked the Office for the significant technical cooperation it provided to governments considering ratification and desiring to improve implementation. However, the IMEC group considered that there should be an increased focus on a coordination of Office assistance to ensure that consistent guidance was given to governments in a timely manner. The IMEC group also encouraged the regional offices and the multidisciplinary teams to focus their activities on the 70 up-to-date Conventions and to remain fully informed of the developments regarding these instruments so as to provide timely and correct advice to governments. The Office should place an increased emphasis on proactive approaches by its headquarters and field staff in helping countries to overcome obstacles both before and after ratification. The Office should also consider ways to offer an *ex ante* interpretation of obligations, perhaps under article 37 of the Constitution. This was a gap in the machinery that needed to be filled. Currently the options were either to provide technical assistance subject to review by the Committee of Experts, or to appeal to the International Court of Justice for interpretation. Some intermediate mechanism seemed called for in order to provide an interpretation that governments could rely on when deciding on ratification.
44. Regarding the selection and preparation of topics for the Conference agenda, the IMEC group expressed the hope that the new integrated approach to ILO standards-related activities and that all the suggestions made by the IMEC group would have a significant effect on the level of ratification. Adopting Conventions that received few ratifications was not only harmful to the credibility of the ILO, but also wasteful of scarce resources if account was taken of ILO staff time in preparation of documents, governments' time in replying to questionnaires and delegates' time in attending two years of technical committees. In the preparation of topics for the agenda, there should be tripartite consensus on the goal for the standard before it was placed on the agenda. Such a consensus could be developed either in the Governing Body or in the context of a general discussion at the Conference prior to the first technical discussion. The first technical questionnaire to be sent after the general discussion should be value neutral, clearly setting out the objectives for the standard. It should not include detailed prescriptive proposals which would predetermine the conclusion, and it should be as flexible as possible on the form of instrument considered. Regarding the functioning of the Conference technical committees,

the IMEC group had already made several suggestions during previous discussions in this Committee as well as in plenary, and the Office was asked to include them in the review process. These proposals concerned the need to select competent, experienced chairs, supported by a sufficient number of knowledgeable staff; the holding of briefings on committee operations for delegates; the use of new technology for consideration of amendments; and setting up working parties to review amendments or reach agreement on difficult areas.

- 45.** Regarding the minimum threshold of ratifications for entry into force of a Convention, the IMEC group believed that although the new method for the selection of items for the Conference agenda would have a direct influence on the ratification and supervision of Conventions, further ways should be explored to increase the number of ratifications. There was a need to increase the number of ratifications required before a Convention came into force which would place the necessary pressure on the technical committees to develop a ratifiable standard from the outset. An automatic review mechanism could provide that if the appropriate number of ratifications was not received within a certain amount of time, when considering all obstacles and circumstances, the Convention would be automatically referred to the Governing Body for consideration as a Conference agenda item for revision. The objective of the review process would be to clarify the specific obstacles to ratification but not to revise the full Convention. The period for denunciation should also be reconsidered taking into account the periods of denunciation of instruments in other United Nations organizations. The IMEC group considered that the procedures for handling revisions of existing standards should also be reviewed. Tripartite agreement on the purpose of any revision should be achieved before it was placed on the agenda. This could be done through the Working Party on Policy regarding the Revision of Standards, the LILS Committee, the Governing Body, or a Conference technical committee. Article 19 surveys should also be considered as a source for items for revision. Thought should also be given to new procedures for a Conference discussion of revisions such as: partial revisions, groups of similar standards in one technical committee, or single discussions. The LILS Committee should carefully study the recent experience at the Joint Maritime Commission and the follow-up meetings for lessons to be learned about whether that approach would be applicable to non-maritime instruments.
- 46.** In conclusion, the IMEC group generally agreed with all the points for decision contained in paragraph 47 of the Office report and it endorsed the point in paragraph 47(a) to prepare proposals for the 282nd Session (November 2001) of the Governing Body on possible modifications in the reporting cycle with an objection to the spreading out of the cycle. The IMEC group also strongly urged the Office to include among the other questions to be the subject of an in-depth review in accordance with paragraph 47(d), the suggestions and comments included in their statement.
- 47.** Speaking on behalf of the Latin America and Caribbean group, the representative of the Government of Mexico thanked the Office for the presentation on the supervisory system and for the paper it had prepared. The paper gave an accurate picture of the areas of concern to the constituents. Now was a good moment to examine the regular supervisory system, given that the reporting cycle would need to be re-examined during the November session of the Governing Body. Another question that needed to be considered was whether the current system for submitting reports allowed the Office to provide the supervisory bodies with adequate information. The organization of informal consultations by the Office was a good initiative which had had a positive impact on the quality of the document. The practice should be maintained throughout the exercise. The speaker approved the workplan proposed in paragraph 47. However, it should not be forgotten that, given the close links that existed between the different mechanisms and their complexity, discussions would inevitably go beyond the stated agenda items and there would be some degree of encroachment on other areas. A certain degree of flexibility was therefore

needed. Furthermore, the possibility of modifying the proposed workplan in the light of the discussions should not be ruled out. With regard to the reporting cycle, the objective, as the Office paper emphasized, was to improve efficiency while also reducing the workload borne by national administrations and the Office. One way of doing so might be to retain a biennial reporting cycle for the eight fundamental Conventions, while adopting a three- or four-year cycle for the other Conventions. In addition, the discussions in November should not be restricted to the reporting cycle, but should also encompass an examination of the regular supervisory system as a whole, including the role of the Conference Committee on the Application of Standards and, in particular, the question of the selection of individual cases. The Government members of the Committee should be involved in that selection process. The speaker supported the proposal in paragraph 37, the purpose of which was to establish explicit and objective selection criteria. The proposal would correct the perception that the constituents made no proposals in that area.

48. Paragraph 36, concerning the autonomy of the different supervisory bodies in determining their own working methods, was important. That autonomy in no way prevented the Governing Body from making suggestions as to the themes which the supervisory bodies might consider as part of a possible future review of their procedures, and that applied particularly to the supervisory bodies established by the Governing Body itself, such as the Committee on Freedom of Association. If the Governing Body was to formulate constructive proposals, it required relevant information in that area, for example, concerning the activities of the internal working group set up in 1999 by the Committee of Experts with a view to examining its working methods. The issue of transparency was crucial, and the problems of the ILO's supervisory system could not be approached solely from the viewpoint of obtaining a better knowledge of its functioning. The issue of participation by the constituents also needed to be discussed, as more generally did the visibility of the functioning of mechanisms. As for the revision of the special supervisory procedures, the revision process needed to aim for an improvement in methods, efficiency, transparency and objectivity, not to create new procedures which would only dilute or duplicate existing ones. She recalled that the Latin America and Caribbean group was interested in participating in consultations that were due to take place as part of the preparations for the examination of the special procedures by the Governing Body in March 2002. It would be necessary to discuss, among other things, the dialogue that was needed between the Committee of Experts and the Chairperson of the Conference Committee, ways of improving channels of communication and exchange of information on the progress made in the consultations with a view to selecting the cases that would be examined by the Committee, and the publication of the agenda of the Committee on Freedom of Association.
49. The representative of the Government of Malaysia, speaking on behalf of the Asia and Pacific group, welcomed the opportunity to provide inputs on possible improvements in the standards-related activities of the ILO. She recalled that the review process, which resulted in the presentation of the integrated approach to ILO standards-related activities during the 279th Session of the Governing Body in November 2000, needed to be seen in a broader context and include reforms of the supervisory system as well. All aspects of the ILO's standards-related activities were interrelated and any proposed changes needed to be considered within the same framework. The Asia and Pacific group had consistently called for a review of the ILO's supervisory mechanisms and placed great importance on the transparency, objectivity and promotional nature of these mechanisms as an essential basis to avoid an erosion of confidence in the ILO's supervisory machinery. On the occasion of the 279th Session (November 2000) of the Governing Body and the informal consultations held in February 2001, the group had submitted fairly detailed proposals on elements to be considered for the comprehensive reform of the standards-related activities of the ILO and had indicated that a review of the ILO supervisory mechanism should address, but not be confined to, the following key issues: (a) criteria for the selection of members of the

supervisory bodies; (b) criteria for the selection of individual cases in the Conference Committee on the Application of Standards; and (c) compliance with ratified Conventions. The group therefore found it disappointing that while the document GB.280/LILS/3 did touch upon several possible areas for reform in the supervisory system, it only selected one particular issue, that of reporting overload, as requiring action at an initial stage without establishing a time frame for addressing other possible options in other areas of reform highlighted by the group.

- 50.** The current reporting system agreed to in 1996 for a trial period of five years was due for review this year anyway. The group therefore believed that while examining the problems of reporting overload, the identification of a comprehensive list of all areas of reform and a time frame for its implementation was required at the same time. With regard to the ongoing discussions on reforms in different supervisory bodies, including the Conference Committee on the Application of Conventions and Recommendations and the Committee on Freedom of Association and the point for decision in 47(b), the group believed that the Governing Body's competence went much beyond merely informing the supervisory bodies of any relevant comments that might facilitate the review of their working methods and any proposals they themselves might wish to make. The group was of the view that proposals for reform of a particular body could not be left exclusively to that body. If the Governing Body had authority to create a supervisory body such as the Committee on Freedom of Association, there was no reason why it was not competent to identify and suggest measures to reform this body. The Asia and Pacific group therefore urged the Office to prepare for the 282nd Session of the Governing Body (November 2001) a report taking fully into account the inputs provided during the current Governing Body discussion including a comprehensive list of possible areas of reform, the views expressed by different constituents on each of them, possible options available and a comprehensive time frame for undertaking this review.
- 51.** As regards criteria for the selection of members of the supervisory bodies, the Asia and Pacific group felt that there should be clear selection criteria to make the process transparent. The members should collectively possess as diverse knowledge and experience as possible. Broadening the background of the Committee would be in line with the last sentence of the Director-General's comment in his Report to the 87th Session (1999) of the International Labour Conference – *Decent work*: “the supervisory system would also be more valuable if it were to be able to move beyond an examination of legal texts”. It should also be balanced with respect to the diversity of skills reflecting the particular legal and socio-economic situations in the member countries, the geographical distribution and gender. The terms of office of such members should also be fixed. The Asia and Pacific group strongly believed that clear criteria for the selection of the cases of the Conference Committee should be established. The exhaustion of internal remedies, where appropriate, was one factor which should be considered. Also, matters should not go beyond the Committee on the Application of Standards before the dialogue with the government was completed. Cases in which progress was very slow and where the governments were not providing adequate information could, however, be cases for discussion. The Committee of Experts should specifically suggest in its report the cases that should be examined by the Conference Committee. This would be the most objective and transparent method. If it was considered essential to go beyond the cases recommended by the Committee of Experts, the appropriate forum to achieve a tripartite consensus on this issue would be the Governing Body. The Asia and Pacific group was of the view that the supervisory mechanism, in particular the Conference Committee, should refrain from an adversarial approach. Rather it should help member States to identify problems of application and ways to overcome them. Even when member States were given opportunities to present their position in respect of a particular complaint, the final decision or conclusion read out by the Chairperson of the Conference Committee did not reflect the views presented by the member State concerned. Such occurrences had the

effect of discouraging member States from ratifying additional Conventions. The Asia and Pacific group was of the view that the ILO supervisory bodies should refrain from making judgements and observations which went beyond the mandate of the Organization, in particular on issues which were not included in any ILO Convention. Moreover, they thought that the ILO supervisory procedures should ensure objective treatment of all situations and refrain from political bias and selective approaches.

- 52.** The Asia and Pacific group was concerned by the multiplicity of the supervisory procedures and bodies, which was distorting the constitutional provisions and subjected member States to double or triple procedures for the same issue. Duplication of procedures and overlap between supervisory mechanisms should be eliminated in order to prevent “forum shopping”. For example, the Committee on Freedom of Association should only address cases where the member States had not ratified the freedom of association Conventions. Complaints concerning member States which had ratified the Conventions could be dealt with under the procedures provided in articles 24 and 26 of the Constitution. The regular reporting mechanism pursuant to article 22 should be confined to an encouragement of compliance by member States, with the Committee of Experts focusing less on technical compliance and more on whether a Member’s law and practice were achieving the goals of the Convention.
- 53.** The Asia and Pacific group underscored the importance of technical assistance which was of paramount importance and should comprise not only advisory services but also operational activities especially in promoting standards for the abolition of forced child labour as well as standards for social security and welfare of workers. The Asia and Pacific group did not support linking the delivery of technical assistance to the ratification of standards. While conscious of their obligations under the ILO Constitution, as well as under ratified Conventions, they faced constraints as a result of global trends which called for the downsizing of governments. In its view the reporting burden should be minimized. Moreover, reporting obligations were not spread evenly. A government could be required to report on 25 Conventions in one year and six Conventions in another. The resource implications were obvious. The Asia and Pacific group suggested that Conventions dealing with a similar subject could be dealt with in the same year reflecting an integrated approach. Finally, the Asia and Pacific group found that the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up underscored the importance of a promotional approach to enhance ratification and underlined that complaints-based approaches should be kept to the minimum. Finally, the Asia and Pacific group agreed on all the points for decision with reservations regarding the adoption of a comprehensive list of areas of reform and the adoption of a timetable in paragraph 47(b) of the document.
- 54.** The representative of the Government of Namibia, speaking on behalf of the African group, thanked the Office for a well-written paper and the wealth of information contained in it. The African group agreed with the view expressed by the Employer and the Worker members that the supervisory system of the ILO was a sophisticated system with a good track record. He emphasized that his delegation had faith in the system, and that they saw this review process not as the creation of a new system but merely the improvement of a system that had proven itself to be effective already. He indicated that the main concern of the African group with the supervisory system was related to the workload and the capacity of countries to handle it. In the developing world, financial and human resources capacities for report writing were limited. It seemed as though the quality and the integrity of the system relied more on the quality of answers received from governments and not so much on the quality of questions that were asked. If the capacity shortfalls in the developing world were not addressed, then all further measures taken to improve the supervisory system would be undermined by the fact that the quality of the reports submitted would continue to be weak. Therefore, addressing the capacity shortfall was of primary importance. This meant not only addressing capacity shortfalls in government

ministries responsible for submitting reports, but also the capacities of the social partners. He pointed out that in some cases governments submitted reports late because of delays in receiving information from the social partners which were clearly due to capacity shortfalls. With regard to the reporting cycle, he stated that it was his delegation's view that if the time period of reporting were stretched out too far, there would be a risk of losing continuity and as a result the integrity of the system. A change in the reporting cycle was not the most appropriate way to reduce the workload.

- 55.** The speaker also underlined the great importance his delegation attached to improving the transparency of the supervisory system. Finally, he wished to point out that capacity building would have to be linked to promotional activities. While it was essential to improve the capacity of those responsible for drafting reports, it was of equal importance to raise public awareness about the importance of being part of the ILO system and being part of trying to promote and maintain justice at the workplace. Promotional activities therefore also ranked high on the list of priorities of the African group. In this respect, he indicated that his delegation was in agreement with the points for decision; however, they wished to see the points regarding capacity building and promotional activities not last on the list, but among the first.
- 56.** The representative of the Government of Trinidad and Tobago thanked the Office for the presentation and the report which, among other things, provided background information to many delegations that might not have had the institutional memory to evaluate certain adjustments to the supervisory system and their rationale. She also appreciated the initiative of the Office to have discussions with persons from capitals earlier in the week regarding ways to improve the reporting process. Her delegation associated itself with the statement delivered on behalf of the group of Latin America and Caribbean countries, expressed its respect for the existing supervisory machinery and endorsed the view that the review exercise should reinforce rather than weaken its effectiveness. With respect to the reporting workload, she supported the call for lighter reports and for reports that added value to the stock of knowledge that already existed at the Office. Reports for the sake of reporting should be avoided. She urged the Committee of Experts to temper its requests and observations with considerations of the spirit and not only the letter of the instruments. She considered that the current approach could give rise to responses which were well crafted but lacked substance. She believed that if greater reliance were placed on tripartite consultation mechanisms and social dialogue as proposed in the Office document, then greater attention would have to be given to improving the capacity of employers' and workers' organizations to participate effectively in this process. Quite often these organizations lacked the necessary technical and research capabilities to undertake adequate oversight and assessment functions of a government's fulfilment of its obligations to the ILO.
- 57.** She also believed that the proposal to group instruments in "families" was worthy of implementation and supported the Workers' request that this task be entrusted to the Working Party on Policy regarding the Revision of Standards. She reiterated her request that the Office consider the preparation of country-specific profiles of action required in order to implement the suggestions of this Working Party. She also suggested a more proactive approach by the standards specialists of the regional multidisciplinary teams and recommended that they systematically meet with member States to develop plans of action for the implementation of newly ratified Conventions. Member States would thus at the outset fully understand what was needed in order to implement adequately a newly ratified Convention. This would facilitate systematic implementation and reporting. She also believed that no measure taken in isolation would suffice and that a suitable combination of measures would have to be adopted. Thus, while the Office report mainly focused on the measures that could be implemented by the Office, member States should also consider their contribution. The fact remained that the purpose of Conventions was that they be

ratified and implemented and that any increase in the level of ratifications would be translated into an increase in the workload for member States. There was now an unavoidable necessity for many labour ministries, particularly in developing countries, to increase the human and other resources that they devoted to ILO requests. Sometimes, this was difficult to justify given the ranking of the labour portfolio in the hierarchy of governments' business and the trend towards reduction in the size of the public service and public sector expenditures. Her delegation saw an important promotional role for the Office in this direction, targeted at high-level personnel and key ministries, parliamentarians and even at Heads of State. She concluded by supporting the points for decision in paragraph 47.

- 58.** The representative of the Government of Germany thanked the Office for the paper and for the presentation on the ILO's supervisory system which constituted a model. The Organization needed to update the existing supervisory system, not to establish a completely new system. He supported the statement by the spokesperson for the IMEC group to the effect that the reporting cycle should not be further spread out. The important idea was the one expressed in paragraph 23(b) of the Office paper. With regard to paragraph 23(c), he said that whatever the reasons may have been for making it an obligation to submit a second detailed report on ratified Conventions, it was not clear why that requirement should be retained. If a State ratified a Convention, that meant that the parliament of the State in question had established that the country's national laws were in conformity with the Convention. Parliaments were critical and did not easily reach such a conclusion. Once a State had completed the ratification process, which might include amendments to national legislation to bring it into line with the Convention, it was very unlikely that new amendments to legislation of a kind that would justify an automatic request for a second detailed report would be undertaken during the year following the presentation of the first report. The first report was the crucial one, and it enabled the Committee of Experts to request clarifications on certain points which the State was obliged to supply. The tripartite partners at the national level had to be entrusted with a certain responsibility. Nevertheless, it needed to be borne in mind that in some cases, a government might attempt to sway the social partners against a decision to present a report.
- 59.** With regard to the proposal to examine instruments in "families", the speaker emphasized that, for certain subject areas, the examination process currently took up a period of four years. That meant that in some cases, a government was required to report on a Convention although it had already presented a report on the same topic, albeit in the context of another Convention only a few years before. It was possible that there was no wish to examine instruments in such families on a systematic basis, but the possibility needed to be considered. With regard to the issue of representations, the procedure was sometimes a disagreeable one for the governments concerned, but it had been established under the Constitution and it should be used. Article 24 of the Constitution did not stipulate that such representations should only be examined in particular cases. It concerned only the requirement to ensure that national law and practice was consistent with the provisions of the given Convention following allegations that a State party to a Convention had not secured the effective observance of the Convention in question. There was no need for the time being to change that procedure. The Governing Body could consider certain particular points, such as the issue of confidentiality. It would also need to ensure that a given case was not being examined by the Committee of Experts and being examined under a special procedure at the same time; in such cases the special procedure might be temporarily suspended. The current procedure did not, however, require any major changes. In conclusion, he supported the points for decision set out in paragraph 47 of the document.
- 60.** The representative of the Government of Croatia stated that she did not believe that the first sentence in paragraph 27 applied to the representatives of the Governments present in the meeting. The presentation of the supervisory system made at the beginning of the

meeting should have served as a reminder of the functioning of the system; anyone for whom this was new information would not be competent to discuss improvements in the supervisory system of the ILO. Her Government considered the ILO's unique supervisory mechanism was too valuable to the core mandate of this Organization to be changed. It appeared complex, but in practice it was relatively simple. Countries which were not prepared to report or not prepared to handle additional requirements from the supervisory bodies could always request assistance from the Office. The efficiency of the system was not dependent on the functioning of supervisory bodies but mainly on countries. When Croatia had to report on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), which was a very difficult Convention to report on, the Government requested the assistance of the Office. This was very useful, although it was delivered after the report was due. The quantity of the reports was thus not the problem. It was rather the ability of countries to fulfil their reporting obligations that needed to be strengthened.

61. The speaker indicated that her Government did not fully support certain points in paragraph 23. First, the cycle of reporting should not be changed, as it had been changed as recently as in 1993. The five-year reporting cycle was already a long period for reporting. Secondly, her Government did not agree with the reference to non-priority Conventions in the document. There were in her view no non-priority Conventions in the sense that all ILO Conventions were important. With regard to the selection of the cases before the Conference Committee, her Government believed that the selection should continue to be made by the Committee itself and not by the Governing Body. She further stated that her Government could not support point (c) in paragraph 47. As the Worker members had indicated, the matter of special procedures had been raised several times and it had been decided not to change them. A discussion of the special procedures was therefore unwarranted. Her Government also could not support paragraph 47(a), though perhaps she could support elements in point (a) which touched on the timing for the reports. As she had mentioned, ILO assistance to Croatia in respect of Convention No. 147 had not been made available in the summer before the report was due in September, indicative of a problem perhaps faced by other countries because of summer holidays. The previous timing of reports could be considered for introduction. Her Government could support point (b), but would like the supervisory bodies also to provide their own proposals on how to improve their work. She indicated that it was not clear to her what the reference to promotional activities in point (d) related to. In principle, her Government could support this point, but further clarification was needed. With regard to point (e), she noted that there already existed a number of books and materials explaining the supervisory machinery of the ILO. These materials were already adequate, and further simplification would not be appropriate for government representatives who were responsible for drafting reports on the application of the Conventions or replies to the questions raised by the supervisory bodies. The modification of the *Handbook of procedures* would only be necessary if point (a) were considered and if the reporting cycle would be changed.
62. The representative of the Government of Denmark thanked the Office for the presentation on the supervisory system at the beginning of the meeting. He stated that he agreed with what was said by the spokesperson for the IMEC group, but also wished to underline some points in the document. The entire system of standards-related activities consisted of several elements which all had to be taken into consideration when discussing the improvement of ILO standards-related activities. This did not mean that a solution on all items had to be proposed at the same time, but that a workplan needed to be established for the future work. One of the fundamental priorities for the ILO was to establish standards for the labour market, and this work had to continue. The adoption of Conventions had always and would always be a cornerstone of the work of the ILO, but it had to be recognized that there were problems with some adopted Conventions. With the exception of the fundamental and priority Conventions, only very few ratifications were normally received. Conventions which had not attracted a high number of ratifications could still

serve as an inspiration for countries when creating their labour market policy, but if a Convention had not come into force after, for example, 20 years, something was clearly wrong and a revision of such a standard was necessary.

- 63.** He indicated that his Government did not support an extension of the reporting cycle. The existing reporting cycle of two or five years was sufficiently flexible but appropriate for a continuous reporting system. Further consideration should be given to reporting on families of Conventions. This would be of great help, not only with respect to his country's own reporting obligations but also for preparing reports for non-metropolitan territories, since obtaining information from non-metropolitan territories was sometimes difficult. He recalled the Director-General's Report to the 1999 International Labour Conference, *Decent work*, which called for the better integration of the ILO supervisory and control machinery into its normative activities and for the modernization of the supervisory process in order to make it more relevant to the constituents. In view of this, the supervisory system needed to be made more transparent and visible. The system was unique, but was well known only to very few people. There was a need for small handbooks describing the supervisory system to explain it to persons not directly familiar with the ILO. The results of the review by the Committee on Freedom of Association and the Committee of Experts of their own procedures needed to be examined. Questions regarding article 24 representations and the selection of cases for the Conference Committee needed to be reviewed as well before proposals on the supervisory system could be made. Such work should be done quickly. Efforts should also concentrate on reporting and the promotion of the 70 up-to-date Conventions identified by the Working Party on Policy regarding the Revision of Standards. He also pointed out that member States had, from time to time, a need for technical support for interpretation of Conventions in connection with ratification. This support had to be given by the Office or by regional teams, but it was important that interpretation, which had to be as formal as possible, did not prejudge the work of the Committee of Experts. It also had to be ensured that interpretations were uniform and that they were not contradictory. He concluded by calling on the meeting to finish quickly the work which it had begun five years ago.
- 64.** The representative of the Government of Thailand expressed his Government's support for the statement made by the Asia and Pacific group, but wished to highlight a few specific points. For his country, assistance from the ILO played a vital role in the context of reducing the reporting workload and increasing its efficiency. His Government appreciated greatly the assistance rendered by the multidisciplinary team attached to the ILO Regional Office in Bangkok and stated that continued assistance from the ILO regarding application of standards was essential. Furthermore, as a country whose native language was not English, support from the ILO in the process of translating and editing article 22 reports was also an important element which contributed to their timely submission. In addition to these article 22 reports the annual report under the Declaration had increased the workload and time constraints for the authorities concerned that already had been faced with a longstanding shortage of human resources competent for the tasks in question. Thailand therefore supported the options suggested in subparagraphs (c) and (f) of paragraph 23. Thailand also welcomed the initiative of the ILO to involve its staff actively with those directly engaged in the drafting of reports at the national level, and expressed its support for the measures proposed in paragraph 47(e).
- 65.** The representative of the Government of Portugal thanked the Office for preparing the paper and for its presentation on the supervisory system. Her Government reaffirmed the importance which it attached to standards-related activities and to the measures taken to enhance the credibility and efficiency of the standard-setting system as a whole, including the supervisory machinery. She endorsed the statement made by the spokesperson of the IMEC group in that regard. An examination of the supervisory system did not inevitably need to result in the weakening of that system. On the contrary, the objective was to

reinforce the system, as the Office paper emphasized. At the very least, the capacity of the supervisory machinery to ensure that member States fulfilled the obligations, in law and in practice, arising from ratification of the Conventions needed to be maintained at their present level. The measures proposed with a view to strengthening the system therefore merited the most careful consideration. With questions of such importance, it was preferable to take the time needed to gather full information rather than taking hasty decisions that might have repercussions contrary to the desired outcome. The paper contained data on the number of reports requested and of reports that had not been received during the past five years. Such information was of considerable interest and conducive to a better understanding of the situation and the difficulties that could result in failure to submit reports. In that regard, it should not be forgotten that a prerequisite for the production of such reports was a functioning labour administration. The Office should provide more detailed information, in particular on the additional reports and on reports that had not been submitted every year. In absolute terms, the number of reports that were not received represented a serious lacuna in the supervisory system. If possible, information should also be provided by countries on the number of reports requested concerning, on the one hand, the fundamental and priority Conventions and, on the other, the technical Conventions. The same should be done for the reports that had not been received. The distribution of reports between up-to-date Conventions and obsolete Conventions should also be indicated.

- 66.** With regard to the proposed examination of reports by “families” of instruments, the idea that the implementation of an integrated approach could make for a more efficient choice of themes and procedures for developing new standards could also be applied to the supervisory system. The system could become more effective if, every year, a group of instruments concerning one subject area were examined. The first stage would be to select the instruments to be examined in the reports. It would obviously be necessary to establish in advance the framework within which the instruments in question were to be selected and to define the appropriate criteria. The Office would need to submit relevant data to the Governing Body. The examination of individual cases by the Conference Committee marked a culmination of the greatest importance in the supervisory system, and the procedure should therefore be used to the full and developed. The measures proposed to that end by the IMEC group would be very useful. Paragraph 41 of the document concerned other questions of relevance to the application of standards. As the document emphasized, where there was a broad consensus on a Convention and if it was effectively promoted, its ratification rate would tend to increase and it would not be necessary to increase the number of ratifications required for it to enter into force. Measures were therefore urgently needed to reach that broad consensus, for example, through discussions in the Governing Body and general discussions. The instruments needed to define objectives and offer a choice of means for attaining them. Promotional measures were also necessary, including, for example, information measures. Full use should be made of the submission procedure. With regard to the statement by the representative of the Government of Denmark regarding countries that only ratified Conventions after a period of many years, she emphasized the importance of the impact that Conventions could have. The Office might carry out studies on that subject, including for non-ratified Conventions. The promotional activities should concern not only the submission of reports but also the ratification and application of Conventions. Experts on standards should provide information on all the possible areas for flexibility provided by those instruments, since the knowledge and the use of those possibilities were very important for avoiding subsequent problems in implementation. They should also give opinions where doubt existed as to the correct interpretation of Conventions.
- 67.** The representative of the Government of India expressed his full support for the statement made by the Asia and Pacific group and welcomed the recognition of the need for reforms of the standards-related activities of the ILO including of the supervisory system. Many

countries, including his own, had been pleading for several years for such a comprehensive review. This review should be undertaken in a positive spirit with open mind and without any preconceived ideas. Due regard should be given to the ILO Constitution and should a need for change be established, an appropriate amendment should be made to the Constitution. One specific concern of his Government was the multiplicity of the supervisory procedures and bodies. A member country, which had ratified Convention No. 87 or No. 98, or both, could be subjected to scrutiny at least four times: by the Committee of Experts, by the Committee on Freedom of Association, by the Committee on the Application of Standards and finally in the context of the discussion procedure for the Global Report in the International Labour Conference. Even countries which had not ratified these two Conventions could be subjected to double scrutiny: by the Committee on Freedom of Association and also in the context of the discussion on the Global Report. The freedom of association procedures had no constitutional sanctity. Especially since the adoption of the Declaration on Fundamental Principles and Rights at Work and its Follow-up there was no longer any justification for maintaining these procedures. He reiterated the view already expressed on previous occasions that there was a need for more transparency and objectivity in the ILO supervisory system. Proper criteria should be established for the selection of cases to be examined by the Conference Committee on the Application of Standards. Such criteria could be established on the basis of the findings of the Committee of Experts in cases where sufficient progress had not been achieved or where the government concerned had not cooperated by providing the relevant information. Such cases were already being reflected as "footnote cases" in the report of the Committee of Experts and that Committee could suggest in its report the cases that should be examined by the Conference Committee. Any other criteria would lead to arbitrariness or bias. The social partners should have faith in the impartiality of the Committee of Experts in recommending cases for discussion in the Conference Committee. As a matter of principle, he did not favour indiscriminate application of articles 24, 26 and 33 procedures. These procedures were intended for extreme situations only. Furthermore, these articles should not be invoked on purely legalistic grounds. Account should also be taken of difficulties encountered by the governments concerned as a result of internal political, economic and social problems at the national and social levels, as well as the need for reasonable restrictions in larger national and public interests. The Committee of Experts had, in certain cases, interpreted standards in a way that was not envisaged when they were adopted. If any clarifications were called for due to ambiguities in a Convention, the Committee of Experts should suggest a revision of the Convention rather than trying to interpret it. Technical assistance was key. It should comprise not only advisory services, but also operational activities especially for the promotion of standards on the abolition of forced and child labour as well as on social security and welfare of workers. A continuous evaluation of the impact of ILO instruments on the social and economic situations in member countries should be carried out and it should be evaluated whether the objectives in the Conventions were fulfilled. Finally, he agreed that there was a need to reduce the reporting overload. Current obligations placed a considerable strain on the national governments. But, rather than tackling only this reporting overload aspect, he favoured a comprehensive set of reforms, as indicated in the statement of the Asia and Pacific group. Against this background, he supported the point for decision in paragraph 47(a).

- 68.** The representative of the Government of Brazil expressed support for the statement made on behalf of the Latin America and Caribbean group and congratulated the Office on the quality of the document. Brazil had ratified 85 Conventions to date, 73 of which were in force. It accorded considerable importance to their effective implementation and to the supervisory machinery. The latter was unwieldy, however, and as the years went by it imposed an increasingly heavy workload on all concerned. The observations made by the experts and the employers' and workers' organizations should serve to determine whether standards were being properly applied and to identify problems arising in that connection. She noted with concern that every year the Office asked for more reports and that only

70 per cent were actually submitted by the time they were due. Both the Committee of Experts and the members of the Conference Committee had drawn attention to the problem on several occasions already. A redrafting of report forms might improve matters. She endorsed the proposal of the ILO Declaration Expert-Advisers to modify the forms for reports under the follow-up to the Declaration and felt that it would be advisable to take similar steps regarding the reports provided for in article 22 of the Constitution. The forms should be reviewed in order to avoid pointless repetition of questions; these should be both specific and objective, and the goal should be to stimulate participation by Workers' and Employers' groups rather than merely consult them pursuant to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Steps should also be taken to facilitate analysis of the reports by the Committee of Experts. The application of standards should obviously be monitored in the light of the Conventions, but without losing sight of other aspects. The modifications proposed would help improve the quality of the reports while increasing rates of response, and the replies could be read on time, which would facilitate the work of the members of the Committee of Experts and that of the other parties involved.

69. With reference to paragraph 42 of the document stating that promotional activities were crucial to enhancing the effectiveness of supervision, she considered that constant efforts should be made to stimulate the Office's work, and national and regional seminars on international labour standards should be organized on a more regular basis. The *Handbook of procedures* was an invaluable tool and should be updated. As regards the reporting workload, employers' and workers' organizations in countries that had ratified numerous Conventions were able to offer comments on a wide range of issues. Governments should therefore not only draw up the reports requested but also reply speedily to specific questions pertaining to individual Conventions. Firm deadlines should therefore be set for the communication by the Committee of Experts and for those of employers' and workers' organizations. If, for example, the Committee of Experts met at the end of November, all communications received after the deadline – e.g. 1 September – would immediately be forwarded to the governments concerned; the Committee of Experts would not, however, examine those communications in November but at its next session. Such a procedure would enable the Committee of Experts and the Conference Committee to analyse questions in depth and the Governing Body to follow them as well. She agreed with the contents of paragraph 23 of the document and supported the point for decision in paragraph 47.
70. The representative of the Government of China indicated that his delegation supported the statement made on behalf of the Asia and Pacific group, and wished to add a number of comments. He noted that in recent years the number of reports submitted by member States on ratified Conventions was low. This was due to the burden of reporting, and as a result the Government of China was favourable to an extension of the reporting cycle. Grouping reporting by families of standards would also be helpful in this regard. He noted with interest that the Committee of Experts and the Conference Committee were reviewing their working methods, and hoped that the Governing Body would be informed of any progress in this matter. With regard to the selection of cases for the Conference Committee, he stated that objectivity and transparency should be the most important considerations, and that a balance should be struck between fundamental and priority Conventions and technical Conventions. The special procedures were more complicated than the regular supervisory system. He hoped that the special procedures would be revised at the 283rd Session of the Governing Body and that the Office would hold substantive consultation on this matter. He also hoped that a review of the supervisory system would include an examination of technical assistance in the field of standards, including promotional activities and information services. He wished to draw the attention of the Office to the fact that since the adoption of the Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998, the annual symposium on international labour standards

in the Asia and Pacific Region had been replaced by promotional activities. The promotion of the Declaration was of course important, but he hoped the Office would take the necessary measures to ensure that traditional standards-related activities were not affected. Finally, he indicated his delegation's support for the development of informational materials on the supervisory system and for further training in this area. This should include a revision of the *Handbook of procedures*, which should be easier to read.

71. The representative of the Government of France expressed support for the detailed and precise statement made on behalf of the IMEC group, which had been the subject of lengthy deliberation and accurately reflected the group's views. He therefore merely wished to add a few comments. The supervisory system was an efficient mechanism that functioned well. Making dramatic changes to it was out of the question, but a few adjustments might be introduced. A two-pronged approach could be adopted that would be directed, on the one hand, at adapting the supervisory system to the current modernization of the body of standards and, on the other, at enhancing the coherence and clarity of the system. The move to take account of the modernization of the standard-setting system should be gradual, as the process had not yet been completed. A total of 70 Conventions were currently considered up to date, including 58 non-fundamental or non-priority Conventions. That figure would probably closely match the definitive figure that was to emerge from the proceedings of the Working Party. Again, taking account of up-to-date Conventions should be a gradual process, accompanied, for a period of time, by action to encourage member States to denounce older Conventions and ratify more recent instruments. The Working Party had had occasion to examine a sample number of country analyses prepared by the Office on the status of ratification. Such analyses had apparently proved invaluable in facilitating dialogue between the Office and member States, and the Working Party was in favour of generalizing the practice, as it might prompt member States to join in the move to update standards.
72. He considered that laying emphasis on the most recent Conventions implied adopting the "families of standards" approach, whereby the effectiveness of those Conventions could be assessed in terms of the broad area covered by each family. It was also the first step towards translating the possibility of consolidated Conventions into more concrete terms. The work done in the maritime sector and in the area of safety and health offered most encouraging prospects. The grouping of instruments in turn involved submitting reports on families of standards, which would undoubtedly facilitate the task of labour ministries and the gathering of national data. It would also make it easier to understand the report of the Committee of Experts and the work of the Conference Committee. The collection of data according to groups of instruments in the course of the supervisory process would usefully supplement, and should be conducted in parallel with, the gathering of information in the context of the General Surveys. Defining families of standards was therefore an important and urgent task. The second component of the two-pronged approach was to enhance the coherence and clarity of the supervisory system, and hence its effectiveness. Adapting and updating the supervisory mechanism were tasks that would have to be conducted within each of the supervisory bodies, since the latter were familiar with the relevant realities, constraints and possibilities. While discussions on possible modifications should be held within each supervisory body, care should nevertheless be taken to maintain an overall view. Such discussions were invaluable, because they served to monitor the coherence of the system. If, for example, the "families of standards" approach were to be applied systematically in the near future, then thought would have to be given to ways of structuring incoming data, bearing in mind the provisions of articles 19 and 22. What needed to be determined was how to organize and harmonize the body of data gathered from different sources. The supervisory system was complex and the question of its general structure was a crucial one. Coherence also implied knowing how to interpret certain standards-related provisions – an issue that occasionally gave rise to problems. The Conventions and Recommendations were often the result of compromise; their wording

was not always perfect and their interpretation not always easy. In its article 37, the Constitution nevertheless provided for the means of obtaining an official interpretation. The Office had produced a very good document on the subject a few years before. The ongoing debate might be an opportunity to revive discussion on this important matter. Finally, efforts to improve the clarity of the supervisory system should not be limited to revising the *Handbook of procedures*; thought should also be given to publications aimed at a broad variety of target audiences, ranging from the simplest to the most sophisticated. The ILO had to make itself known, and that included spreading information on its supervisory machinery, which was unique. In conclusion, the standard-setting system was made up of interrelated components. If better standards were established in the future, then the supervisory process would probably become more effective as well.

73. The representative of the Government of Italy thanked the Office for its outstanding work. He endorsed the statement made on behalf of the IMEC group, on which he had no further comments to offer. He wished to emphasize the importance of simplifying the regular reporting mechanism, without impairing the coherence of the supervisory system while enhancing its efficiency. In that connection, he stressed the usefulness of grouping families of instruments for examination; that would be perfectly consistent with the decision to adopt the integrated approach for examining the standard-setting system. It was crucial, moreover, to simplify the design of reports on individual instruments and to improve information on the system by setting up a broader and more effective network for the distribution of training materials prepared by the Office and the Turin Centre.
74. The representative of the Government of Nigeria thanked the Office for the excellent presentation and associated himself with the views expressed by fellow colleagues from various countries. He suggested that the ILO make contacts with countries which had for all practical purposes ceased to participate in the reporting system for the past two or more years and help them with the necessary assistance to overcome the obstacles they faced in the rendition of the reports. Moreover, he supported the adoption of a more user-friendly version of the *Handbook on procedures relating to international labour Conventions and Recommendations* and suggested that resources be mobilized and a more definite time frame be adopted for this purpose.
75. The representative of the Government of Lithuania associated herself with other speakers in thanking the Office for the well-prepared document. She shared the view that the ILO's supervisory system was one of the most developed and well functioning. Having read the document and taking into account the reporting experience of her own country, she agreed that the system could be updated and thought that space for improvement always existed. At the same time, she thought that changes in the reporting system should be made very carefully in order to avoid a risk of weakening the system. The Lithuanian Government appreciated efforts to develop strategies for solving problems, including the establishment of links between supervision and technical assistance as well as using the capacities of multidisciplinary teams in the best way possible. Concerning the possible modification of the reporting cycle, she supported the proposals to alleviate the reporting requirements for certain Conventions, forego the practice of requesting a second report, examine families of instruments identified for the purposes of the integrated approach and maintain the two-year reporting cycles for the priority Conventions. She also thought that the proposal to rely more on tripartite consultation mechanisms and social dialogue at the national level could be further discussed, having in mind the possible influence of such a proposal upon governments and workers' and employers' organizations as mentioned by the representative of the Government of Germany. Regarding the reporting workload, she associated herself with the view of the IMEC group that improved cooperation between Office departments would help avoid overlaps in requests for information and limit the variety of questionnaires, special surveys, etc. She concluded by saying that taking into account the importance of efficient supervision, she was looking forward to a more

detailed review of the reporting system during the 282nd Session of the Governing Body in November 2001 and supported the point for decision as formulated in paragraph 47 of the report.

- 76.** The representative of the Government of Cuba supported the statement made on behalf of the Latin America and Caribbean group and wished to make some additional remarks. She thanked the Office for the document that had been submitted. With regard to paragraph 11, she noted that it was a fundamental and constitutional responsibility of Members to send reports. The objective was to provide the Committee of Experts and the Office with information on the conformity of national legislation with the provisions contained in the Conventions. The information sent in the first or second report allowed an evaluation to be made of the existing situation. In this respect it was not redundant to maintain a dialogue with the Committee of Experts. This dialogue allowed governments to receive more extensive information on the various situations. The workers and employers could also submit their observations concerning aspects which they considered to be contrary to the Conventions in question. The second detailed report would be redundant if it appeared that there were no obstacles to the effective implementation of Conventions. Nevertheless, it was not excessive to continue a dialogue with the Committee of Experts if doubts had been voiced by employers' or workers' organizations or when certain discrepancies were noted. In this respect, recourse to special procedures should not be encouraged because the Committee of Experts participated in this process automatically and was responsible for it. The speaker emphasized with regard to these procedures that the examination should also target certain bodies such as the Committee on Freedom of Association. This Committee took measures in relation to sometimes unjustified allegations resulting in lost time and resources. It was the most serious and flagrant cases that should be concentrated on as they were the most important.
- 77.** Her Government was entirely in favour of the process of consultation initiated by the Office and would continue to make observations in the framework of reports submitted to future meetings. The speaker expressed her agreement with the extension of reporting cycles in general and with maintaining a two-year cycle for fundamental Conventions. It was a welcome step that constituents were being invited to improve the quality of information submitted according to subject. One aspect had not been dealt with in this document and related to the need for Members to receive report forms before the end of the ratification submission procedure. For feasibility studies to be carried out it was necessary to have detailed information relating to governments' obligations. That would avoid having to deal with implementation difficulties. She supported the statement by the representative of Brazil concerning the need to revise the content of these forms by simplifying them and avoiding repetitions, in other words, avoiding asking the same question in different reports. To date her Government had ratified 87 Conventions, which implied a heavy workload. By way of conclusion the speaker stressed that promotion activities as well as technical assistance constituted the best way to achieve an efficient supervisory system. She supported the point for decision in paragraph 47, but considered that clause (b) should be reworded in order to reflect observations whereby the constituents and the Governing Body should be able to express their views on proposals relating to the working methods of the supervisory bodies.
- 78.** The representative of the Government of the Netherlands fully endorsed the statement made on behalf of the IMEC group, and thanked the Office for the interesting and clear presentation and the document under consideration. The delegation of the Netherlands was very much in favour of every adjustment to the supervisory system that improved the efficiency and effectiveness of this process and at the same time strengthened the system. Even if account was taken of the workload of both the Office and the governments, she was not in favour of a further spreading out of the reporting cycle as described in paragraph 23(a). She considered that reporting was the basis for the entire standards

system and that spreading the cycle over a longer period would undermine the supervisory process. A more important question was whether appropriate information was requested by the Office and provided by governments. This did not seem to be always the case. Therefore, she asked the Office to review the drafting of the questionnaires, in order to ensure that appropriate information was requested and received. Furthermore, she proposed that the number of ratifications necessary for a Convention to come into force should be increased and a level of 10 per cent of the membership be adopted as reasonable. She also proposed that this ratification level should be attained within a specific time period set between five and ten years, and followed by a review of the Convention in case this rate had not been reached at the end of this period. Regarding the period of denunciation, she thought that the present period of ten years was too long and proposed an initial period for denunciation of five years. She concluded by underlining, in accordance with the statement made by the IMEC group, the need to place a selected list of cases on the agenda of the Conference Committee as early as possible, preferably in April of each year.

79. The representative of the Government of the United Kingdom associated herself with the comprehensive statement made on behalf of the IMEC group. In addition to this, she wished to underline three points. First, everybody shared the common objective of ensuring a credible and effective system. Such a system depended crucially on having instruments which could be ratified by member States and which could contribute to the achievement of the objectives of the ILO without being unnecessarily detailed and prescriptive. A way to check that the instruments were credible and effective could be to raise the number of ratifications required in order for an instrument to come into force and provide for an automatic review. She suggested that although some countries could take a very long time before they could ratify a Convention, it would be reasonable to expect 10 per cent of ILO member States to ratify a new Convention within eight years after its adoption. She suggested that the Office inform the Committee whether such a proposal would have affected any of the 70 Conventions which were considered up to date by the Working Party on Policy regarding the Revision of Standards. Second, she thought that the Conference Committee should agree on the criteria for selecting the cases to be discussed and that perhaps the Committee of Experts could play a more central role in identifying cases to be discussed. Finally, she associated herself with the proposal made by the Namibian delegate to focus on promotion and provide assistance and technical advice on what countries had to do to be in a position to ratify a Convention. This should be done with the clear understanding that the Committee of Experts was independent in deciding whether countries complied or not with the relevant Convention.
80. The representative of the Government of Switzerland reiterated his Government's commitment to strengthening and improving the ILO's supervisory system. He believed that the supervisory system of the ILO was in general successful. Nevertheless, this did not exclude exploring ways in which the system could be modernized and rendered more efficient. In this regard, he lent his support to the statements made by the delegations of France, Netherlands and the United Kingdom regarding a proposed requirement that Conventions be ratified by 10 per cent of member States within a fixed number of years in order to enter into force. He pointed out that such a requirement would not cause any dramatic changes in the system. For example, the Minimum Age Convention, 1973 (No. 138), which often was cited as a standard which had been slow to be ratified, would have met this criteria. This Convention had 13 ratifications – out of 123 member States – five years after its adoption; one year later, it had 18 ratifications – out of 137 member States. In each case it would have cleared the 10 per cent requirement. Such a requirement would also put additional pressure on the technical committees, which would be more focused on drafting instruments which would attract wide support. In his view, such a requirement would result in a win/win situation for all parties concerned.

- 81.** The representative of the Government of New Zealand associated herself with the statements made both by the IMEC and the Asia and Pacific groups. She wished to add a few remarks regarding the issue of interpretation (footnote 3 to paragraph 2 of the Office report) which had been left outside the scope of the review for the time being. Her Government had consistently called for a comprehensive review of all aspects of the ILO's normative activities. A review should not focus solely on narrow qualitative improvements but also consider more fundamental issues, to ensure that the Organization's normative activities continued to have integrity and be effective, in the modern world of work. The issue of interpretation was fundamental to the supervisory system, and should be examined together with other elements of that system, not in isolation, at some later point in time. She therefore requested the Office to incorporate the issue of interpretation in a detailed workplan of a comprehensive integrated review of the supervisory machinery for consideration by the LILS Committee.
- 82.** The representative of the Government of Saudi Arabia expressed his support for the statement made by the representative of the Government of Malaysia on behalf of the Asia and Pacific group. While he agreed with what had been said by many other delegations, he wished to add a number of points. First, he believed that the proposal to group standards into families was highly relevant. Secondly, he pointed out that many countries which did not operate in one of the three official languages of the ILO encountered difficulties in the translations of the report forms. The report forms sent by the Office as well as the report submitted to the Office by the government should be in the language of the country concerned; the Office should therefore be responsible for translating these respective documents. He noted that there were at time inaccuracies in translations and lent his support to the statement made by the representative of the Government of Thailand in this regard. Thirdly, he stated that it was important that government officials responsible for reports be adequately trained. The multidisciplinary teams in the region should be strengthened to respond to this need. Fourthly, the Office should be more open and sensitive to cultural differences in the world, and it was therefore crucial that the experts from the regions were consulted. This would allow the Office to better examine and understand reports from these regions. Fifth, the reports and the dates they were due should be simplified so that all parties concerned could complete their work in a more efficient manner. He pointed out that the Office often already had the information requested in reports at its disposal; in such cases, the Office could just request the additional information which was missing. Sixth, certain countries encountered difficulties in keeping track of reporting requirements and the deadlines for their submission. It would be useful if the Office could present to countries every year an exhaustive list of their reporting requirements. The submission of reports via the Internet should be further developed. In conclusion, he stated that his delegation attached great importance to the revision of the supervisory system and he firmly believed that this exercise would be beneficial to all member States.
- 83.** The representative of the Government of the United States expressed a strong support for the statement made on behalf of the IMEC group but wished to add a few points on behalf of her Government. She welcomed the informative document and the presentation made by the Office. The ILO supervisory system was not always clear even to those who worked with it on a regular basis. She also wished to underscore that what the Governing Body was embarking upon was not a reform of the ILO supervisory mechanisms, but should be seen as an effort to introduce possible adjustments that would enhance the efficiency of those procedures and, more importantly, their impact. Furthermore, all ILO activities in the area of international labour standards were interrelated and interdependent. So while this review of the supervisory system was welcomed she urged all those involved in this process to proceed with caution and great care. It was important to understand clearly whether and to what extent there were any problems before solutions were proposed and implemented.

84. The Employer members said that they had heard some extremely interesting statements, particularly those made on behalf of the country groups. These statements were very rich in content and constituted an extremely useful contribution for the Office. This debate would certainly be borne in mind during the next examination in November. They noted that emphasis was already being placed on the system, the cycle and the methodology used for reports and repeated their request that the terminology used in paragraph 47(a) be adopted. The planned examination should not be restricted just to the cycle but should also include the methodology and the working methods in general. This would permit a strengthening of the supervisory system and of standards-related policy, which should be even more efficient. This stage was part of a whole and the whole included the traditional special supervisory procedures. The Employer members welcomed initiatives that could be taken by the Committee of Experts, the Committee on Freedom of Association and the Committee on the Application of Standards. Nevertheless, it was clear that these initiatives should be taken in the framework of a comprehensive vision of standard-setting policy which should come from the Governing Body, in a consensual manner, now and in the future. On a general note, the principal guidelines were those that had been referred to by the various speakers, and in their view they were favoured by the majority.
85. The Worker members noted that for lack of time they were not able to respond to all the points raised during the discussion but that they would come back to these points when the specific issues would be discussed. After listening carefully to the statements made by the Employer members and the coordinators of the regional groups as well as Governments, they had the impression that there was a clear affirmation of the uniqueness and importance of the supervisory system of the ILO and a commitment to strengthen the system and improve its effectiveness without weakening it. While they could agree with several comments and suggestions made by the IMEC group, GRULAC and the African group, they would have had serious difficulty with some proposals from the Asia and Pacific group and from some Governments from the region, which, in fact fell outside the purpose and scope of the current review. For instance, as regards the calls for more transparency, the Worker members hoped that these calls did not imply proposals to introduce the weak and ineffective methods which were applied by other supervisory bodies within the United Nations system because this would result in loss of credibility. Moreover, the members of the Committee of Experts were appointed by the Director-General on the basis of their independence, integrity and competence, taking into account geographical and gender representation, unlike other bodies where the members were designated and elected by governments. The ILO system should be protected from such practices and the Worker members would not accept any change in the current practice of appointing the members of the Committee of Experts. Footnote No. 11 of the document reflected the diverse and wide range of countries these experts came from. The independence and integrity of the experts was a vital requirement for the efficient and impartial supervision of ILO standards. Finally, the Worker members supported the point for decision in paragraph 47 subject to the comments made in their opening statement especially regarding paragraph 27.
86. The Chairperson concluded by proposing, in view of the suggestions made during the discussion, to slightly amend the point for decision contained in paragraph 47 of the Office document in the following manner: in clause (a) of the French version the term “*cycle*” should be replaced by “*modalités*”; furthermore the Committee should invite the Working Party on Policy regarding the Revision of Standards to examine the question of the identification of groups of standards at its next meeting. These amendments were adopted.

87. The Committee recommends to the Governing Body that it invite the Director-General to:

- (a) prepare, in the light of the views expressed during the discussions, and in consultation with the constituents, proposals for the 282nd Session (November 2001) of the Governing Body on possible modifications in the reporting modalities;**
- (b) prepare documentation which will enable the Working Party on Policy regarding the Revision of Standards to examine the question of groups of instruments at its next session in November 2001;**
- (c) inform the supervisory bodies of any relevant comments that may facilitate the review of their working methods and any proposals they themselves might wish to make;**
- (d) undertake consultations for the preparation of an overview of the special procedures for an initial discussion at the 283rd Session (March 2002) of the Governing Body;**
- (e) specify other questions, such as promotional activities, which should be the object of an in-depth review at the subsequent stage;**
- (f) take the necessary measures for increasing knowledge of the system, including training for those directly involved in its functioning, and, at the appropriate time, the revision of the Handbook of procedures relating to international labour Conventions and Recommendations with the aim of making it more user-friendly.**

Geneva, 27 March 2001.

(Signed) Mr. V. Rodríguez-Cedeño,
Chairperson.

Points for decision: Paragraph 9;
Paragraph 23;
Paragraph 87.

Appendix

ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up

Report form (revised draft)

The effective abolition of child labour

I. Recognition of the principle of the effective abolition of child labour

1. Is the principle of the effective abolition of child labour recognized in any of the following ways in your country? (please tick as appropriate):
- | | | |
|---------------------------------|-----------|----------|
| (a) in the Constitution | _____ Yes | _____ No |
| (b) in legislation | _____ Yes | _____ No |
| (c) in judicial decisions | _____ Yes | _____ No |
| (d) in collective agreements | _____ Yes | _____ No |
| (e) other. Please specify _____ | | |

Please attach copies of relevant documents unless these have already been sent to the ILO, indicating Q.1.

2. Is there a national policy or plan aimed at ensuring the effective abolition of child labour?
_____ Yes _____ No
If yes, please briefly describe the objectives and targets of this policy or plan, indicating Q.2.

Please attach relevant documents to your reply, indicating Q.2.

If no, does the Government intend to adopt a national policy and/or plan?
_____ Yes, by _____ (date) _____ No

- 3.1. Does legislation in your country establish a general minimum age for admission to employment?
_____ Yes _____ No
If yes, please indicate the general minimum age. _____ Girls _____ Boys

- 3.2. Does the general minimum age for admission to employment cover the following types of work?
- | | | |
|---|-----------|----------|
| (a) Work performed in a family-owned or -operated enterprise | _____ Yes | _____ No |
| (b) Work performed in enterprises below a certain size. Please specify size _____ | _____ Yes | _____ No |
| (c) Home work | _____ Yes | _____ No |
| (d) Domestic service | _____ Yes | _____ No |
| (e) Self-employed work | _____ Yes | _____ No |
| (f) Commercial agriculture | _____ Yes | _____ No |
| (g) Family and small-scale agriculture | _____ Yes | _____ No |
| (h) Light work | _____ Yes | _____ No |
| (i) Work performed in export processing zones | _____ Yes | _____ No |
| (j) Other type of work. Please specify _____ | | |

If no to any of the above, please describe, where appropriate, any provisions applying to the type(s) of work not covered by the general minimum age (indicating Q.3.2).

- 4.1. Does legislation in your country define hazardous work? _____ Yes _____ No
If yes, please indicate the definition of hazardous work and give some examples (indicating Q.4.1).
- 4.2. What is the minimum age for engaging in hazardous work? _____ Girls _____ Boys

5. Do laws or regulations exist in your country with the aim of eliminating any of the worst forms of child labour? ___ Yes ___ No
If yes, please list the types of work covered in these laws or regulations.

Please attach copies of relevant instruments unless these have already been sent to the ILO, indicating Q.5.

6. Are steps currently being taken to modify existing legislation or to introduce new legislation to address the elimination of any of the worst forms of child labour? ___ Yes ___ No
If yes, please describe these steps (*indicating Q.6*).

7. Is there compulsory schooling for children in your country? ___ Yes ___ No
If yes, please specify either:
 (a) the age of the child at the end of compulsory schooling; or ___ Girls ___ Boys
 (b) the number of years or grades of instruction required to complete compulsory education ___ Girls ___ Boys

8. Please describe the situation in practice in your country with respect to child labour, including in the informal sector if appropriate (*indicating Q.8*).

9. Are any of the worst forms of child labour listed below generally believed or suspected to exist in your country? *Please tick the boxes that apply and provide any additional information, indicating Q.9.*

Category	Does not exist	Do not know if it exists	Believed or suspected to exist amongst	
			Girls	Boys
Sale and/or trafficking				
Debt bondage, serfdom, forced or compulsory labour				
Forced recruitment for armed conflict				
Prostitution				
Pornography				
Illicit activities, in particular production and trafficking of drugs				
Other worst forms of child labour (please specify types)				

II. Efforts made or envisaged to realize the effective abolition of child labour

10. Have specific measures or programmes of action been implemented or are they envisaged in your country to bring about the effective abolition of child labour? ___ Yes ___ No
If no, please skip to Question 13.
If yes, please specify these measures *by ticking the boxes that apply*.

Type of measure	Measures to enforce minimum age(s) for employment		Measures to eliminate the worst forms of child labour	
	Implemented	Envisaged	Implemented	Envisaged
Legal reform				
Inspection/monitoring mechanisms				
Penal sanctions				
Civil or administrative sanctions				
Special institutional machinery				
Free compulsory education				
Employment creation/income generation				
Social assistance (e.g. stipends, subsidies, vouchers)				
Child rehabilitation following removal from work				
Vocational and skills training for young workers				
Awareness raising/advocacy				
International cooperation programmes or projects				
Other measures. Please specify				

Please provide further details of the measures taken or envisaged, specifying the date and the organizations involved, indicating Q.10.

11. In these measures or programmes, is special attention given to the needs of particular groups of children, including if appropriate those working in the informal sector? Yes No
If yes, please indicate which groups and describe any special measures undertaken (*indicating Q.11*).
12. Please describe the involvement, if any, of employers' and workers' organizations in the development and implementation of these measures or programmes of action (*indicating Q.12*).
13. Does the Government work with any multilateral agencies other than the ILO, bilateral donors and/or other organizations to combat child labour? Yes No
If yes, please describe this cooperation (*indicating Q.13*).
14. Does the Government record the following information in relation to the abolition of child labour:
 (a) number of children withdrawn from child labour Yes No
 (b) number of ex-child labourers pursuing formal or non-formal education Yes No
 (c) sanctions applied to users of child labour Yes No
If yes, please attach further details (*indicating Q.14*).
- 15.1. Does the Government undertake, or has it undertaken, surveys that provide statistical information on the extent and/or nature of child work? Yes No
If yes, are surveys undertaken:
 (a) on a regular basis; surveys are undertaken every _____ year(s); or
 (b) occasionally; the last survey was undertaken in the year _____.

Please give the complete reference of the publication(s) of survey results (indicating Q.15.1).

15.2. Are the results presented separately:

- (a) by sex ___ Yes ___ No
 (b) by age. Please specify age groups: _____ ___ Yes ___ No
 (c) by occupation ___ Yes ___ No
 (d) by type of activity ___ Yes ___ No
 (e) by number of hours worked ___ Yes ___ No

16.1. In your last population census, what was the lowest age of persons for whom questions were asked about economic activity? _____ years

16.2. In what year was the last population census? _____

III. **Progress and achievements with respect to the effective abolition of child labour**

17. Have any special measures been undertaken in your country that can be regarded as successful examples in the abolition of child labour? ___ Yes ___ No

If yes, please describe these measures, highlighting the involvement of employers' and workers' organizations and other actors (*indicating Q.17*).

18. If your Government has already submitted a full report on the principle of the effective abolition of child labour, under the Declaration follow-up, please describe the major changes since your last report, specifying the date of the changes (e.g. changes in the regulatory, policy or institutional frameworks, significant new programmes initiated, change in the number of working children) (*indicating Q.18*).

IV. **Obstacles with respect to the effective abolition of child labour**

19. Please describe the main obstacles encountered in your country with respect to realizing the principle of the effective abolition of child labour (*indicating Q.19*).

V. **Priority needs for technical cooperation**

20. Does your Government see a need for new or continued technical cooperation with the ILO to assist in realization of the principle of the effective abolition of child labour? ___ Yes ___ No

If yes, please indicate the types of technical cooperation needed, ranking in order of priority (1 = most important; 2 = 2nd most important, etc.; 0 = not important).

Type of technical cooperation needed	Ranking
Legal reform	
Policy advice	
Capacity-building of responsible government institutions (e.g. labour inspection and administration)	
Training of other officials (e.g. police, judiciary, social workers, teachers)	
Data collection and analysis	
Strengthening capacity of employers' and workers' organizations	
Employment creation, skills training and income generation	
Social protection systems	
Awareness raising, legal literacy and advocacy	
Sharing of experience across countries/regions	
Cross-border cooperation mechanisms	

Type of technical cooperation needed	Ranking
Inter-institutional coordination	
Special programme for the elimination of the worst forms of child labour	
Other. Please specify	

Please attach further details for the **first 3** priority technical cooperation needs identified (indicating Q.20).

VI. Report preparation

21. Regarding the preparation of this report:
- (a) Was there consultation with other governmental agencies? Yes No
- (b) Were employers' organizations consulted in its preparation? Yes No
- (c) Were workers' organizations consulted in its preparation? Yes No

If yes to any of the above, please describe the consultation process (indicating Q.21).

22. Regarding comments received on this report:
- (a) Did employers' organizations make any comments on the report? Yes No
- (b) Did workers' organizations make any comments on the report? Yes No

23.1. Which employers' organizations have been sent copies of the report? *Please attach list.*

23.2. Which workers' organizations have been sent copies of the report? *Please attach list.*

24. Please provide as attachments to your report any other information relevant to the efforts made in your country to abolish child labour and list these attachments (for example, data on economic and demographic trends) (indicating Q.24).

Thank you for providing this information, which is to be used in the promotional spirit of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.