



ELEVENTH ITEM ON THE AGENDA

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

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1. The Committee on Legal Issues and International Labour Standards (LILS Committee) met on 19 March 2004. Its Officers were as follows:

Chairperson: Mr. G. Corres (Government, Argentina)

Employer Vice-Chairperson: Mr. B. Boisson

Worker Vice-Chairperson: Mr. U. Edström

Legal issues

I. Standing Orders of the International Labour Conference

(a) *Provisional arrangements regarding the Credentials Committee*

2. The Committee had before it a document¹ prepared at the request of the Governing Body at its 288th Session (November 2003) containing specific proposals with a view to enabling the Conference to implement, on a trial basis, a series of measures aimed at increasing the efficiency of the Credentials Committee.
3. The Employer members welcomed the proposals contained in the document, which were consistent with the stated goal of improving the visibility and the functioning of the Credentials Committee and making it more effective. With regard to the practical proposals, the Employers had confirmed that they agreed to the preparation of an information brochure for distribution with the invitation to the 2005 session of the International Labour Conference. They had also encouraged the finalization from 2004 of the database on the reports of the Credentials Committee over the last ten years, concentrating available resources on regular updating, rather than on covering more sessions of the Conference. As for the measures intended to bring forward the examination of objections, they preferred the option of publishing the lists of delegations one week earlier. With regard to the proposed new provisions, they had endorsed all the supplementary measures which those provisions involved, with the exception of the proposal concerning article 9 of the Standing Orders of the Conference on the composition of committees, an area where they reaffirmed the importance of the groups' autonomy. Implementation should be undertaken on a trial basis, provisions in the Standing Orders being replaced for a predetermined period. As for the timetable for implementation, given that the Committee on Freedom of Association had already been consulted at its most recent meeting last week, there was no reason now for not recommending adoption of the proposed new provisions at the next session of the Conference, so that they would take effect from the 2005 session onwards. The trial implementation should be over a period of at least three years.
4. The Worker members welcomed the pace at which progress had been achieved so far in this urgent matter and hoped that it would be maintained. They were supportive of all the practical measures aimed at improving the functioning of the Credentials Committee, increasing its visibility and promoting a better understanding of its role by all constituents.

¹ GB.289/LILS/1/1.

They were also in agreement with the measures proposed to strengthen the control and monitoring functions of the Credentials Committee. As to the appeal procedure with regard to the composition of committees, they shared the Employer members' concerns: the groups should retain autonomy in this connection and, in any event, they saw no need to modify a procedure that had hardly been resorted to, at least as far as the Workers' group was concerned. After confirming that the Committee on Freedom of Association had already considered the possible implications of its consideration of objections referred to it, the Worker members considered that there was no need to defer the implementation of the proposed measures, and that they should be submitted to the next session of the Conference in June 2004 for adoption on a trial basis for three years. As regards the drafting of the interim provisions, they suggested that they be revised in consultation with the Officers of the Committee before being submitted to the Conference.

5. The representative of the Government of the United States, speaking on behalf of the Industrialized Market Economy Countries (IMEC group), recalling that the Credentials Committee plays a critical role in ensuring that the Conference is attended by the legitimate representatives of governments, employers and workers, supported the various proposals contained in the document. She also supported the proposed mechanism for the temporary replacement of existing provisions in the Standing Orders by an interim set of rules, for a period of three years. Given the request by the Credentials Committee for an urgent consideration of this matter, a proposal should be made to the Conference as of June, and the Office should without delay put in place the various practical improvements, such as the earlier publication of the lists of delegations, including online.
6. The representative of the Government of Nigeria, speaking on behalf of the Africa group, and supported by the representative of the Government of South Africa, noted that the proposals before the Committee were the result of the agreement reached over previous discussions at the 286th and 288th Sessions of the Governing Body. She could therefore support their implementation on an experimental basis over a period of three years, by means of the proposed separate note to be adopted by the Conference in lieu of the existing provisions of the Standing Orders. This would avoid confusion as to the applicable text. Concerning the time at which the various measures could be proposed for adoption by the Conference, this seemed to depend on the outcome of consultations with the Committee on Freedom of Association. She was, however, favourable to proposing to the next session of the Conference all other measures. The representative of the Government of South Africa, recalling the issues over the legitimacy of the tripartite representatives of his country to the Conference in the not so distant past, was particularly keen on the values of social dialogue and tripartism and, therefore, supported the suggested improvements to the role and functioning of the Credentials Committee.
7. The representative of the Government of India, speaking on behalf of the Asia-Pacific group, while recognizing the important role played by the Credentials Committee in ensuring that the tripartite participants to the Conference were legitimate representatives from their respective groups, considered that the mandate of that Committee should remain well defined. In particular, he considered that its work should not be linked to that of the Committee on Freedom of Association, and that the proposed role to consider appeals as regards the composition of committees was outside its scope.
8. The representative of the Government of Brazil supported the proposed efforts to improve the visibility and functioning of the Credentials Committee, strengthen its monitoring functions and enlarge its mandate to objections concerning incomplete delegations. She stressed however the need to ensure due process for the examination of all objections. Concerning the proposal on a possible referral of objections to the Committee on Freedom of Association, she agreed that the latter's views should be requested before moving

forward. She further supported that the interim arrangements be proposed for a minimum period of three years.

9. The representative of the Government of Venezuela could support most of the proposed measures, except perhaps the possible referral of objections to the Committee on Freedom of Association, as this could increase that Committee's heavy workload. In any event, that possibility should be subject to two safeguards: a unanimous recommendation by the Credentials Committee and endorsement by the Conference. At the same time, he was of the view that the interim arrangements envisaged should not be implemented until such time as all implications had been examined in detail and the Office was in a position to deliver the necessary informative material.
10. The representative of the Government of Mexico shared the concerns over the additional workload that could result from the proposed possibility of a referral of objections to the Committee on Freedom of Association and, even though that Committee had now been consulted and given its agreement to the proposal, she doubted that it was compatible with the Committee's criteria on the receivability of complaints. If the proposal was nevertheless to proceed, she insisted on the need for the safeguards referred to by the representative of the Government of Venezuela. Otherwise, she agreed with the proposals contained in the document, including the earlier publication of the lists of delegations and the enlargement of the Credentials Committee's mandate to consider appeals concerning the composition of committees or objections relating to incomplete delegations. In respect to the schedule for their implementation, she favoured 2005 so as to leave sufficient time to continue examining possible difficulties, as well as a three-year experimental period.
11. In response to comments and concerns expressed by the Government representatives of the Committee, the Worker members recalled that neither of the two groups concerned by the appeal procedure set out in article 9 of the Standing Orders of the Conference considered the proposed amendment to that provision to be appropriate or necessary. Concerning the reservations voiced that freedom of association issues were unrelated to the procedure before the Credentials Committee, they stated that this link was unfortunately a reality that could easily be verified in reading any of the reports of the Credentials Committee of recent years. As to the safeguards requested by some governments, they understood that three such safeguards were indeed provided for in the proposed interim provisions, even though they were not necessarily apparent, namely: that the alleged violation of freedom of association should not be the subject of a case already dealt with by the Committee on Freedom of Association; that any proposal for referral to that Committee be made unanimously by the three members of the Credentials Committee; and, finally, that such proposal be endorsed by the Conference. In these circumstances, the Worker members considered that there was no reason to delay any further the implementation of the various proposals and that the interim provisions could be recommended to the Conference at its next session in June 2004.
12. The Legal Adviser confirmed that, contrary to what was implied in paragraphs 10 and 19 of the document, the Committee on Freedom of Association had indeed had an opportunity to consider at the present session of the Governing Body whether any adjustment to its procedures or practices would be necessary as a result of one of the proposals made. According to the information available, and subject to the formal presentation of the report of the Committee on Freedom of Association to the Governing Body, it would seem that no such adjustment would be necessary. Furthermore, as recalled by the Worker members, the possible referral of objections submitted by the Credentials Committee to the Committee on Freedom of Association was subject to the necessary safeguards. In response to the concern expressed as to the drafting of some of the interim provisions, he explained that the Conference would still have an opportunity, through the Standing Orders Committee, to consider the wording of the proposed provisions. Any suggestion made by

the groups beforehand would, however, enable the Office to better prepare the relevant report to the Conference.

13. The Committee accordingly recommends that the Governing Body instruct the Office to:

- *prepare an information brochure for distribution at the time of the convocation of the 93rd Session of the Conference (2005);*
- *finalize as soon as possible a database with the reports of the Credentials Committee of recent sessions of the Conference;*
- *move the publication of the provisional list of delegations forward by one week for the 92nd Session of the Conference;*
- *invite the Conference, at its 92nd Session, to adopt the interim arrangements contained in Appendix I concerning the role and procedures of the Credentials Committee for an initial trial period of three years effective from 2005.*

(b) Practical arrangements for the discussion, at the 92nd Session (June 2004) of the International Labour Conference, of the Global Report prepared under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work

14. The Committee had before it a document² the purpose of which was to propose the practical and ad hoc arrangements for the examination of the Global Report provided for in the annex to the ILO Declaration on Fundamental Principles and Rights at Work by the 92nd Session of the International Labour Conference.

15. The Employer members recalled that the purpose of examining the Global Report at the Conference was to identify those areas in which the ILO could provide technical assistance to Members. The Conference was not required to take a decision or to formulate conclusions based on that examination; the aim was to assist the Director-General in his choices, in a manner consistent with the promotional character of the follow-up to the Declaration. The speaker confirmed that, during the examination of the Global Report at the two previous sessions of the Conference, the general discussion had not produced satisfactory results, while the thematic discussion had been more successful by, among other things, highlighting relevant experience and good practices. The Employer members endorsed the point for decision while noting that the proposal to restrict debate at the 2004 session of the Conference to the thematic discussion was especially appropriate in view of the heavy agenda. Referring to the appendix to the document, the speaker said that the President should be assisted by a moderator, given the risk of drifting inherent in an interactive discussion in which each participant would have the right to speak more than once. The only reservation on the part of the Employer members concerned the possibility of holding the thematic discussion in the meeting of the Committee of the Whole at the same time as the plenary session, which, depending on the level of interest in the subject under discussion in plenary, might reduce the number of people participating in the

² GB.289/LILS/1/2.

thematic discussion. Lastly, an assessment of the procedures for examining the Global Report would need to be undertaken at the November 2004 session of the Governing Body.

- 16.** The Worker members agreed with the proposal that the discussion on this year's Global Report should only take the form of a thematic discussion based on the points suggested by the Director-General in the Report. Consequently, the Worker members agreed that the provisional ad hoc arrangements adopted at the 90th and 91st Sessions of the Conference, as adjusted to take account of the proposed change, be recommended once again for the 92nd Session on the understanding that no discussion of the Global Report would be conducted at the same time as the plenary. The Worker members emphasized that there should be no overlap between the thematic discussion of the Global Report and the plenary, as there was a low number of participants. Thus, it was deemed that there was no need for this overlap to be considered by the Selection Committee and that this point should be reflected in the arrangements. It was also suggested that the question of low participation could be eased by the governments increasing the number of employers and workers nominated to their delegations. Recalling that the Conference was not required to adopt conclusions or take decisions on the Report, the Worker members considered that the Office still needed to examine the outcome of the discussion at the Conference as the priorities and plan of action affected both developed and developing countries. The points for discussion should cover all the main areas of the Report. Prior consultations between the Office and the Workers' and Employers' secretariats and the regional coordinators were, once again, encouraged with a view to improving the points for discussion. Hope was expressed for a dynamic picture of the ILO Declaration on Fundamental Principles and Rights at Work through the Global Report as this year the fundamental rights of freedom of association and the effective recognition of the right to collective bargaining, which were the basis of workers' existence, would be examined.
- 17.** The representative of the Government of the United States, speaking on behalf of the IMEC group, expressed support for the ad hoc arrangements contained in the Office document as it indicated creative thinking towards increasing high-level participation. She added that prior consultations would be appreciated, and concurred with the need to limit the Global Report to a thematic discussion that would be conducted as a plenary committee with a moderator, during which time the plenary would be suspended. She considered that the Director-General should participate in a substantial part of the discussion. She requested that the Global Report as a follow-up to the Declaration should be examined during the next session of the Governing Body (November 2004), so as to ensure that it would remain a meaningful procedure. The representatives of the Governments of Japan and Italy associated themselves with the statement made on behalf of IMEC. The former added that the thematic discussion of the Global Report should not serve as an additional supervisory mechanism.
- 18.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, endorsed a thematic discussion and the ad hoc arrangements as described in the Office document, but emphasized that it was imperative to scrutinize other factors (e.g. low participation). The representative of the Government of South Africa, joining the statement on behalf of the Africa group, proposed that the Office needed to proactively examine the reasons behind low participation, including the heavy schedule of the Conference and the limited capacity of developing country governments to fund ample delegations.
- 19.** The representative of the Government of India, speaking on behalf of the Asia-Pacific group, agreed with the proposal of a thematic discussion and the ad hoc arrangements. However, he said that there was a common interest by many ministers of labour to expound their views and that timing would be important. With this in mind, he emphasized that the plenary should be suspended during the thematic discussion of the Global Report, and time limits on statements should be observed. Concerning the latter, it was recalled

that they should not deviate from the promotional nature of the follow-up to the Declaration and that there should be no overlap with supervisory mechanisms.

20. A representative of the Director-General (Executive Director of the Standards and Fundamental Principles and Rights at Work Sector) noted the consensus of the Committee on avoiding overlap between the thematic discussion and the plenary, and said that the appendix would be revised to reflect this agreement. He shared the sentiment expressed by the Committee in favour of consultations with the groups on the points for discussion and to assist in establishing a plan of action. Regarding the request to conduct evaluations for future discussions of the Global Report, as this would entail a review of the annual report and other technical elements, while it was conceivable that discussions on an outline could commence with the constituents in the near future, a document for consideration by the Committee during the November 2004 session of the Governing Body appeared to be premature.
21. In response to a question posed by the Employer members, the Legal Adviser explained that the recurring suspension of the Standing Orders of the Conference was not a satisfactory solution for allowing the interactive discussion of the Global Report. Thus, a plenary committee not subject to the same rules of procedure as a plenary was introduced to allow for greater interactivity.
22. The Committee, so as to avoid overlap between the thematic discussion and the plenary, decided accordingly to revise the appendix.
23. *The Committee accordingly recommends to the Governing Body that it invite the Conference, at its 92nd Session, to adopt the provisional ad hoc arrangements set out in the revised Appendix II concerning the discussion of the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.*

II. Possible improvements in the standards-related activities of the ILO: Proposals regarding submission to competent authorities and the representation procedure

24. The Committee had before it a document³ proposing deferral of the presentation of the document dealing with these questions to the 291st Session (November 2004) of the Governing Body.
25. The Employer members said that they were dissatisfied with the absence of a document at the present session of the Governing Body and wanted the question placed on the agenda of the November 2004 session as the first item.
26. The Legal Adviser apologized on behalf of the Office for the postponement of this question, which had been necessitated by a timetabling problem and the workload of the Committee. Firstly, the time available would certainly be sufficient for preparing proposed amendments to the Standing Orders regarding the procedure for the examination of representations, but not sufficient for proposing a revised version of the Memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, which necessitated more work. Secondly, it had been necessary to place a new

³ GB.289/LILS/1/2.

item on the Committee's agenda for the present session, namely the question of the adoption of Standing Orders for a Preparatory Technical Conference on Maritime Labour Standards planned for September 2004, which would examine the draft text of a consolidated maritime labour Convention. Consequently, in accordance with the wishes expressed previously by the Committee, it had been thought desirable to avoid overloading the Committee's agenda.

27. The representative of the Government of Mexico, speaking on behalf of the Group of Latin America and Caribbean States (GRULAC), recalled that her group had made proposals during the discussion on this question in November 2003, and she wanted those proposals reflected in the document that would be presented to the Committee.

International labour standards and human rights

III. General status report on ILO action concerning discrimination in employment

28. The Governing Body had before it a document⁴ on ILO action concerning discrimination in employment and occupation.
29. The Worker members welcomed the information provided and the high level of ratifications of Conventions Nos. 100 and 111. They stressed the importance of the operational policy objective on gender equality in the Programme and Budget for 2004-05 and of mainstreaming gender as a continuous effort. The gender dimension should also be visible in non-gender-specific projects. Workers' and employers' organizations should be the priority targets for capacity building. Measuring progress with regard to gender equality goals was crucial for the future. Programmes regarding Conventions Nos. 100 and 111 should be linked with the promotion of other relevant Conventions, e.g. those on home work and part-time work. Discrimination against migrant workers remained widespread, with women migrant workers often being doubly discriminated against. The ILO should assist member States to overcome social and cultural obstacles which were the causes for the exclusion and marginalization of disabled workers. It should devise and carry out a strategy focusing on disability-related problems at the workplace. The effective contribution by the ILO to the adoption of a new United Nations convention on the rights of persons with disabilities was noted. The Worker members further welcomed the fact that the ILO code of practice on HIV/AIDS and the related training manual were being widely used. Further efforts to combat stigmatization should be made. The present situation of workers in the occupied Arab territories remained deeply worrying as the Palestinian economy was being stifled. It was imperative to overcome distrust, fear and prejudice. To this end, social dialogue should be further promoted as a contribution towards the resumption of the peace process.
30. The Employer members wondered why the subject covered by the report fell within the mandate of the Committee. To their understanding, the question of discrimination – although a very important one – was already being discussed within the framework of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up, both on an annual basis in the annual review of the Governing Body, as well as every four years within the Global Report at the International Labour Conference. In addition, the question

⁴ GB.289/LILS/3.

of discrimination was also subject to review under the report of the Committee of Experts on the Application of Conventions and Recommendations and, on several occasions, discussed on a tripartite basis by the Conference Committee on the Application of Standards. They also questioned why the principle of discrimination was singled out for this report as compared to the other three fundamental principles (freedom of association, abolition of child labour, elimination of forced labour) and whether it continued to be appropriate to have this discussion included in the LILS agenda.

- 31.** The representative of the Government of Germany recalled that, when the former Discrimination Committee of the Governing Body had been discontinued, there was an agreement that the issue of discrimination should be taken up by the present Committee.
- 32.** The representative of the Government of Saudi Arabia observed that paragraph 21 of the report did not contain any information on the actual situation of workers in the occupied Arab territories. It was hoped that the next report would include such information. The representative requested the Director-General to send a new mission to the territories and hoped that the mission's report would be available well in time before the forthcoming International Labour Conference. He also pointed out that the Governing Body had not yet received any information on the enhanced technical cooperation programme for the workers in the occupied territories, which had been envisaged.
- 33.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, expressed interest in receiving further information on the ILO's activities with regard to the elimination of discrimination on the basis of sex, race, national extraction and social origin. Noting that the African region was hardly mentioned in the report, the Africa group hoped that the region would be considered in the programmes for 2004. The ILO's efforts to enhance the capacity of governments to implement effective legislation on the employment of workers with disabilities in East Africa and the Asia-Pacific region were commended, but there was still no ILO disability specialist posted in the African region. The ILO was encouraged to expand its project work regarding HIV/AIDS and the need for capacity building of Africans to assist or replace the ILO specialists in the field.
- 34.** The representative of the Government of South Africa recalled that for historical reasons great attention was paid by his country to taking institutional and legislative measures to address discrimination. His Government supported the ILO activities in this field, including technical cooperation before and after ratification of the relevant Conventions. It was necessary to determine the root causes of discrimination in order to avoid vicious circles.
- 35.** The representative of the Government of China said that eliminating discrimination was a long-term objective and a precondition for the achievement of decent work. His Government was engaging in fruitful cooperation with the ILO in this regard. It was hoped that the ILO would continue to promote the relevant Conventions and their application and that the Office would further invest in its programmes on anti-discrimination training and education.
- 36.** The representative of the Government of the Islamic Republic of Iran expressed appreciation for the assistance that the Office was providing in the area of equality. Her Government had responded positively to comments made by the Committee of Experts on the Application of Conventions and Recommendations under Convention No. 111 regarding the low level of women's participation in employment. An ILO project to promote women's employment had been developed and, as its first phase, the Government and the ILO had jointly organized a two-day national conference on women's employment, empowerment and equality in early March 2004. This had led to increased sensitization of

social partners and government officials and the Government was looking forward to the further implementation of the project.

37. The representative of the Government of Japan thanked the Office for the assistance provided with regard to the ratification of Convention No. 111. With continued assistance by the ILO, the Government would strive to put in place laws facilitating ratification.
38. A representative of the Director-General (Executive Director of the Standards and Fundamental Principles and Rights at Work Sector) recalled that, as the Government member of Germany had indicated, the present Committee assumed responsibility for what had previously been handled in the Discrimination Committee before the reform of the Governing Body in 1993. The Governing Body should reflect on how this subject should intersect with other items, such as the follow-up to the Declaration and the ratifications paper, but he was not suggesting that it all be handled under the Declaration. He added that the Director-General's mission to the occupied Arab territories would take place within a fortnight.
39. The Committee noted the information in the document.

IV. Form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): The Labour Inspection Convention, 1947 (No. 81), and Protocol of 1995, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)

40. The Committee had before it a document⁵ on the proposed report form on the application of unratified Conventions and Recommendations (article 19 of the Constitution): the Labour Inspection Convention, 1947 (No. 81), and Protocol of 1995, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).
41. The Worker members reaffirmed their confidence in the capacity of the Office to elaborate the report forms and indicated their full satisfaction in the proposed report form. They nonetheless wished to make a proposal with the aim of completing Part III of the report form on the Protocol of 1995 so that member States would be asked if the most representative organizations of employers and workers had been consulted on the possibility of excluding totally or partially certain categories of enterprises from the scope of the inspection system envisaged by the Protocol.
42. The Employer members welcomed the proposed report form and accepted the amendment proposed by the Worker members.

⁵ GB.289/LILS/4.

43. The representative of the Government of the United States, while satisfied with the content of the report form, suggested that it be sent with an accompanying letter explaining the reasons why the Governing Body had chosen these particular instruments for the next general survey and the purpose of such a study.
44. The representative of the Government of Nigeria, speaking on behalf of the Africa group, congratulated the Office for the clarity and conciseness of the document submitted.
45. The representative of the Government of Canada, while recognizing the importance of the subjects covered by the instruments which were to be examined by the General Survey, nonetheless expressed her concern regarding the difficulties federal States in general and Canada in particular could face in preparing a consolidated national report, and the impact this might have on the quality of the report, given the large number of questions it contained. She therefore suggested the revision of the report form with a view to reducing the number of questions.
46. A representative of the Director-General, in response to the suggestion by the Worker members, proposed that the report form include a question to member States regarding the scope of the subjects covered by the Protocol through the drafting of a new point along the following lines: "Please indicate if consultations have been held on matters covered by the Protocol with the most representative organizations of employers and workers or, in the absence of such organizations, with the representatives of the employers and workers concerned, and to provide information on the results of such consultations."
47. Responding to the other interventions, the representative of the Director-General said that the Office would accompany the report with information on points suggested by the representative of the Government of the United States and recalled the principle according to which, by virtue of article 19 of the ILO Constitution, member States were invited to provide information on Conventions and protocols only in cases where they had not been ratified. Only information concerning Recommendations was requested from all member States.
48. *The Committee on Legal Issues and International Labour Standards recommends to the Governing Body that it adopt the form for reports on the application of unratified Conventions (article 19 of the Constitution): the Labour Inspection Convention, 1947 (No. 81), and Protocol of 1995, the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133), reproduced as amended in Appendix III.*

V. The proposed consolidated maritime labour Convention: A progress report

49. The Committee had before it a document⁶ summarizing the progress achieved by the High-level Tripartite Working Group (High-level Group) in preparing for the consideration of the new consolidated maritime instrument by the Preparatory Technical Conference on Maritime Labour Standards (September 2004) and subsequently by a Maritime Session of the International Labour Conference (scheduled for 2005). Attached to this document were two appendices: one was a resolution adopted by the High-level Group on the text of the

⁶ GB.289/LILS/5(Rev.).

draft consolidated maritime Convention to be submitted to the Preparatory Technical Conference on Maritime Labour Standards; and the other was the text of proposed Standing Orders for that Conference.

50. A representative of the Director-General stressed the positive impact of the preparatory work undertaken by the High-level Group. The Office had registered 69 ratifications of existing maritime Conventions since January 2001. This demonstrated increased interest in maritime labour matters as a result of the recent work on maritime issues. She drew attention to the resolution adopted by the Nantes meeting of the High-level Group contained in Appendix I to the document and also to paragraph 5 of the document which asked the Committee to recommend that the Governing Body accept the proposed Standing Orders for the Preparatory Technical Conference on Maritime Labour Standards.
51. The Employer members commended the progress achieved and expressed their appreciation for being kept up to date on this important item of work.
52. The Worker members noted the progress achieved and expressed their support for the resolution contained in Appendix I. They were concerned with the way that the draft text of the Convention would be handled at the Conference as it was long, complicated and its different sections were interlinked. They could accept the draft Standing Orders except for article 9. They felt that the possibility to call for a record vote should be inserted in that article in conformity with usual Conference practice and Standing Orders. They also felt that further consideration should be given as to how amendments could be dealt with in the most effective way, possibly by an expanded role for the Steering Committee. They noted that the Declaration relating to the "M.V. Tasman Spirit" had been redrafted by the Seafarers based on an original draft resolution. The Declaration contained a number of specific requests, including the release of the crew members and the salvage master. They reminded the Committee of the resolutions adopted by the International Labour Conference and the Joint Maritime Commission on decent work for seafarers and on the treatment of seafarers after maritime accidents. They requested the Office to keep the Governing Body informed of developments on this case.
53. The representative of the Government of Germany supported the Worker members on the need for the possibility of record votes at the Preparatory Technical Conference on Maritime Labour Standards. He expressed concern on the text of article 10 on languages, which seemed to indicate that there would not be interpretation into Spanish or German and other languages, contrary to normal practice in the ILO. He also noted that it would be important that member States send experts on social security since this subject had proved to be controversial during the Nantes meeting of the High-level Group.
54. The representatives of the Governments of India, Saudi Arabia and Spain were also concerned about the availability of interpretation and documentation in different languages as per normal ILO practice.
55. The representatives of the Governments of Nigeria, on behalf of the Africa group, and of Brazil and Japan expressed their confidence in the progress achieved towards the new consolidated Convention and expressed support for the recommendations contained in paragraph 5.
56. The Legal Adviser shared the concerns of the Workers and of the High-level Group as to the possibility that a flood of amendments could render the Conference unmanageable. The Standing Orders had been drafted to reflect the recommendations of the Officers of the High-level Group. There would be a two-tier amendment process: priority would be given to points, between brackets, where consensus had not been reached previously, but other amendments submitted and having sufficient support would also be considered. Article 7,

paragraphs 4 and 5, would give the Steering Committee the necessary flexibility to manage this process. Article 11, paragraphs 2 and 3, provided for a legal drafting committee which should assist the Conference with the formulation of texts based on decisions of committees or of the Conference itself. The Legal Adviser made certain proposals to amend article 9 to insert between paragraphs 6 and 7 a new paragraph on the possibility of record votes, and article 10 to introduce Spanish and other appropriate languages for interpretation and documentation, in conformity with normal Conference practice.

- 57.** The Worker members supported the addition of Spanish to the languages relevant for interpretation and documentation at the Conference. They suggested, in addition to the Legal Adviser's proposal, that the possibility for record votes could be introduced by adding the words "or by record vote" in article 9, paragraph 5. The Legal Adviser agreed to this proposal and added that a new, appropriately worded paragraph 7 should enable a record vote without a prior vote by show of hands if one-third of the delegates present at the sitting supported that line of action.
- 58.** The representative of the Government of Spain noted that there would be no possibility of a secret ballot at the Conference.
- 59.** A representative of the Director-General provided further information on the points raised by the members of the Committee. She said that interpretation would be available in English, French, Spanish, Arabic, Chinese, Russian, German and, in some instances, Japanese and Portuguese. The draft instrument and associated documentation sent prior to the Conference would be in English, French, Spanish, Arabic, Chinese, German and Russian but translation of documents during the Conference would be only in English, French and Spanish, although the final instrument would be available in other languages. This information would be reflected in the Conference guide being sent with the letter of convocation. The Conference guide would ask governments to ensure that experts on many aspects covered by the Convention would be part of the delegations. She gave information on many other organizational issues to be covered by the Conference guide, such as the areas to be covered by the three technical committees. The Officers of the High-level Group would meet again to consider how the Conference could be better organized to achieve its goals. In reply to further questions, she stated that all member States would be invited to attend the Preparatory Technical Conference on Maritime Labour Standards. Advice on the composition of delegations would be provided in the Conference guide but it was important that expertise was available on the wide-ranging areas covered by the draft instrument and especially social security protection, occupational health and safety, the construction and design of shipboard accommodation, labour inspection and certification procedures. The draft instrument would be sent to member States by mid-June in English, French and Spanish and by mid-July in the other languages. She indicated that it was the Office's intention to submit the Declaration adopted by the Nantes meeting and the consideration by the Governing Body of this issue to the Legal Committee of the IMO which was also considering the issue, in particular as regards the establishment of a joint ILO/IMO working group on the more general questions. Further information would be communicated to governments in due course. She also explained that the Declaration relating to the "M.V. Tasman Spirit" had been sent to the Government of Pakistan but no reply had yet been received by the Office.
- 60.** The Committee noted the progress report and agreed to recommend to the Governing Body that the procedure of the Preparatory Technical Conference on Maritime Labour Standards should be governed by the Standing Orders proposed in Appendix II, as amended by the

Committee. The revised texts of the Standing Orders, as well as the resolution, are attached to this report.⁷

VI. Other questions

(a) ***Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning Teaching Personnel (CEART): Report to be submitted to the International Labour Conference***

61. The Committee had before it a paper⁸ prepared by the Office indicating that the full report of the CEART was before the Committee on Sectoral and Technical Meetings and Related Issues (STM) at the present session. The paper further proposed a decision concerning transmission of the report to the International Labour Conference at its 92nd Session, in accordance with past practice, taking into account the review of the CEART report by the STM.
62. The Worker members expressed appreciation for the excellent collaboration between the ILO and UNESCO on this subject, and approved the point for decision.
63. The Employer members questioned whether it was essential for the LILS Committee to consider this report, the substance of which had already been reviewed by another committee of the Governing Body, and for which this Committee was simply being asked to approve transmission to the International Labour Conference. In the interests of efficiency, the Committee discussions should focus on other issues.
64. A representative of the Director-General noted that the proposed decision before the Committee merely represented past practice. Clearly, the Governing Body was sovereign to determine whether a certain item should or should not be considered by one of its committees with a view to recommendations and a decision on a future course of action. The Committee might wish to take the advice of the Legal Adviser on this point but, in the interests of time, it might be considered expedient to approve the point for decision pending such advice.
65. Seeing no further request for the floor from the Committee's members, the Chairperson declared approved the point for decision contained in paragraph 3.
66. ***The Committee on Legal Issues and International Labour Standards recommends that the Governing Body:***
 - ***take note of the review of the full report on the Eighth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel by the Committee on Sectoral and Technical Meetings and Related Issues at the present session;***

⁷ See Appendices IV and V.

⁸ GB.289/LILS/6/1.

- *forward the report to the International Labour Conference at its 92nd Session (June 2004) for examination in the first instance by the Committee on the Application of Standards.*

(b) Follow-up of the work of the Working Party on Policy regarding the Revision of Standards

67. A representative of the Director-General presented some information on the promotion of the work of the Working Party on Policy regarding the Revision of Standards of the LILS Committee. She recalled that the seven years of work of the Working Party – completed in March 2002 – had permitted, inter alia, identification, among the ILO's body of international labour standards, of the instruments that should be promoted on a priority basis. In this context she announced the recent publication of a guide to ILO standards, containing a summary of the revised and up-to-date instruments, by subject matter, accompanied by a CD-ROM containing full texts of these instruments as well as other relevant documentation. This guide should contribute to a better knowledge and understanding of the most relevant ILO Conventions and Recommendations. She also noted that the Office was in the process of developing country profiles accessible through the Internet-based ILOLEX database. Building on the conclusions of the Working Party, these profiles contained country-specific information regarding invitations to ratify revised and up-to-date Conventions. They should be complemented by national legislative profiles on the subject matters covered by ILO standards. This had already been done in the area of occupational safety and health on the basis of information collected for the first general discussion based on an integrated approach held at the Conference in June 2003.

Geneva, 23 March 2004.

Points for decision: Paragraph 13;
Paragraph 23;
Paragraph 48;
Paragraph 66.

Appendix I

Interim provisions concerning verification of credentials, effective from the 93rd Session (June 2005) to the 97th Session (June 2008) of the International Labour Conference

International Labour Conference

Verification of credentials

ARTICLE 5

Credentials Committee

1. The Conference shall, on the nomination of the Selection Committee, appoint a Credentials Committee consisting of one Government delegate, one Employers' delegate and one Workers' delegate.
2. The Credentials Committee shall examine, in accordance with the provisions of Section B of Part II:
 - (a) the credentials of persons accredited to the Conference;
 - (b) any objection relating to the credentials of delegates and their advisers or to failure to deposit credentials of an Employers' or Workers' delegate;
 - (c) any complaint of non-observance of paragraph 2(a) of article 13 of the Constitution;
 - (d) the monitoring of any situation with regard to observance of the provisions of article 3 or article 13, paragraph 2(a), of the Constitution about which the Conference has requested a report.

PART II

Standing Orders concerning special subjects

Section B

Verification of credentials

ARTICLE 26

Examination of credentials

1. The credentials of delegates and their advisers and of all other accredited members of the delegation of a member State shall be deposited with the International Labour Office at least 15 days before the date fixed for the opening of the session of the Conference.
2. A brief report upon these credentials shall be drawn up by the Chairperson of the Governing Body. It shall, with the credentials, be made available for inspection on the day before the opening of the session of the Conference and shall be published on the day of the opening of the session.

3. The Credentials Committee appointed by the Conference in pursuance of article 5 of the Standing Orders of the Conference shall consider the credentials, as well as any appeal, objection, complaint or report concerning them.

ARTICLE 26BIS

Objections

1. An objection in pursuance of article 5, paragraph 2(b), shall not be receivable in the following cases:
 - (a) if the objection is not lodged with the Secretary-General within 72 hours from 10 a.m. of the date of publication of the official list of delegations on the basis of which the objection to the inclusion or exclusion of the name and function of a person is submitted. If the objection is based on a revised list, the time limit shall be reduced to 48 hours;
 - (b) if the authors of the objection remain anonymous;
 - (c) if the author of the objection is serving as adviser to the delegate to whose nomination objection is taken;
 - (d) if the objection is based upon facts or allegations which the Conference, by a debate and a decision referring to identical facts or allegations, has already discussed and recognized to be irrelevant or devoid of substance.
2. The procedure for the determination of whether an objection is receivable shall be as follows:
 - (a) the Credentials Committee shall consider in respect of each objection whether on any of the grounds set forth in paragraph 1 the objection is irreceivable;
 - (b) if the Committee reaches a unanimous conclusion concerning the receivability of the objection, its decision shall be final;
 - (c) if the Credentials Committee does not reach a unanimous conclusion concerning the receivability of the objection, it shall refer the matter to the Conference which shall, on being furnished with a record of the Committee's discussions and with a report setting forth the opinion of the majority and minority of its members, decide without further discussion whether the objection is receivable.
3. The Credentials Committee shall consider whether every objection deemed to be receivable is well founded and shall as a matter of urgency submit a report thereon to the Conference.
4. If the Credentials Committee or any member thereof submits a report advising that the Conference should refuse to admit any delegate or adviser, the President shall submit this proposal to the Conference for decision, and the Conference, if it deems that the delegate or adviser has not been nominated in conformity with the requirements of the Constitution, may, in accordance with paragraph 9 of article 3 thereof, refuse by two-thirds of the votes cast by the delegates present to admit the delegate or adviser. Delegates who are in favour of refusing to admit the delegate or adviser shall vote "Yes"; delegates who are opposed to refusing to admit the delegate or adviser shall vote "No".
5. Pending final decision of the question of his admission, any delegate or adviser to whose nomination objection has been taken shall have the same rights as other delegates and advisers.
6. If the Credentials Committee considers unanimously that the issues raised by an objection relate to a violation of the principles of freedom of association, it may propose referral of the question to the Committee on Freedom of Association of the Governing Body of the International Labour Office. The Conference shall decide, without discussion, on such proposals for referral.
7. When, in the light of the examination of an objection, the Credentials Committee unanimously considers that it is necessary to monitor the situation, it may propose this to the Conference, which shall decide, without discussion, on the proposal. If it is so decided, the Government concerned shall report on such questions that the Credentials Committee judges necessary, to the subsequent session of the Conference when it submits the delegation's credentials.

ARTICLE 26TER

Complaints

1. The Credentials Committee may consider complaints that a Member has failed to comply with paragraph 2(a) of article 13 of the Constitution where:
 - (a) the Member is alleged to have failed to pay the travelling and subsistence expenses of one or more of the delegates that it has nominated in accordance with article 3, paragraph 1, of the Constitution; or
 - (b) the complaint alleges a serious and manifest imbalance as between the number of Employers' or Workers' advisers whose expenses have been covered in the delegation concerned and the number of advisers appointed for the Government delegates.
2. A complaint referred to in paragraph 1 shall not be receivable in the following cases:
 - (a) if the complaint is not lodged with the Secretary-General of the Conference before 10 a.m. on the seventh day following the opening of the Conference and the Committee considers that there is insufficient time to deal with it properly; or
 - (b) if the complaint is not lodged by an accredited delegate or adviser alleging non-payment of travel and subsistence expenses in the circumstances set out under (a) or (b) of paragraph 1 or by an organization or person acting on his or her behalf.
3. The Credentials Committee shall, in its report, present to the Conference any conclusions that it has unanimously reached on each complaint considered by it.
4. When, in the light of the examination of a complaint, the Credentials Committee unanimously considers that it is necessary to monitor the situation, it may propose this to the Conference, which shall decide, without discussion, on the proposal. If it is so decided, the government concerned shall report on such questions that the Credentials Committee judges necessary, to the subsequent session of the Conference when it submits the delegation's credentials.

ARTICLE 26QUATER

Monitoring

The Credentials Committee also monitors any situation relating to respect by a member State for the provisions of articles 3 or 13(2)(a) of the Constitution with regard to which the Conference has requested the government concerned to report. With this objective, the Committee shall report to the Conference on the evolution of the situation. It may unanimously propose any one of the measures contained in paragraphs 4 to 7 of article 26bis or paragraphs 3 and 4 of article 26ter. The Conference shall decide, without discussion, on such proposals.

Appendix II

Ad hoc arrangements for the discussion of the Global Report under the follow-up to the Declaration at the 92nd Session of the International Labour Conference

Principle of the discussion

Having regard to the various options referred to in the annex to the Declaration, the Governing Body recommends that the Global Report submitted to the Conference by the Director-General should be dealt with by the Conference, separately from the Director-General's reports under article 12 of the Conference Standing Orders.

Timing of the discussion

A maximum of two sittings on the same day should be convened for the thematic discussion of the Global Report, with the possibility, if necessary, of extending the sitting. In order to take account of the programme of work of the Conference and of the fact that a number of ministers who usually are present during the second week of the Conference may wish to take the floor, the discussion of the Global Report should be held during the second week of the Conference. The date will be determined by the Selection Committee.

Procedure for the discussion

The separate discussion of the Global Report recommended above implies in particular that the statements made during the discussion of the Global Report should not fall under the limitation concerning the number of statements by each speaker in plenary provided for in article 12, paragraph 3, of the Standing Orders, and that the discussion should not be governed by the provisions of article 14, paragraph 6, concerning the time limit for speeches. Furthermore, exchanges of views on the suggested points for thematic discussion should not be subject to the restrictions laid down in article 14, paragraph 2, concerning the order in which speakers are called. These provisions should accordingly be suspended under the procedure provided for in article 76 of the Standing Orders to the extent necessary for the discussion of the Global Report.

Organization of the discussion

Given that the thematic discussion is not intended to lead to the adoption of conclusions or decisions by the Conference, on the one hand, and in consideration of the abovementioned suspensions of the Standing Orders, on the other, the Selection Committee may decide that this discussion should be conducted as a plenary committee and be chaired by one of the Officers of the Conference. Should the need arise, the Chairperson might be assisted by a moderator appointed by the Officers of the Conference.

Report to the plenary

The Chairperson of the plenary committee would present a short oral report to the plenary of the Conference and the thematic discussion would be reproduced in the *Provisional Record*.

Appendix III

Appl. 19
C.81, P.81, R.81, R.82, C.129, R.133

INTERNATIONAL LABOUR OFFICE

REPORTS ON

**UNRATIFIED CONVENTIONS
AND RECOMMENDATIONS**

*(Article 19 of the Constitution
of the International Labour Organization)*

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

**LABOUR INSPECTION CONVENTION,
1947 (No. 81)**

PROTOCOL OF 1995 TO THE LABOUR INSPECTION CONVENTION, 1947 (No. 81)

**LABOUR INSPECTION RECOMMENDATION,
1947 (No. 81)**

**LABOUR INSPECTION (MINING AND TRANSPORT) RECOMMENDATION, 1947
(No. 82)**

LABOUR INSPECTION (AGRICULTURE) CONVENTION, 1969 (No. 129)

LABOUR INSPECTION (AGRICULTURE) RECOMMENDATION, 1969 (No. 133)

GENEVA

2004

INTERNATIONAL LABOUR OFFICE

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

“5. In the case of a Convention:

.....

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

6. In the case of a Recommendation:

.....

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

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

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

.....

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

be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

.....

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

REPORT

to be made no later than 1 April 2005, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to the matters dealt with in the following instruments:¹

LABOUR INSPECTION CONVENTION, 1947 (No. 81)**PROTOCOL OF 1995 TO THE LABOUR INSPECTION
CONVENTION, 1947 (No. 81)****LABOUR INSPECTION RECOMMENDATION, 1947 (No. 81)****LABOUR INSPECTION (MINING AND TRANSPORT)
RECOMMENDATION, 1947 (No. 82)****LABOUR INSPECTION (AGRICULTURE) CONVENTION,
1969 (No. 129)****LABOUR INSPECTION (AGRICULTURE) RECOMMENDATION,
1969 (No. 133)**

The General Survey on the above instruments will be based firstly on the provisions contained in the two parts of Convention No. 81, relating to labour inspection in industrial and commercial workplaces. The Protocol of 1995, which extends the application of Convention No. 81 to activities in the non-commercial services sector, will be examined from the point of view of its scope of application, characterized by the possibility for member States to exclude certain categories of workplaces or to restrict some of the prerogatives available to the labour inspectors under Convention No. 81.

There will be an examination of Convention No. 129 from the point of view of its specific provisions relating to the agricultural activities to which it applies, and also from the point of view of extending the area of competence of labour inspection and strengthening its role in view of the decades of experience gained in establishing labour inspection systems based on the principles contained in Convention No. 81 and the lessons of Recommendation No. 81.

The examination of the impact of Recommendations Nos. 81, 82 and 133 will demonstrate the situation in law and in practice of labour inspection in all the member States, and will provide a picture of the progress made and the difficulties encountered in meeting the objectives sought by all the instruments covered by the General Survey.

The report form is presented as a single text divided into parts corresponding to the individual instruments covered by the General Survey. This will allow Members to provide the information requested without difficulty, in keeping with their respective obligations with regard to each of the instruments. Member States that have ratified Convention No. 81 and have appended to their ratification a declaration to exclude Part II will provide the information requested on the measures taken to give effect to this part.

The report form is available on the ILO web site and member States are encouraged to send their report in electronic form, including any attachments. Although attachments are welcome, it would be greatly appreciated if member States would summarize their replies to questions, to the extent possible, or clearly identify the relevant portion of any attachment supplied.

¹ The texts of the instruments are appended.

Some aspects of labour inspection go beyond the immediate competence of the ministry responsible for labour, so that the preparation of a full report on the abovementioned instruments may require consultation with the other ministries or government or private agencies concerned, such as those responsible for health, environment, public finance, public service, education, public safety, social security and insurance, and justice, in particular.

LABOUR INSPECTION CONVENTION, 1947 (No. 81)

adopted by the International Labour Conference at its 30th Session.

- I. Please send a list of the legislation and administrative regulations, etc., which exist in your country in regard to the matters dealt with in the Convention.

If copies of the legislation and regulations cited in the report have not already been supplied to the International Labour Office, please attach them.

Please supply a copy of any other available models of documents concerning the effect given to the provisions of the Convention, such as forms, registers, inspection reports, notification of occupational accidents and diseases, etc.

- II. Please give an exhaustive list of the areas covered by the legislative provisions that are under the supervision of the labour inspectors such as, for example, hours of work, wages, the employment of children and young persons, occupational safety and health, etc. (Articles 1 and 3, paragraph 1(a)).
- III. Please indicate the measures taken to ensure that all undertakings and establishments subject to labour inspection are liable to supervision by the inspection services (Articles 1 and 2, paragraph 1).
- IV. Please state the duties, other than those contained in Article 3, paragraph 1, of the Convention, that are entrusted to labour inspectors (Article 3, paragraph 2).
- V. Please indicate the authority or authorities under whose supervision and control the various inspection services are placed (Article 4).
- VI. Please give details on the legal status, conditions of service and recruitment criteria for labour inspectors, and on measures taken for their subsequent training, as appropriate (Articles 6, 7 and 9).

Please indicate the number and distribution by sex of the staff responsible for labour inspection activities, and specify if it is provided that in some cases women inspectors are called on to perform special duties (Article 8).

Please state whether labour inspectors are bound by the prohibition to have any direct or indirect interest in the workplaces under their supervision as well as by the obligation of professional secrecy as regards manufacturing, commercial or working processes which may come to their knowledge in the course of their duties (if so, please send the relevant texts) (Article 15(a) and (b)).

Please indicate whether labour inspectors are bound by the principle of confidentiality as regards the source of complaints bringing to their notice a defect or breach of legal provisions and also as regards the link between a complaint and a visit of inspection (Article 15(c)).

- VII. Please indicate the administrative structures as well as the public or private institutions that cooperate in inspection activities and give details of the forms and results of this collaboration (Article 5(a)).
- VIII. Please state whether measures are taken to promote collaboration between employers and workers or their respective organizations and the labour inspection services. If so, please provide details on the manner in which this collaboration is carried out and on its results (Article 5(b)).

-
- IX. Please specify the direct or indirect nature of the powers for the issue of orders or the initiation of proceedings defined by the Convention (Articles 13 and 17) and indicate the relevant legal texts.
- X. Please indicate whether legislation makes provision for labour inspectors to exercise the prerogatives defined by each of the provisions in Article 12 and supply the relevant legal provisions.
- XI. Please indicate the legal provisions in compliance with which persons who breach the legislation enforceable by labour inspectors and who obstruct them in the performance of their duties shall be liable to legal proceedings and the application of penalties (Articles 17 and 18).
- XII. Please provide details on the obligation to provide and the methods to follow in preparing periodical reports on activities, with which the labour inspectors must comply vis-à-vis the competent authority, and supply any relevant texts as well as copies of any standard reports (Article 19).
- XIII. Please indicate whether an annual report on inspection activities is produced and published by the central inspection authority. If so, please specify the type of information it includes and provide details on the management and use of this information and also on the objective of producing and publishing a report of this kind.
- If not, please indicate whether there are plans to give effect to the relevant provisions of Articles 20 and 21 of the Convention, and state any measures taken in this regard.
- XIV. Please indicate to what extent action has been taken on the provisions of Part II of the Convention which stipulates that the system of labour inspection in commercial workplaces shall comply with the requirements of Articles 3-21 of Convention No. 81 in so far as they are applicable (Article 24).
- XV. Please indicate whether there are national criteria to determine the definition of a commercial establishment (Article 23).
- XVI. Please indicate the share allocated to labour inspection in the global budget of the labour administration and provide an estimate of how appropriate the human, logistic and material resources allocated to the function of labour inspection are from the viewpoint of needs (Articles 10, 11, 16, 20 and 21).
- XVII. Please state whether it is intended to adopt measures to give effect to those provisions, including those of Part II, of the Convention not yet covered by national legislation and practice.

**PROTOCOL OF 1995 TO THE LABOUR INSPECTION
CONVENTION, 1947 (No. 81)**

adopted by the International Labour Conference at its 82nd Session.

- I. Please indicate whether there is a system of labour inspection responsible for supervising legal provisions relating to conditions of work and the protection of workers while engaged in their work in activities in the non-commercial services sector, such activities being those in all categories of workplaces that are not considered to be industrial or commercial for the purposes of Convention No. 81.
- II. Please specify any particular provisions relating to limitations on the powers of labour inspectors with regard to the abovementioned categories of workplaces and supply the relevant texts.
- III. Please state whether legislation makes provision for the total or partial exclusion of certain categories of workplaces in the non-commercial services sector from the scope of competence of the system of labour inspection referred to in point I above.
- IV. Please provide details about the provisions that ensure, where necessary, that the categories of workplaces excluded from the scope of the labour inspectorate competent for industrial and commercial workplaces are nevertheless liable to inspection as regards conditions of work and of protection of the workers concerned while engaged in their work.
- V. Please indicate if the most representative organizations of employers and workers or, in the absence of such organizations, the representatives of employers and workers concerned were consulted on matters covered by the Protocol, and provide information on the content of such consultations and on their results.

LABOUR INSPECTION RECOMMENDATION, 1947 (No. 81)

adopted by the International Labour Conference at its 30th Session.

- I. Is the labour inspectorate competent to undertake, or order to be undertaken by any competent body, preventive inspection of new establishments, plant and processes of production from the viewpoint of the application of national legislation relating to the safety and health of workers (Part I)?
- II. Please provide detailed information together with, as appropriate, any relevant documents, on any measures to encourage collaboration in the sphere of occupational safety and health between the labour inspection services, on the one hand, and the employers and workers, on the other (Part II, Paragraphs 4-6).
- III. Please provide information on the manner in which labour inspectors distribute information and technical advice to employers and workers aimed at improving compliance with legislation covered by labour inspection and achieving better occupational safety and health; for example, by using awareness-raising activities to promote safety culture, through television, radio and other media coverage, national campaigns, safety and health weeks, safety awareness days, etc. (Part II, Paragraph 7).
- IV. Please indicate whether provision is made for bodies outside the structures of the labour inspectorate, at the national and local levels, to take on the functions of conciliation and arbitration in proceedings concerning labour disputes (Part III).
- V. Please provide details on the information and statistics contained in the annual report on labour inspection activities (Part IV).

**LABOUR INSPECTION (MINING AND TRANSPORT)
RECOMMENDATION, 1947 (No. 82)**

adopted by the International Labour Conference at its 30th Session.

- I. Please indicate whether any legislative, administrative or practical provisions exist in your country that make mining and transport undertakings, as defined by the competent authority, subject to the supervision of the appropriate labour inspection services for the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.

If so, please give, in summarized form, information concerning national legislation, regulations and practice which may facilitate an appreciation of the extent to which effect has been given to the Recommendation.

- II. If copies of the legislation and regulations cited in this report have not already been supplied to the International Labour Office, please attach the same, together with any other documents concerning the effect given to the Recommendation, such as forms, booklets, inspection reports, etc.
- III. Please specify which authority or authorities are entrusted with the supervision of the application of the legislation and regulations and indicate the manner in which employers' and workers' organizations may be called upon to cooperate in this application.

**LABOUR INSPECTION (AGRICULTURE) CONVENTION,
1969 (No. 129)**

adopted by the International Labour Conference at its 53rd Session.

- I. Please indicate whether a definition of the term “agricultural undertaking” exists in national law or practice (Articles 1 and 4).
- II. Please state whether there are, or whether provision has been made for, administrative structures responsible principally or secondarily for labour inspection in agricultural undertakings at the national, regional or local levels. If so, please provide details on the officials who, within these structures, exercise the functions of supervision, the provision of technical advice and information on the best way of applying the relevant legislation, and participate in improving national legislation (Articles 3 and 6, paragraph 1).
- III. Please indicate whether labour inspectors in agriculture are responsible for advisory or enforcement functions regarding legal provisions relating to conditions of life of workers and their families (Article 6, paragraph 2).

If so, please supply the relevant legal provisions or, as appropriate, any document attesting to such functions being exercised by the labour inspectors.
- IV. Please also provide information on the status of inspection staff and on their powers and obligations, and supply any relevant text or document (Articles 8, 9, 16, 18, 20, 22, paragraphs 2, 23 and 25).
- V. Please indicate whether labour inspectors engaged in their functions in agriculture receive specific training in the course of employment, and provide information on the content of this training and the manner in which it is provided (Article 9, paragraph 3).
- VI. Please state whether labour inspection staff include officials or representatives of occupational organizations and provide, as appropriate, details on the occupational guarantees accorded to them, in particular as regards stability of tenure (Article 8, paragraph 2).
- VII. Please indicate whether inspection staff in agriculture include women and whether special duties are assigned to them (Article 10).
- VIII. Please describe the structures responsible for labour inspection in agriculture and indicate the central body under the control of which they are placed (Article 7). Provide information on the arrangements made, as appropriate, to promote effective cooperation between the inspection services in agriculture and other government services and public or approved institutions engaged in similar activities (Article 12, paragraph 1).
- IX. Please indicate any measures taken to ensure that technical experts and specialists are associated in the work of labour inspection in agriculture and provide information on how this collaboration is carried out (Article 11).
- X. Please state whether the government services or public institutions other than the labour inspection services exercise certain inspection functions at the regional or local level on an auxiliary basis or are associated with them. If so, indicate how it is ensured that the application of the principles contained in Convention No. 129 is not affected (Article 12, paragraph 2).
- XI. Please provide information on any arrangement made by the competent authority to promote collaboration between labour inspectors in agriculture and employers and workers or their representatives (Article 13).

- XII. Please state the measures taken to compile a register, at the local level, of agricultural undertakings and the categories of workers employed by them, to determine inspection staff requirements at the national level (Article 14).
- XIII. Please indicate the national distribution of inspection offices offering all or part of their services in the agricultural sector (Article 15(a)) as well as the means of transport and transport facilities available to inspection staff for the performance of their duties in agricultural undertakings (Article 15(b)).
- XIV. Please indicate the share allocated to labour inspection in agriculture in the global budget of the labour administration and provide an estimate of how appropriate the human, logistic and material resources allocated to the function of labour inspection in agriculture are from the viewpoint of needs (Articles 14, 15, 21, 26 and 27).
- XV. Please indicate whether labour inspectors in agriculture are associated in the preventive inspection of new plant, new materials or substances and new methods of handling or processing products which appear likely to constitute a threat to health and safety (Article 17).
- XVI. Please state whether labour inspectors are obliged to inform the employer and the workers' representative immediately following the inspection visit of the defects noted and the measures ordered to remedy them (Article 18, paragraph 4).
- XVII. Please indicate the way in which labour inspectors are informed of occupational accidents and cases of occupational disease and are associated, as appropriate, with inquiries into the causes of these accidents and diseases (Article 19).
- XVIII. Please provide information on the types, procedure and frequency of inspection visits to agricultural undertakings and indicate the relevant legal provisions.
- XIX. Please provide information on the manner in which the central labour inspection authority is informed of the activities of inspection units in agricultural undertakings and supply any relevant documents (Article 25).
- XX. Please provide information on the content as well as the processing, at the national level, of information concerning inspection activities and their results and specify whether an annual general report on these activities is published separately or as part of a general annual report (Articles 26 and 27).

**LABOUR INSPECTION (AGRICULTURE) RECOMMENDATION,
1969 (No. 133)**

adopted by the International Labour Conference at its 53rd Session.

- I. Please indicate whether provision is made for the labour inspectorate to be associated with the enforcement of legal provisions on such matters as the training of workers, social services in agriculture and compulsory school attendance (Paragraph 2).
- II. Please state to what extent, if any, labour inspectors engaged in agriculture are called upon to act as conciliators in labour disputes (Paragraph 3).
- III. Please indicate the measures taken to ensure that when persons appointed as labour inspectors in agriculture do not have the appropriate level of education, they nevertheless have some practical experience in agriculture or a capacity for such work and are given adequate training on the job (Paragraph 7).
- IV. Please state whether labour inspectors are given guidelines to ensure that they perform their duties throughout the country in a uniform manner (Paragraph 8).
- V. Please indicate whether provision is made for collaboration between the joint committees for hygiene and safety of agricultural undertakings and the inspection services, and provide details of the scope of this collaboration and of the manner in which it is carried out (Paragraph 10).
- VI. Please provide details of the methods used by the labour inspectorate to inform agricultural employers and workers of the applicable legal provisions and the need to apply them, as well as of the dangers to the life or health of persons working in agricultural undertakings and of the most appropriate means of avoiding them as, for example, the intervention of rural promoters, the use of media, arrangements for exhibitions and practical demonstrations on hygiene and safety, the inclusion of hygiene and safety in the teaching programmes of rural schools, the arrangement of lectures, debates, seminars and competitions with prizes (Paragraph 14).

Prospects for the ratification and application of the instruments

- I. Please indicate whether it is envisaged to take measures to implement the provisions of Conventions Nos. 81 and 129 and of the Protocol of 1995 if any of these instruments has not been ratified.
- II. Conventions Nos. 81 and 129 are priority Conventions of the ILO. Please indicate whether your Government is considering the ratification of either or both Conventions or state the difficulties, if any, contained in the instrument or instruments vis-à-vis legislation, national practice or any other cause that might prevent or delay ratification.
- III. If Convention No. 81 has been ratified, please indicate whether your Government intends to ratify the Protocol of 1995 or state the difficulties, if any, contained in the instrument vis-à-vis legislation, national practice or any other cause that might prevent or delay ratification.

Consultations

- I. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.
- II. Please state whether you have received from the organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to

which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

Federal States

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

Appendix IV

Resolution concerning the text of the first draft consolidated maritime labour Convention to be submitted to the Preparatory Technical Conference on Maritime Labour Standards (13-24 September 2004)

The High-level Tripartite Working Group on Maritime Labour Standards,

Having been convened in accordance with a decision taken by the Governing Body of the International Labour Office at its 280th Session (March 2001), and having met in its fourth session held in Nantes, France from 19 to 23 January 2004,

Noting the decision taken by the Governing Body at its 286th Session (March 2003), to hold a Preparatory Technical Maritime Conference from 13 to 24 September 2004,

Further noting its decision that the Preparatory Technical Maritime Conference should discuss, and make recommendations concerning an instrument to consolidate maritime labour standards on the basis of a draft to be submitted to it by the Office,

Considering the considerable preparatory work that has been undertaken during the last four sessions of the High-level Tripartite Working Group and of the two sessions of its Subgroup as well as the number of reports that have been prepared by the Office to serve as a basis for discussions;

Adopts this twenty-third day of January 2004 the following resolution:

The High-level Tripartite Working Group on Maritime Labour Standards recommends to the Governing Body of the ILO that:

1. the Office be requested to submit to the Preparatory Technical Maritime Conference a draft instrument based on the results of the important preparatory work undertaken in the framework of the High-level Tripartite Working Group;
2. the draft instrument be considered as containing mature provisions on which consensus has been reached on a significant number of provisions;
3. the Preparatory Technical Maritime Conference deal in the first place with the provisions included in the draft instrument which are placed inside square brackets;
4. the Preparatory Technical Maritime Conference, in the second stage, deal with proposals concerning the draft instrument which have sufficient support;
5. it take the necessary measures for the adjustment of the Standing Orders of the Preparatory Technical Maritime Conference.

Appendix V

Preparatory Technical Conference on Maritime Labour Standards

Proposed Standing Orders

ARTICLE 1

Composition

1. The Conference shall be composed of the delegates appointed by each of the States Members invited by the Governing Body to participate. Each State Member is invited to appoint three delegates (one Government delegate, one Shipowners' delegate, and one Seafarers' delegate).
2. The Governing Body shall be represented at the Conference by a tripartite delegation.
3. Each delegate may be accompanied by advisers. The advisers accompanying a delegate shall have the right to take part in the discussions and to vote under the same conditions as the delegate, unless the delegate indicates otherwise in a written note to the Secretary-General.

ARTICLE 2

Officers of the Conference

1. The Officers of the Conference shall consist of a President and three Vice-Presidents (one from each group), and three representatives of the Governing Body. It shall be the duty of the Officers to arrange the programme of the Conference, to set the date, time and agenda of the plenary sessions, and to draw up proposals regarding the establishment and composition of other committees.
2. The President shall preside over the sittings of the Conference. The Vice-Presidents shall preside in turn over the sittings or parts of sittings at which the President cannot be present.
3. The President shall direct the debates, maintain order, ensure the observance of the Standing Orders, accord or withdraw the right to address the Conference in accordance with the provisions of these Standing Orders, put questions to the vote and announce the result of the vote.

ARTICLE 3

Secretary-General of the Conference

The Director-General of the International Labour Office or a person appointed by him for that purpose shall act as the Secretary-General of the Conference.

ARTICLE 4

Committees

1. The Conference shall appoint a Steering Committee consisting of the Officers of the Conference, four Government delegates, two Shipowners' delegates and two Seafarers' delegates, representing each of the three groups. It shall be the duty of the Steering Committee to arrange the programme of the committees, to fix the date, time and agenda for the committees, and to report to the Conference on any other questions requiring a decision for the proper conduct of business or in implementation of these Standing Orders.

2. The Conference may appoint other committees or working parties after due notice has been given to the three groups.

ARTICLE 5

Admission to sittings

The sittings of the Conference and its committees shall be public unless it is otherwise decided.

ARTICLE 6

Right to participate in the work of the Conference

1. Observers from non-member States who have been invited by the Governing Body may participate in the proceedings without a vote.
2. Representatives of official international organizations which have been invited by the Governing Body to be represented at the Conference may participate in the proceedings without a vote.
3. No delegate, adviser or observer shall address the Conference without having asked and obtained the permission of the President.
4. The President may require speakers to resume their seats if their remarks are not relevant to the subject under discussion, or if they go over the time limit established by the Officers of the Conference.
5. The President may, in agreement with the Vice-Presidents, permit representatives of non-governmental international organizations with which the International Labour Organization has established consultative relationships, and representatives of other non-governmental international organizations which have been invited by the Governing Body to be represented at the Conference, to make or circulate statements for the information of the Conference on questions which are being examined by the Conference. If agreement cannot be reached, the matter shall be referred to the Conference for decision without discussion.

ARTICLE 7

Amendments, motions and resolutions

1. Amendments, motions and resolutions may be discussed only if they have been seconded.
2. (1) Motions as to procedure may be moved verbally and without previous notice. They may be moved at any time, except after the President has called upon a speaker and before the speaker has terminated his or her speech.
(2) Motions as to procedure include the following:
 - (a) a motion to refer the matter back;
 - (b) a motion to postpone consideration of the question;
 - (c) a motion to adjourn the sitting;
 - (d) a motion to adjourn the debate of a particular question;
 - (e) a motion that the Conference proceed with the next item on the agenda for the sitting;
 - (f) a motion to ask for the opinion of the President, the Secretary-General or the Legal Adviser of the Conference;
 - (g) a motion for the closure of the discussion.

3. Amendments and resolutions other than motions as to procedure must be submitted in writing in one of the official languages of the Conference. They must be translated and distributed before the discussion.
4. The Steering Committee shall, taking into account the recommendations of the Governing Body, establish time limits for the submission of amendments to the proposed instrument and the order and procedure for the examination of such amendments.
5. Only amendments to amendments already submitted under the conditions referred to above may be submitted without prior distribution.
6.
 - (1) Amendments shall be voted on before the resolution to which they refer.
 - (2) If there are several amendments to a motion or resolution, the President shall determine the order in which they shall be discussed and put to the vote.
 - (3) If a motion or resolution is amended as the result of a vote, that motion or resolution as amended shall be put to the Conference for a final vote.
7.
 - (1) Any amendment may be withdrawn by the person who moved it, unless an amendment to it is under discussion or has been adopted.
 - (2) Any amendment so withdrawn may be moved again without previous notice by any other delegate to the Conference.
8. No draft resolution shall be receivable unless it relates to the subject of the Conference.

ARTICLE 8

Closure

1. Any delegate may move the closure either on a particular amendment or on a general question.
2. The President shall put a motion for the closure to the vote if it is supported by at least one-fifth of the delegates present at the sitting. Before putting it to the vote, however, the President shall read out the names of those persons who have already indicated their wish to speak.
3. If application is made for permission to speak against the closure, it shall be accorded to one speaker from each group at the request of the chairperson of the group. If the closure is voted, one speaker from each group may, at the request of the chairperson of the group, speak on the question under discussion.

ARTICLE 9

Voting and quorum

1. Subject to the provisions of article 13, paragraph 4, of the Constitution, every delegate shall be entitled to vote individually on all matters which are under consideration by the Conference.
2. The votes of Shipowners' delegates and Seafarers' delegates shall be weighted so as to ensure that each of these two groups has half the voting power of the total number of governments represented at the Conference and entitled to vote.
3. Decisions shall be taken by a simple majority of the valid votes cast.
4. A vote shall not be considered valid if the number of votes cast, in favour or against, amounts to less than half the total voting power.
5. The Conference shall vote by show of hands or by record vote.
6. If the result of a vote by show of hands is challenged, the President shall cause a record vote to be taken.
7. A record vote shall also be taken if a request to that effect is made by a show of hands by at least one-fifth of the delegates present at the sitting, whether such request be made before or immediately after the vote by show of hands.

8. No amendment, motion or resolution shall be adopted if an equal number of votes is cast for and against.

ARTICLE 10

Languages

1. The International Labour Office shall make arrangements for the interpretation of speeches and translation of documents into and from French and English as well as Spanish and, as the case may be, into and from other languages in order to meet the convenience of delegates, subject to the availability of facilities and staff.
2. The report and the conclusions of the Conference shall be established in English, French and Spanish.

ARTICLE 11

Standing Orders of committees

1. These Standing Orders shall apply, *mutatis mutandis*, to committees.
2. The Conference shall have the right, if it deems it to be necessary, to appoint a drafting committee comprising one delegate from each of the three groups, as well as the Secretary-General of the Conference and the Legal Adviser or their representatives.
3. The Conference or a committee may entrust the task of drafting any decision or text to the drafting committee in order to formulate it in the appropriate way.

ARTICLE 12

Conference groups

1. Subject to the Standing Orders, each group shall control its own procedure.
2. At its first meeting, each group shall elect a chairperson, at least one vice-chairperson and a secretary. The chairperson and vice-chairperson or vice-chairpersons shall be elected from among the delegates or advisers constituting the group; the secretary may be selected from persons outside the group.
3. Each group shall hold official meetings for:
 - (a) nominations required in pursuance of these Standing Orders, such as nomination of Vice-President of the Conference and nomination of members of committees or working parties;
 - (b) any other matter referred to groups by the Steering Committee or the Conference.