



SECOND ITEM ON THE AGENDA

**Proposals for the agenda of the
98th Session (2009) of the International
Labour Conference**

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Introduction

1. This document is submitted for consideration by the Governing Body at its 297th Session (November 2006) and contains proposals for a first discussion on items which could be placed on the agenda of the 98th Session (2009) of the Conference and beyond.
2. In accordance with its regular practice, the Governing Body holds in November each year a first discussion on items that are proposed to be placed on the agenda of the International Labour Conference which takes place two-and-a-half years later. In the framework of the provisions of article 5.1.1 of the Standing Orders of the Governing Body,¹ the purpose of this discussion is to select a shortlist of items for close scrutiny at its following session.
3. As a general rule, each March the Governing Body finalizes the agenda of the session of the Conference to be held two years later. It may also happen that it decides for a variety of reasons to postpone its decision to a session closer to the Conference.² Items considered for, but not placed on, the agenda of a specific year of the Conference, are normally resubmitted as a proposal for the agenda the following year. It can also be envisaged to withdraw a proposal that has not received significant support after having been presented on a number of occasions.

Development of proposals

4. The items proposed for the agenda of the 98th Session (2009) of the Conference include two of the items that were not placed on the agenda of the Conference for 2008 and which have the approval of a large number of Governing Body members: employment and social protection in the new demographic context (general discussion based on an integrated approach) and gender equality at the heart of decent work (general discussion). These proposals are presented without change. The item on child labour and protection of young workers had very little support during the last discussion. Nevertheless, as part of the follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards, one element in this proposal remains relevant. A new version focusing more closely on this aspect, which could be developed for March 2007, is suggested below.³
5. It will also be recalled that at the 295th Session (March 2006) of the Governing Body, the limited number of subjects proposed was regretted by many members. The Workers' group precisely indicated a number of subjects it would like to see developed: HIV/AIDS as an item for standard setting, decent work in global supply chains, consulting and informing workers' organizations in the framework of economic restructuring, and export processing zones. The first three items are contained in the proposals for 2009 at a more or less developed stage, awaiting any guidance the Governing Body might give. The item on export processing zones is included in the proposals for the agenda of future sessions of the Conference and could be developed subsequently if the Governing Body so wishes. The

¹ Compendium of rules applicable to the Governing Body of the International Labour Office (ILO, Geneva, 2006), pp. 21-22.

² At its 295th Session (March 2006), the Governing Body placed two items on the agenda of the 2008 Conference: skills for improved productivity, employment growth and development (general discussion) and promotion of rural employment for poverty reduction (general discussion based on an integrated approach). It decided to postpone the choice of the third item to one of its later sessions.

³ See paras. 79-82.

Office also proposes including once again, in this last part of the proposals, the item on new trends in the prevention and resolution of industrial disputes which appears to be particularly topical at present.

6. Many governments have requested that a list of items identified as being a priority in the ILO's strategic framework be submitted, and be used for a workplan that would be regularly updated. The Office is studying this possibility and will take this request up again next March.
7. Ideas have also been put forward regarding improving the selection process itself. As indicated at the 295th Session, this item could be debated in the framework of the Working Group on the International Labour Conference.

Follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards

8. The Office was also asked to take into account standards requiring revision or consolidation. As to possible new needs in respect of revision and consolidation, it seems preferable to begin an analysis of this kind within the Committee on Legal Issues and International Labour Standards (LILS). As regards instruments for revision that have already been identified in decisions of the Governing Body on the basis of the conclusions of the Working Party on the Policy regarding the Revision of Standards, at present, only nine Conventions and nine Recommendations remain to be revised.⁴ This figure takes into account the adoption of the Maritime Labour Convention, 2006, and the item relating to the fishing sector that has been placed on the agenda of the 2007 session of the Conference for purposes of standard setting. The subjects that remain in question are night work of young persons and adolescents (three Conventions and two Recommendations);⁵ occupational safety and health (four Conventions and six Recommendations);⁶ hours of work in road transport (a Convention and a Recommendation);⁷ port work (a Convention).⁸ Details are given in Part II of this document on prospects for standards-related activities in these various spheres. For the moment these seem unlikely. It is only on night work for young people and adolescents that a proposal has been made which could be developed – possibly in the form of a consolidation – for 2009. For the reasons given in Part II, other revisions do not seem appropriate for the immediate future. With respect to port work, a general discussion based on an integrated approach – which may

⁴ The initial number was 22 Conventions and 13 Recommendations.

⁵ Night work of young persons and adolescents: Conventions Nos. 6 and 90 (industry), Convention No. 79 and Recommendation No. 80 (non-industrial occupations) and Recommendation No. 14 (agriculture).

⁶ Occupational safety and health: Convention No. 13 (white lead); Convention No. 136 and Recommendation No. 144 (benzene); Recommendation No. 4 (lead poisoning); Recommendation No. 6 (white phosphorous); Recommendation No. 3 (anthrax); Convention No. 119 and Recommendation No. 118 (guarding of machinery); Convention No. 127 and Recommendation No. 128 (maximum weight).

⁷ Hours of work: Convention No. 153 and Recommendation No. 161 (road transport).

⁸ Port work: Convention No. 27 (marking of weight).

ultimately take into consideration the revision of the Convention concerned – is proposed for 2010 (Part III).⁹

Proposals for the agenda of the 98th Session (2009) of the Conference

9. To sum up, the proposals for the agenda of the 2009 session of the Conference are as follows:
- Proposals developed:
 - (a) employment and social protection in the new demographic context (general discussion based on an integrated approach);
 - (b) HIV/AIDS and the world of work (standard setting);
 - (c) gender equality at the heart of decent work (general discussion).
 - Proposals to be developed:
 - (d) child labour and protection of young workers (follow-up to the Working Party on Policy regarding the Revision of Standards);
 - (e) decent work in global supply chains;
 - (f) the right to information and consultation in the framework of economic restructuring.
10. Of course, if it so wished, the Governing Body could ask the Office to also develop for March 2007 a proposal that is not included in the list and which, in its view, could be of particular interest.

Proposals for the agenda of future Conferences

11. Since 1997, the Governing Body has extended the scope of the November discussions to include an examination of items that could be considered for inclusion in the agenda of future Conferences. For the reasons indicated in them, these proposals do not yet appear to be ready for immediate action.¹⁰
12. The three proposals that were submitted in November 2005 in this context were updated to take into consideration the latest developments in the spheres under consideration. They relate to the following subjects:
- (a) *occupational safety and health*: possible follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards;
 - (b) *hours of work*: possibility of a general discussion;

⁹ See paras. 94-104.

¹⁰ See Part II, paras. 83-87 and Part III.

- (c) *port work*: possibility of a general discussion based on an integrated approach, taking into consideration the conclusions of the Working Party on Policy regarding the Revision of Standards.

13. Three further proposals have been included:

- (d) *hours of work in road transport*: possible follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards;
- (e) *export processing zones*: possibility of a general discussion;
- (f) *new trends in the prevention and resolution of industrial disputes*: possibility of a general discussion taking into consideration the conclusions of the Working Party on Policy regarding the Revision of Standards.

14. In relation to these proposals, the Governing Body may wish to give the Office guidance for priorities to be set and further research to be carried out, in order to advance their level of preparation, taking into account the resources and time necessary for this to be done.

15. *In order to draw up the agenda of the 98th Session (2009) of the International Labour Conference and to develop items for the agenda of future Conferences, the Governing Body is invited to:*

- (a) *examine the proposals for the agenda of the International Labour Conference contained in this document;*
- (b) *select the proposals to be examined in greater depth at its 298th Session (March 2007), when it will finalize the agenda of the 98th Session (2009) of the International Labour Conference;*
- (c) *indicate the proposals for which research work and consultation might be accelerated for subsequent sessions of the Conference.*

Part I. Proposals for the agenda of the 98th Session (2009) of the Conference

A. Developed proposals

Employment/social protection

1. Employment and social protection in the new demographic context (General discussion based on an integrated approach)

Summary

The demographic context of the twenty-first century is largely shaped by the ageing of the population and declining fertility rates. In many countries longer life expectancy has not been accompanied by longer working lives. Average effective retirement ages have dropped, posing a threat to the financial viability of public budgets and a risk of older people becoming socially excluded. Many older persons keen to work longer are discriminated against and forced to leave the labour market prematurely. While there is much debate about the impact of ageing on social security financing, this discussion obscures a key issue: a large number of women and men are unemployed, inactive or work in the informal economy, instead of being employed formally and

contributing to pension systems. The promotion of decent work is the best way to ensure social protection for all and to allow older age groups the possibility of remaining active longer. This is crucial for developing countries where old-age poverty is an increasing concern and few older people can afford retirement. In these countries, it is essential to find ways of extending social security.

The ILO can play a key role in developing innovative strategies to meet these challenges and to facilitate the extension of working lives in productive and decent employment. It is proposed to hold a general discussion to develop an effective plan of action based on an integrated approach encompassing ILO instruments, research activities, technical cooperation and other means of action that together would contribute to promoting policies and strategies to ensure an active, decent and secure old age. While specifically addressing the objectives of employment and social protection, the proposal would contribute to achieving the four strategic objectives.

Contemporary trends

16. The world's population is growing older. Fertility rates are declining and people live longer, not only in developed, but also in most developing countries. Furthermore, large generations born before fertility declined are now reaching the older ages. Between 2005 and 2050, the number of people aged 60 and over is expected to triple from 672 million to nearly 1.9 billion.¹¹ The demographic deficit created might result in lower standards of living and social protection.
17. Low-income countries are ageing faster than higher income ones.¹² Over the next 50 years, the older population in these countries is expected to multiply by four¹³ and old-age dependency is expected to triple. The insufficiency or absence of social protection pushes older people into informal sector employment and old-age poverty is a growing concern.
18. In the industrialized world, longevity has not been accompanied by longer working lives. Older workers are exposed to discrimination and are often forced to withdraw early from the labour market or to move to low-quality jobs underutilizing their capacity. At the same time, countries are facing concerns about the financial viability of social protection systems. While there are sound reasons to increase activity rates, there are obvious constraints to reversing policies and practices. Employment promotion remains the overriding concern.
19. Declining fertility rates means reduction of young entrants to national labour forces. This has important implications regarding migration flows to meet unfilled labour market needs. Population ageing and rising female participation rates have already created a large demand for immigration of health-care and household workers into OECD countries. It is unlikely that estimated levels of immigration required to offset population and labour force declines will be accepted by developed or developing countries. Nonetheless, inevitable increases in immigration raise issues of recognition of qualifications, migrant integration and prevention of discrimination against migrant workers.
20. In some low-income countries, the HIV/AIDS epidemic has introduced particular problems for older persons, notably creating a new caregiver role, renewed parental role and added dependency burden. At the same time, older persons are having to enter or re-enter the

¹¹ United Nations Population Division: *World Population Prospects, the 2004 Revision*, <http://esa.un.org>.

¹² See table 2, "Velocity of ageing", in "An inclusive society for an ageing population: The employment and social protection challenge", paper contributed by the ILO to the Second World Assembly on Ageing, Madrid, 2002.

¹³ www.un.org/ageing/coverage/pr/socm3.htm; see also table 2, "Velocity of ageing", *idem*.

labour market to replace lost household incomes. They face discrimination in access to HIV prevention information, testing and counselling, and antiretroviral therapy, as well as in their search for work and in the workplace. The absence of support and care for caregivers, the poverty of households living with HIV/AIDS and the destitution of older persons who both lose support and gain dependants underscore the need to address employment as a first and last recourse for survival.

The ILO's response

21. The ILO's response has mainly included research, advocacy and collaboration in international efforts and standard setting. Technical cooperation addressing older workers is practically non-existent.

Research and international collaboration

22. Since the early 1990s, the ILO has been working on the employment situation of older workers. Training for older workers was discussed in the *World Labour Report* of 1995 and the *World Employment Reports 1998* and *2001*. The ILO, together with the Governments of Germany and Japan, organized a High-level Conference on Social Dialogue and Ageing in the EU Accession Countries (Budapest, November 2002).
23. The ILO was actively involved in the Second World Assembly on Ageing (Madrid, April 2002).¹⁴ The Assembly adopted the Madrid International Plan of Action on Ageing (MIPAA) and the Political Declaration. The ILO also participated in the Ministerial Conference on Ageing (Berlin, September 2002)¹⁵ and continues to be involved in the follow-up of these conferences.¹⁶
24. Ageing was on the agenda of the Seventh European Regional Meeting (Budapest, February 2005). The report to this Meeting includes a chapter devoted to ageing, labour market and pension reform.¹⁷

Labour standards and older workers

25. The relevant Conventions on fundamental workers' rights apply to all workers irrespective of age. Older workers as a group with specific needs are identified in several Recommendations.¹⁸ The only instrument specifically relating to older workers is the

¹⁴ The ILO submitted the report "An inclusive society for an ageing population: Employment and social protection issues", GB.283/ESP/5 (Mar. 2002).

¹⁵ The Conference adopted the Regional Implementation Strategy for the MIPAA and the Berlin Ministerial Declaration: www.unece.org/ead/pau/age/conf2002frame.htm.

¹⁶ Expert Group Meeting on Modalities for Review and Appraisal of the MIPAA, Malta, November 2003; Expert Group Meeting on Indicators on Ageing, Madrid, April 2004.

¹⁷ See report and conclusions of the Seventh European Regional Meeting (Budapest, 14-18 February 2005). GB.292/5, 292nd Session, Geneva, Mar. 2005.

¹⁸ The Workers' Housing Recommendation, 1961 (No. 115); the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169); and the Safety and Health in Agriculture Recommendation, 2001 (No. 192), Para. 4.3.

Older Workers Recommendation, 1980 (No. 162). This instrument was examined by the Governing Body¹⁹ in November 2000 and it was decided to maintain the status quo.

26. Regarding social security, the key instruments include Part V of the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and Recommendation (No. 131). These instruments were examined by the Governing Body in the light of consultations and the general discussion on social security held during the 89th Session (2001) of the International Labour Conference and were considered to be up to date. The Governing Body invited the Office to offer technical assistance with respect to these instruments including dissemination of information.²⁰
27. The Human Resources Development Convention, 1975 (No. 142), has also been considered as up to date, while its accompanying Recommendation No. 150 has been revised and replaced by the Human Resources Development Recommendation, 2004 (No. 195), adopted at the 92nd Session of the International Labour Conference (June 2004).
28. Regarding equality of opportunity, age is not listed among the grounds on which discrimination is prohibited in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). About 35 countries have, however, included age among the prohibited grounds for discrimination in their legislation.
29. The draft ILO (non-binding) multilateral framework on labour migration incorporated the issue of demographic trends in its Principle 5. Corresponding guidelines propose periodic labour market analysis to assess long-term impact of demographic trends, especially ageing and population growth, on the demand for and supply of labour.

Proposed directions

30. In terms of overarching policy, promoting employment is the best way to ensure that people have a secure pension when the time comes to leave employment. Attention should be given to identifying labour market policies for older workers including a gradual and flexible transition to retirement. Complementary measures such as those related to skills development within a lifelong learning framework are important. Measures to combat age discrimination and stereotypes with particular attention to older women are also crucial, and initiatives from employers are particularly important.
31. Regarding social security, high-income countries face the challenge of ensuring the sustainability of social protection systems. The main challenge for low-income countries is to extend social security coverage to the most vulnerable groups, especially to those in the informal economy, and to secure the incomes of a growing number of vulnerable older women and men.²¹ In some low-income countries, there is a need to address income needs and protection for older persons who lose the support of their children due to AIDS and restart parenting and the charge of households when older, less skilled and at a disadvantage compared with other workers. Particular attention should be placed on women's access to social security. The challenges of demographic change are common to all countries, yet each will have different priorities and will find different strategies to

¹⁹ In the context of the Working Party on Policy regarding the Revision of Standards, see GB.279/LILS/WP/PRS/4, p. 21, and GB.279/LILS/3.

²⁰ See GB.282/LILS/WP/PRS/3 and GB.283/LILS/5(Rev.).

²¹ *World Labour Report 2000*, ILO, Geneva, Chs. 2 and 6.

address them, in view of strengthening the role of social security as a productive factor in promoting employment, stimulating structural change and fostering economic growth.²²

32. There is also a concern vis-à-vis replacement migration based on two major reasons, i.e. the conditions in which migration takes place; and medium- and long-term consequences for both countries of origin and recipient countries. The situation of migrant workers falling outside the realm of social protection, thereby not having access to pension schemes and adequate health services, is of great concern. The scope and limitations of replacement migration to address impacts of new demographic trends should be examined. To what extent can immigration mitigate certain negative effects of demographic ageing? What policies should be developed for better integrating migrants, in particular young people?
33. Examples from some countries have shown that basic income security for the older population is affordable also for low-income countries, and that the improved livelihoods of older people will equally benefit younger generations, especially in countries affected by HIV/AIDS.
34. Finally, providing an adequate working environment for older workers requires particular attention, including the elimination of conditions which are unsafe or unhealthy, or otherwise threaten their working capacity.
35. In order to assist constituents to prepare appropriate and effective strategies, it is therefore proposed to hold a general discussion which will focus on developing a comprehensive and integrated approach encompassing the actions and considerations outlined above.
36. In preparation for the discussion, the ILO plans to launch a survey covering all regions of the world in order to collect comprehensive and up to date information on the labour market situation of older workers, and on policies impeding or promoting their employment. This will provide a sound knowledge base for sharing best practices across countries.
37. A potential outcome of the Conference could be a plan of action encompassing advisory services and technical cooperation, research and analytical work with emphasis on advocating good examples, promotion of relevant ILO labour standards, as well as other means of action that would contribute to promoting policies to ensure a decent and secure old age. The Conference may wish to focus on how the Global Employment Agenda is addressing the employment issues.

Conclusion

38. Productive and decent employment is the most powerful lever to maintain and extend social protection. This requires complementary measures such as promoting the labour rights of older workers through, inter alia, combating age discrimination. Social dialogue plays a crucial role in the design and implementation of policies for older workers. All these measures are related to the ILO's four strategic objectives. For older people, the four pillars of the Decent Work Agenda mean the opportunity to remain an active part of the economy and society in conditions of dignity, freedom, equity and security.
39. It would thus be timely for the Conference to address the aforementioned issues. Such a discussion could serve as a platform for future ILO activities. This would also be in line with the resolution adopted by the General Assembly regarding follow-up to the Second

²² See GB.294/ESP/4.

World Assembly on Ageing²³ which requests “the organizations and bodies of the UN system to: (i) incorporate ageing, as appropriate, into actions to achieve the internationally agreed development goals, including those contained in the UN Millennium Declaration, in particular the goal on the eradication of poverty; and (ii) integrate ageing, including from a gender perspective, into their programmes of work”.

40. A discussion focused on an integrated approach would offer constituents a global view of the ILO’s expertise and means of intervention whilst at the same time facilitating the development of a coherent strategy.

Social protection

2. HIV/AIDS and the world of work
(Standard setting)

Summary

HIV/AIDS is widely recognized as a workplace issue, but implementing effective policies for the world of work – including protection of the rights of workers – remains a challenge. To date, a range of policy responses have been applied to the workplace in different member States, including the enactment of legislation. Many have been effective locally, but it can be argued that an international labour standard on HIV/AIDS, such as a Convention, would ensure a more coherent and coordinated approach, would strengthen the key principles on which the ILO code is based, would protect and promote the rights of those affected and would serve to help employers and enterprises to face, manage and mitigate the cost of HIV/AIDS in the world of work.

Introduction

41. The purpose of this text is to give a brief overview of legal and policy responses to HIV/AIDS in the world of work, and to examine whether workplace programmes would be strengthened and discrimination more rapidly eliminated if an international labour standard were available to support the development and implementation of workplace policy. It looks at existing national and international legislation, as well as the case for introducing a new standard.

The impact of HIV/AIDS

42. Nearly 39 million people worldwide are living with HIV.²⁴ Over 36 million of them are of working age and 25 million are labour force participants.²⁵ The implications in terms of labour supply, productivity, income and rights at work – as well as the potential of the workplace to respond – are the basis for the ILO’s sustained action on the issue of HIV/AIDS in the world of work.
43. The fact that HIV/AIDS is an infectious disease principally transmitted sexually, or the result of other personal behaviours (e.g. injecting drug use), lays a strong foundation for stigma and discrimination as well as denial. Impact on the labour force and on all persons of working age is significant, particularly in the worst affected countries. By causing the illness and death of workers, the HIV/AIDS epidemic reduces the stock of skills and

²³ Resolution adopted by the General Assembly [on the report of the Third Committee (A/58/498)], 58/134. Follow-up to the Second World Assembly on Ageing, 26 January 2004.

²⁴ UNAIDS: *Report on the global AIDS epidemic*, 2006.

²⁵ ILO: *HIV/AIDS and work: Global estimates, impact on children and youth and response 2006*, forthcoming.

experience of the labour force and the loss in human capital is a direct threat to goals of poverty eradication and sustainable development. HIV/AIDS also has a disproportionate impact on children, women and youth. Children are made vulnerable by HIV/AIDS in two ways: it robs them of parental care and guidance, and it often results in a move away from school and into work of young children. The risks associated with the sexual exploitation of children are also significant. In the most affected countries, more women than men are becoming HIV-positive as a result of gender inequalities. At the same time, the burden of caring for sick family members falls more heavily on women and girls, which not only adds to their workload but reduces the time available for formal work or other tasks that may be fundamental to survival.

44. Furthermore, unlike other infectious diseases, HIV/AIDS is potentially lethal on a global scale to working-age adults and is therefore a threat to the world's labour force, unless universal access to treatment is rapidly realized for all workers. For some groups of workers, HIV/AIDS is an occupational disease, but it is a risk for all workers, including those groups. Unlike occupational diseases, therefore, that affect only workers directly exposed to specific occupational risks, all workers are at some risk of HIV/AIDS globally. The fact that HIV/AIDS is a disease of working-age adults underscores the efficiency of a strategy for prevention, care and support that is based in the workplace, and that is provided in a non-discriminatory environment. A rights-based approach at the workplace can play a critical role in de-stigmatizing HIV/AIDS, not least because of the potential society-wide impact.

The response to HIV/AIDS

45. *Addressing HIV/AIDS through legislation:* As early as the 1980s, many governments realized that the response to the epidemic needed a legislative framework, particularly to address discrimination. In some cases existing legislation, especially related to discrimination, was revised to include reference to HIV/AIDS; in others specific instruments were developed, both voluntary (e.g. codes and guidelines, collective agreements, enterprise-level codes, etc.) and mandatory (e.g. legislation). Relevant international instruments include the 1996 International Guidelines on HIV/AIDS and Human Rights²⁶ and guidance on the role of laws generally is set out in the UNAIDS Handbook for Legislators on HIV/AIDS Law and Human Rights. Policy advice on public health legislation has been provided by the WHO²⁷ and UNAIDS and on labour legislation by the ILO.

ILO action on HIV/AIDS

46. During the 88th Session (June 2000), the International Labour Conference unanimously adopted a resolution concerning HIV/AIDS and the world of work, with the principal aim of expanding the ILO's capacity to deal with HIV/AIDS. The ILO Programme on HIV/AIDS and the World of Work was created in February 2001 in order to bring the workplace into the global effort against HIV/AIDS led by UNAIDS. The decision to develop an international guideline stemmed from the traditional responsibility and competence of the ILO to set standards of principle and practice on matters of workplace concern. At the same time it was a direct response to a growing number of requests for information and guidance on the part of constituents. These related to the rights of workers in the face of HIV/AIDS, to the need to respond to the impact of the epidemic on enterprises and national economies, and to the responsibilities of governments and

²⁶ *Report of the Secretary-General to the Commission on Human Rights*, UN doc. E/CN.4/1997/37.

²⁷ WHO: *Directory of legal instruments dealing with HIV infection and AIDS*, WHO/UNAIDS/HLE/97.1, Geneva, 1997.

employers. The benefits to workers are in the health status of the labour supply and would be due to the preservation of employment. The benefits to employers are to avoid and minimize costs of absenteeism, loss of skilled workers, training and diminished profits, markets and investments. The benefits to governments are in economic growth, enhanced expenditure options deriving from improved national revenues and greater potentials for preserving investments directed to sustainable development.

47. The ILO code of practice on HIV/AIDS and the world of work was developed through a series of consultations which started with constituents in all regions, as well as drawing on broader ILO instruments such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). A voluntary instrument was preferred at that time principally because it could be put in place rapidly. The code was discussed and unanimously agreed by a tripartite meeting of 36 experts who worked on it from 14 to 22 May 2001 and was formally approved by the Governing Body in June 2001.
48. The voluntary nature of the code has been a strength in many ways, especially in terms of its flexibility and adaptability to a range of uses and situations. It has been adapted and adopted in many different geographical and cultural contexts, and at all levels from collective agreements to national laws. Employers' and workers' organizations have used it as the basis for collaborative policy and operational initiatives. Of significant importance is the IOE/ICFTU joint declaration "Fighting HIV/AIDS together – A programme for future engagement", signed in May 2003, followed by a joint resolution on HIV/AIDS adopted by the Tenth ILO African Regional Meeting in December 2003.²⁸

HIV/AIDS and existing instruments

Core ILO instruments can be used to underpin the fight against HIV/AIDS in the world of work. The ILO's Declaration on Fundamental Principles and Rights at Work refers to the problems of persons with specific (and special) needs. Elimination of discrimination is one of the fundamental principles and informs HIV/AIDS policy in respect to employment and occupation. Global Reports prepared under the follow-up to the ILO Declaration have also highlighted persisting challenges in eliminating discrimination against people living with HIV/AIDS.¹ The only international labour standard that specifically mentions HIV/AIDS is the recently adopted Maritime Labour Convention, 2006 (see Guidelines B4.3.1 and B4.3.10). A number of other international labour standards deal with matters that are relevant to responding to HIV/AIDS in the world of work.² The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has addressed issues relating to HIV/AIDS in its comments and several General Surveys. Between 1993 and 2000 the issue was almost exclusively raised under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Nursing Personnel Convention, 1977 (No. 149), but subsequently also under the Conventions concerning employment policy, child labour, indigenous and tribal peoples, and plantations. The Committee's General Surveys on equality, protection against unjustified dismissal, migrant workers, dock work and – most recently – labour inspection, have included the prevention of HIV/AIDS at work and the protection of affected workers.³

Measures taken by governments to address the impact of HIV/AIDS on employment have been discussed under the Employment Policy Convention, 1964 (No. 122). Many comments under the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), deal with HIV/AIDS as a factor in child labour.

¹ ILO: *A future without child labour*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), ILC, 90th Session, Geneva, 2002; *Time for equality at work*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), ILC, 91st Session, Geneva, 2003; and *The end of child labour: Within reach*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, Report I(B), ILC, 95th Session, Geneva 2006. ² The Guidelines on addressing HIV/AIDS in the workplace through employment and labour law (Hodges, 2004) list Conventions Nos. 111, 158, 159, 98, 154, 164, 161, 121, 102, 149, 97, 143 and 175. Other relevant instruments would include Conventions Nos. 81, 129, 150, 155 and 187. ³ General Surveys on labour inspection (2006), dock work (2002), migrant workers (1999), protection against unjustified dismissal (1995) and equality in employment and occupation (1996).

²⁸ The text can be found at: www.ilo.org/aids.

The application of the code in national law and practice

49. The code has been translated into about 40 languages, most of them at the request of the countries concerned. It has been used to shape the development or revision of laws, policies and regulations in over 70 countries. Examples of legislative and policy action undertaken by constituents include the following:

- *Laws:* A number of countries, as well as regional bodies, have developed labour legislation or other instruments dealing with HIV/AIDS using relevant ILO instruments and the code's principles, definitions and scope as a primary reference,²⁹ most of them including the fundamental principle of non-discrimination. Others include specific HIV/AIDS provisions related to terms and conditions of employment, healthy work environments, dismissals and job security, testing and confidentiality, affirmative action, reasonable accommodation, remuneration issues and working time. Some countries are also placing more emphasis on care and support.³⁰
- *Case law:* There is a growing body of jurisprudence in national labour courts concerning HIV/AIDS, reflecting the increased numbers of HIV-related dismissals and discriminatory acts, as well as the improving legislative framework.
- *National policies:* Belize, Ghana and the Russian Federation among other countries have adopted national tripartite policies on HIV/AIDS and the world of work, largely inspired by the provisions of the code. Processes of consultation and adoption were often facilitated by the ILO.
- *Employers' and workers' organizations:* HIV/AIDS policies have been adopted by a number of constituents as the basis for their programme development and implementation, most recently by the trade unions in Cambodia. A survey of employers' organizations across Africa conducted by the Federation of Kenyan Employers in 2003 found that over three-quarters of them were using the ILO code to develop policies on HIV/AIDS.
- *Tripartite declarations of commitment on HIV/AIDS* have been adopted and supported by ministers and employers' and workers' leaders in Benin, India, Indonesia, the Russian Federation and Togo, as well as in countries of the Caribbean.
- *Sectoral policies* in the education, transport and health sectors³¹ have been adopted at regional (Caribbean and southern Africa) and global level. Guidelines for other sectors, such as mining and construction, are being prepared.
- *Enterprise level policies:* Action by enterprises has also been inspired by the code, often within the framework of national tripartite policies and other initiatives by the social partners. ILO technical cooperation activities, involving more than 300 enterprises in about 30 countries, guide the voluntary application of the code.

²⁹ See database of laws and policies on www.ilo.org/aids, which includes about 60 countries which have taken legislative or other action referring to the ILO code of practice. It is planned to integrate this database into NATLEX.

³⁰ Examples include Costa Rica, South Africa and Zambia.

³¹ Examples include the *Joint ILO/WHO Guidelines on health services and HIV/AIDS* (2005); and *An HIV/AIDS workplace policy for the education sector in the Caribbean* (2006).

The option of an international standard

50. Capacity to prepare a standard: ILO research and policy guidance initiatives include studies at global and country level on the labour market and economic implications of HIV/AIDS;³² compendia of legislation, policy and action; and sector-specific studies and guidelines. These are complemented by project activities to support the voluntary implementation of the code.³³ The ILO's co-sponsorship of UNAIDS, which became effective in October 2001, provides the Organization with a well-functioning collaborative framework to strengthen the contribution of the world of work to the global response to the epidemic. Based on the experience and knowledge already acquired, with support from UNAIDS and fellow cosponsors, the Office is in a strong position to provide the necessary preparatory work for an item on the Conference agenda related to establishing a standard on HIV/AIDS for the world of work.

51. Purpose and use of a standard: The environment has generally improved for workers living with HIV/AIDS. The workplace has become more receptive and tolerant, with a greater awareness of the complexity of HIV/AIDS and the gravity of its effects. Nevertheless, discrimination still abounds; has strengthened in some cases; and is generally highly persistent and resistant. This situation has become stagnant and calls for a stronger offensive to be taken by governments, social partners and the international community. The effectiveness of many measures would be greater if they were firmly anchored to an international instrument which would serve as a universally recognized standard for action against HIV/AIDS in the world of work:

- The process of developing a standard is itself constructive and awareness raising; it can reinforce social dialogue; and promotes a sense of ownership by tripartite constituents which strengthens the struggle against HIV/AIDS.
- The elaboration and the existence of a standard squarely engage all tripartite actors and reinforce the moral and strategic imperative of workplace action.
- An international labour standard on HIV/AIDS in the world of work would lead to greater consistency, coordination of various national responses to HIV/AIDS, and enhance equity between workers worldwide.
- Adoption of an international instrument would help mobilize resources at both national and international levels and greatly strengthen the national response to HIV/AIDS.

52. There is increasing consensus that the time has come for key actors in the world of work to avail themselves of the potential to fight the HIV/AIDS epidemic that is embodied in a new international labour standard. Within the ILO, in addition to the deliberations of the CEACR (see box) and discussions on related topics at the Governing Body, Regional Meetings and meetings of experts, the Workers' group³⁴ has stated its support for a possible new international instrument on HIV/AIDS and the world of work.

53. Key actors in the world of work are increasingly showing their commitment to act in solidarity by adopting measures which deal with HIV and AIDS. At the same time, there is

³² See, for example, *HIV/AIDS and work: Global estimates, impact and response* (ILO, 2004) and *HIV/AIDS and work: Global estimates, impact and response* (ILO, op. cit.).

³³ See, for example, *Saving lives, protecting jobs* (ILO, 2006).

³⁴ See transcript of third sitting, 16 June 2006, at the 296th Session of the Governing Body.

growing demand for an instrument which would directly and unequivocally address issues of discrimination against workers living with HIV/AIDS and that would lay down collaborative tripartite mechanisms to balance and reconcile workers' and employers' rights and responsibilities, as well as meet their shared interests. Such a standard would also be instrumental in guiding national and international action in promoting universal access to HIV/AIDS prevention, care and treatment through workplaces.

- 54.** If the issue of HIV/AIDS is considered appropriate for standard setting at this time, a more thorough investigation of national laws and policies should be prepared in order to give the Governing Body the required elements for making a final decision. More detailed information on how member States have included provisions of the ILO code and other relevant instruments in developing and applying national legislation and practice would constitute the basis for possible standard setting in this important and sensitive field.
- 55.** It appears that the wider recognition of the ILO code as a key reference instrument for developing HIV/AIDS workplace policies and programmes has created a broad-based agreement on its core principles such as the recognition of HIV/AIDS as a workplace issue, the need to avoid discrimination on grounds of real or perceived HIV/AIDS status, gender equality, social dialogue, testing and confidentiality, continuation of employment, and the gains derived from using the workplace in preventive action.
- 56.** A possible standard would include reference to the importance of establishing a national policy on HIV/AIDS and the world of work and/or a strategy for the workplace within the national AIDS plan. It would recommend the review and revision of labour legislation to include provisions on HIV/AIDS especially related to the prohibition of discrimination and the promotion of workplace programmes. It would reinforce the key principles of the code of practice, as well as the value of a tripartite approach. It would serve as an overarching guide to legislative and policy development as well as enterprise action reflecting national specificities and processes of social dialogue. It would make provisions for implementing whatever level of national monitoring is appropriate.
- 57.** Building on the set of core elements, a new instrument would help to protect rights, provide guidance and indicate good practice. It would be of help in the consolidation and application of existing national legislation as well as in accelerating and expanding national HIV/AIDS responses through a balanced approach to prevention, care and treatment. It would ensure the integration of core ILO concerns such as the protection of children, the promotion of gender equality, the maintenance of skills, employment and income, and the extension of social protection. It would thus also enhance the implementation of the Decent Work Agenda and contribute to strengthening fundamental principles and rights at work. Moreover, it has the potential to significantly enhance the contribution of the ILO and of its constituents to the attainment of the Millennium Development Goals (MDGs), in particular MDG 6 which strives for the control of HIV/AIDS.

Gender equality

3. Gender equality at the heart of decent work (General discussion)

Summary

Making gender equality in the world of work an item on the agenda of the 2008 International Labour Conference would represent a significant opportunity to conduct a comprehensive review of the ILO's progress to date towards gender equality in the world of work, as a basis on which to consult constituents about continued action in pursuance of this central ILO objective, in the light of changing labour markets and patterns in the world of work.

The discussion item would focus particularly on ways of implementing the International Labour Conference resolution concerning the promotion of gender, pay equity and maternity protection (2004)¹ and the Governing Body's decision of March 2005 to work with all stakeholders towards systematic gender mainstreaming throughout all future ILO technical cooperation programmes and projects.² It would also give constituents the opportunity to make recommendations to the Office on ways to enhance its efforts towards gender equality in the world of work, especially in the context of the Decent Work Agenda.

A timely review in 2009 would enable the ILO to revisit the ILO action plan on gender equality and mainstreaming in the ILO in the light of new ILO policy directions and new international mandates on gender equality and to chart a strategic course for future work.

¹ GB.291/3. ² GB.292/14, para. 22.

Background

- 58.** It is now two decades since the International Labour Conference examined equality of opportunity and treatment for men and women in employment in a general discussion in 1985. Yet gender-based discrimination continues to violate fundamental principles and rights at work and human rights in general, and to weaken economic growth and reduce the efficiency of enterprises and labour markets, while women everywhere continue to be more vulnerable to poverty and decent work deficits than men. This has been repeatedly recognized by the international community, most recently in the Millennium Development Goals, especially MDG 3,³⁵ and the Beijing +10 Declaration of 2005. The ILO has a clear responsibility to contribute to the attainment of these internationally agreed commitments, and an incontestable specific contribution to make in this respect.
- 59.** A new International Labour Conference general discussion in 2009 would be timely to allow the ILO to take stock both of these global developments and of the Organization's progress in promoting and achieving gender equality goals, in order to determine priority areas for its future work. This would be in line with recent ILO policy developments such as the 2004 International Labour Conference resolution concerning the promotion of gender equality, pay equity and maternity protection and the Governing Body's decision of 2005 to work with all stakeholders towards systematic gender mainstreaming in all ILO technical cooperation activities.
- 60.** The ILO's primary goal is to promote opportunities for women and men to obtain and perform decent work in conditions of freedom, equity, security and human dignity. The elimination of discrimination in employment and occupation is therefore at the heart of the

³⁵ According to the *UN Millennium Development Goals Report 2005*, "Gender equality is a human right at the heart of achieving the goals [... and] means equality in all areas of work". The recognition of the fundamental link between decent work and the achievement of all of the other Goals was advanced due to the ILO's substantial contribution to the preparation of the master data set on Indicator 11: Share of women in non-agricultural wage employment; and Indicator 45: Unemployment rate of 15-24 year-olds, by sex and in total.

Decent Work Agenda, and is a long-standing objective of the ILO. Strengthening the capacity of constituent organizations to play a catalyst role in promoting gender equality in the world of work is integral to achieving this Agenda.

61. The ILO's decent work country programmes offer a unique opportunity to embed gender equality in all ILO programmes and actions at the country level, where mutually reinforcing progress on rights at work, employment, social protection and social dialogue is most visible and effective.
62. Poverty reduction has become an overriding development goal, and international development strategies focus on designing comprehensive national poverty reduction strategies. This trend provides new and ever-increasing opportunities for the Office and its constituents to work with national policy-makers in the design and implementation of poverty reduction strategies that promote decent work and therefore gender equality, its main cross-cutting element. The ILO has already seized these opportunities in many ways and further development of this work area is highly desirable.
63. The systematic inclusion of gender equality considerations into the design of all ILO programmes is thus critical. Research and advocacy need to highlight the ways in which gender equality serves economic and business interests at the same time as enhancing social justice goals. In short, advancing gender equality in practice is urgent if equitable growth, poverty reduction and decent work are to be achieved.

The ILO's response

64. The promotion of gender equality in the world of work is enshrined in the ILO Constitution, which affirms that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". Over many decades the Organization's response to gender inequality has taken many forms, becoming more sophisticated, more responsive to changing conditions, including international developments, and more closely woven into its institutional fabric. The following are some recent actions:
 - *International Labour Conference resolution concerning the promotion of gender equality, pay equity and maternity protection, 2004*: Calls on governments, employers' and workers' organizations to take concrete steps to eliminate all forms of gender discrimination in the labour market and to promote gender equality. It also calls on the Office to continue, strengthen and accelerate efforts to achieve equality between women and men and equal opportunities in working life.
 - *Governing Body decision on gender issues in technical cooperation, March 2005*: Requests the Office to take certain steps to mainstream gender equality into technical cooperation projects and programmes, work with donors to ensure that agreements make provisions to guarantee and support gender mainstreaming, and increase constituents' capacity to implement gender equality in the world of work.
 - *Programme and Budget for 2006-07*: Makes the promotion of gender equality a mainstreamed strategy for which all units of the Office have shared responsibility. It builds on the definition of gender equality as a shared policy objective in the Programme and Budget for 2004-05.
 - *International Labour Conference Global Report under the follow-up to the ILO Declaration: Time for equality at work, 2003*: Analyses the diverse forms of discrimination at work and examines current policy and practical responses, with the aim of mobilizing greater support for the elimination of such discrimination.

- *Key labour standards related to gender equality and non-discrimination:* The ILO has adopted four Conventions which today constitute an integrated set of standards essential for the elimination of discrimination and the achievement of gender equality, namely the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183).

Key elements of a Conference discussion

- 65.** A general discussion on gender equality would provide an important opportunity to analyse the consequences of new labour market and global economic trends for gender equality in the world of work. It would examine ILO action to address these trends and the impact it has made to date, particularly in the light of the abovementioned resolution and decision on gender equality.
- 66.** Constituents would be invited to give guidance on gender issues they consider priorities for the ILO in the light of changing labour market and work patterns.
- 67.** By thus giving recognition to the pivotal role of gender equality in achieving decent work, the discussion could support the further development of ILO gender policy and action plans and highlight integrated approaches and strategies to speed up the advancement of gender equality in practice, such as the decent work country programmes.
- 68.** The discussion would focus on:
 - action taken so far by the ILO to follow up the 2004 International Labour Conference resolution on gender equality, pay equity and maternity protection and its follow-up;
 - ways in which the resolution has been instrumental in strengthening the gender strategy in accordance with the 2006-08 Office action plan on gender equality and gender mainstreaming;
 - integrating the ILO's means of action to promote gender equality into decent work country programmes;
 - enhancing the capacity of the Office and constituents to mainstream gender equality systematically into programmes and organizational structures;
 - the use of good practices as a tool to promote equal opportunity in employment; and
 - effective ways to promote the ratification and implementation of the key equality Conventions and other labour standards relevant to equality.

Intended outcomes

- 69.** The intended outcomes of the International Labour Conference discussion would be:
 - a review of progress on gender equality in the world of work and ILO action in light of changing labour markets and changing patterns in the world of work;
 - recommendations for the ILO on ways to ensure the continued accountability of the Office and constituents to the 2004 International Labour Conference resolution on gender equality, pay equity and maternity protection;

- general recommendations, centred on the Decent Work Agenda, and the implementation of decent work country programmes for ILO action to enhance the coherence of its policies, strategies and actions to achieve gender equality in the world of work.

B. Proposals to be developed

Employment

4. Decent work in global supply chains

70. This agenda item would focus on structural changes taking place in key sectors of the global economy and the impact on the quantity, quality and distribution of employment. Issues for discussion might include: the key drivers of change; national, local and sectoral policies and strategies for upgrading competitiveness, productivity and decent work in global supply chains; policies and strategies to increase participation of SMEs in supply chains; the role of international policies; developments in public regulation and private systems of monitoring; and the role of private voluntary initiatives and other efforts to manage social issues in supply chains, in the context of international labour standards. Implications for governments, workers' and employers' organizations will be explored. To bring sufficient focus and detail to the discussion, it might be useful to identify a number of key sectors as a basis for the discussion which would aim at identifying policy guidelines to achieve decent work outcomes in global value chains. Preparation of the technical report might involve a range of units in the Office including EMP/ENTERPRISE, SECTOR, INTEGRATION, IILS, NORMES, DIALOGUE and others, and the outcome would be guidance to the Office on the direction of future work in this area.

71. *If the Governing Body wishes to examine this item further, an elaborated proposal could be submitted to its March 2007 session.*

Social dialogue

5. The right to information and consultation in the context of economic restructuring

72. The purpose of the submission of this proposal as a possible item for future International Labour Conference agendas is to improve the right to information and to consultation of employees in undertakings and groups of undertakings in the context of economic restructuring. Globalization may result in social costs in the form of industrial and enterprise restructuring, which can lead to job losses, unemployment, more inequality and insecurity.

73. The existing legal frameworks for information and consultation with employees and their trade unions tend to adopt an excessively a posteriori approach to the process of change, neglect the importance of social dialogue, the economic aspects of decisions taken and do not necessarily contribute either to genuine anticipation of employment developments within the undertaking, thus leading to unnecessary industrial strife.

74. The functioning of the domestic market involves a process of concentrations of undertakings, cross-border mergers, acquisitions, take-overs, joint ventures and, consequently, a transnationalization of undertakings and groups of undertakings. Procedures for informing and consulting employees and their representatives as embodied

in legislation or practice in ILO member States are often not geared to the transnational structure of the entity which takes the decisions affecting those employees.

75. If economic activities are to develop in a harmonious way, undertakings and groups of undertakings should inform and consult the representatives of their employees that are affected by their decisions.
76. Without prejudice to the discussion of this subject by the Governing Body and, eventually, the International Labour Conference, this item could cover, inter alia, such areas as:
- economic, financial and strategic developments;
 - structure and foreseeable development of employment and related measures;
 - decisions likely to lead to substantial changes in work organization or contractual relations;
 - relocation of enterprises;
 - training requirements, skills development and retraining.
77. *If the Governing Body wishes to examine this item further, an elaborated proposal could be submitted to its March 2007 session.*

Part II. Follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards

78. The proposals below relate to the follow-up to the conclusions of the Working Party in the sphere of child labour and protection of young workers, hours of work in road transport and occupational safety and health.

6. Child labour and protection of young workers

79. According to the latest global estimates, 317 million girls and boys aged 5-17 years are working: 218 million of them in child labour situations they must not be in. However, some 100 million adolescents are legally at work.
80. In addition to the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), that are and remain the fundamental Conventions in the area of child labour, there exist a number of other instruments relating to employment or work of children and young workers. As a result of the work of the Working Party on Policy regarding the Revision of Standards, the Governing Body took the following decisions:
- *Night work of young persons:* Three Conventions and two Recommendations should be revised, namely: the Night Work of Young Persons (Industry) Convention, 1919 (No. 6); the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79); the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90); the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14), and the Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80).

- *Medical examination of young persons:* In the case of three Conventions – the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), and the Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) – the Governing Body invited member States: (i) to contemplate ratifying the Conventions; and (ii) to inform the Office of any obstacles or difficulties encountered that might prevent or delay the ratification of these Conventions or which might point to a need for a full or partial revision of these Conventions, including their possible consolidation. For the two accompanying Recommendations – Medical Examination of Young Persons Recommendation, 1946 (No. 79), and the Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125), the Governing Body invited member States to give effect to the Recommendations and to inform the Office of any obstacles or difficulties encountered in their implementation. It invited also the Office to examine the possibility of their consolidation.
- *Other minimum age instruments:* Furthermore, a number of earlier Conventions on minimum age have already been revised by Convention No. 138³⁶ but are still applicable to a number of countries. State parties to the oldest Conventions are invited to ratify Convention No. 138. Nevertheless, because of the flexibility built into Convention No. 138 (detailed conditions for the ipso jure denunciation of earlier Conventions), ratification of Convention No. 138 does not always automatically result in denunciations of all the revised Conventions ratified by the same country.³⁷ Finally, two autonomous Recommendations have an interim status.³⁸

81. The instruments above concerning the conclusions related to night work and medical examination of young persons might be considered too specific in scope to be pursued as a future standard-setting agenda on their own. It could be desirable for the Governing Body to consider necessary follow-up action to the Working Party's conclusions concerned with a view to further streamlining the body of international labour standards on the subject of children and young persons, and in the context of the endeavour to promote the full implementation of the two fundamental Conventions. For instance, in terms of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), Paragraph 3(e), night work of a person under the age of 18 years should be considered when determining the list of hazardous work, and thus should be tackled urgently as one of the worst forms of child labour.

82. The issues of night work and medical examination of young persons as well as any other relevant issues could potentially be the subject of a separate instrument. *The Office could examine this possibility further if the Governing Body considered this a viable option and submit to its March 2007 session a more elaborated proposal.*

³⁶ See Article 10 of Convention No. 138.

³⁷ For example, a State that ratified the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), and subsequently ratified Convention No. 138 while declaring a general minimum age of 14 years continues to be bound by Convention No. 59 unless under Convention No. 138, it declares the minimum age in industry to be 15 years.

³⁸ The Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41), and the Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52), are no longer fully up to date but remain relevant in certain aspects.

7. Hours of work in road transport

83. The Office has carefully examined issues and developments relating to hours of work and rest periods in road transport - including fatigue, driving time and rest periods. It considers that a revision of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and its accompanying Recommendation (No. 161) should await the outcome of the Tripartite Meeting on Labour and Social Issues Arising from Problems of Cross-border Mobility of International Drivers in the Road Transport Sector to be held in Geneva, from 23 to 26 October 2006. The main development in this sector is the new approach to enforcement of driving time, using the digital tachograph technology, which is currently being implemented in the EU. Lessons from the European experience could be useful for its implementation elsewhere.

8. Occupational safety and health

84. As a result of the general discussion based on an integrated approach held in June 2003, the Conference drew up a global strategy on occupational safety and health that included the setting of priorities in the development and revision of ILO instruments. The first priority – the development of a new instrument establishing a promotional framework for occupational safety and health – has been discussed at the 93rd Session (2005) of the International Labour Conference. The new Convention (No. 187) and its accompanying Recommendation (No. 197) concerning a promotional framework for occupational safety and health was adopted at the 95th Session (2006) of the International Labour Conference. These instruments are expected to support placing occupational safety and health high on national agendas and promote the application of relevant ILO standards.

85. Other standard-setting priorities³⁹ set out in the global strategy include the revision of standards related to machine safety (the Guarding of Machinery Convention, 1963 (No. 119), and its accompanying Recommendation (No. 118)), and the revision of certain standards related to specific chemicals (the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4), the White Phosphorus Recommendation, 1919 (No. 6), the White Lead (Painting) Convention, 1921 (No. 13), the Benzene Convention, 1971 (No. 136), and its accompanying Recommendation (No. 144)).

86. In the field of machine safety, the development of a code of practice, the need for which was underlined in the global strategy, will be given first priority over the revision of the Guarding of Machinery Convention, 1963 (No. 119). The Office has started to review the latest developments in this field with a wider view of machinery safety as a basis for developing a code of practice. Developing a code of practice in this field will provide a firm basis for the revision of standards related to machine safety.

87. In promoting chemical safety, the Governing Body approved at its 292nd Session (March 2005) the organization of a meeting of experts to examine instruments, knowledge, advocacy, technical cooperation and international collaboration as tools with a view to developing a policy framework for hazardous substances as a work item of the Sectoral Activities Programme (GB.292/STM/1). The meeting would discuss how ILO instruments and other tools concerning occupational safety and health and hazardous substances could be best incorporated into a new policy framework and action plan. It could also examine best practices and appropriate national legal frameworks to promote safe and healthy working environments; review the roles of governments, employers' and workers'

³⁹ The revision of the Maximum Weight Convention, 1967 (No. 127), and Recommendation (No. 128) was not included in the priorities. As regards the revision of the Anthrax Prevention Recommendation, 1919 (No. 3), which is associated with biological hazards, no specific follow-up is planned.

organizations; and examine ways of establishing tripartite consultation mechanisms on occupational safety and health, and of ensuring that workers and their organizations participate in the consultation mechanisms and thereby build a preventative safety and health culture at work. The meeting should also consider the impact of new and ongoing initiatives related to hazardous substances, including the UN-wide Strategic Approach to International Chemicals Management (SAICM). It could adopt recommendations that would be the basis of subsequent ILO action, including on possible standard-setting activities related to chemical safety. The meeting is proposed to take place from 10 to 13 December 2007 in Geneva.⁴⁰

Part III. Other proposals for the agenda of future Conferences

9. Working time

88. Working time is one of the areas which have been most affected in recent years by important changes in social and economic policies accelerated by the forces of globalization. Since the adoption of the principal ILO standards on hours of work, in particular the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), approaches towards the regulation of working time, and consequently of other interrelated issues such as the hours of rest and annual paid holidays, have evolved.

89. Recent developments relating to working time standards, specially focusing on the orientations given by the Committee of Experts on the Application of Conventions and Recommendations in its 2005 General Survey on Conventions Nos. 1 and 30⁴¹ and the views expressed during the discussion of that document at the Conference Committee on the Application of Standards,⁴² were reviewed in a paper submitted to the LILS Committee in November 2005 entitled “Mapping out a strategy for possible future ILO action on working time”.⁴³ In particular, a meeting of experts that could outline an integrated framework of principles, policy options and recommendations which might serve as a basis for a possible general discussion on working time at the International Labour Conference has been agreed, its date being contingent on the decision on financing of the meeting by the Governing Body.

Research and other activities

90. In response to the Governing Body’s request that further research should be undertaken on the subject of working time, with a view to developing proposals on this subject for future sessions of the International Labour Conference, the Office has been proceeding with an extensive programme of research and information collection on developments in the area of working time, as well as technical cooperation activities in response to requests from ILO constituents such as research-based seminars and training workshops. This work

⁴⁰ For more information concerning this meeting of experts, consult GB. 297/STM/2 and the relevant decision of the Governing Body.

⁴¹ See: *Hours of work: From fixed to flexible?*, International Labour Conference, 93rd Session, 2005, Report III (Part 1B).

⁴² See: International Labour Conference, 93rd Session, 2005, *Record of Proceedings, Provisional Record* No. 22, Part One, paras. 73-131.

⁴³ See: GB.294/LILS/7/1.

programme includes the following major components: a report on working time in the industrialized countries that reviews developments in the area of working time across the industrialized world, focusing on the relationship between workers' and employers' needs and preferences and how these can be combined in working time policies;⁴⁴ an online legal working time database containing legislative provisions on working time in ILO member States;⁴⁵ a comparative analysis of national working time laws;⁴⁶ and a collection of papers by leading researchers presented at the most recent international symposium on working time.⁴⁷ A series of country studies on recent statistical and policy trends in working time and work organization in developing and transition countries have also been commissioned, and these will provide the foundation for a comparative analysis of working time around the world, to be published in 2007.⁴⁸

- 91.** These projects share a number of primary themes which emerge from the goal of ensuring decent working conditions in the area of working time. For example, the research explores the ways in which working hours and working time arrangements are being designed, so as to preserve workplace safety and advance workers' health and well-being.⁴⁹ It is also attentive to gender differences in the arrangement of working time, analysing the implications of these differences for the goal of gender equality and considering which forms of working time can advance the labour market and societal status of women. Also, the research focuses on the impact of existing working time arrangements on the ways in which workers are able to balance paid labour with their family lives and other non-work responsibilities and interests, examining how work/life balance can be promoted in ways which do not jeopardize gender equality. Finally, the Office's research programme seeks to identify working time arrangements which can both advance decent working conditions and simultaneously advance productivity, including flexible forms of work organization, as well as the business benefits of adopting policies that promote work life balance.
- 92.** These research products, complemented by technical cooperation activities conducted in response to requests from constituents and the outcome of the meeting of experts, would provide essential inputs into the direction and substance of any future discussion of working time developments at the International Labour Conference.

Proposal

- 93.** In light of such developments and also considering the ILO's recent major research activities and enhanced technical expertise in this area, there seems to be an opportunity for the International Labour Conference to consider, at one of its future sessions, the subject of working time in its multiple dimensions. Subject to the favourable views of the Governing Body, the Office would be ready to develop a proposal for a general discussion on all aspects of working time regulation at the International Labour Conference which

⁴⁴ J.C. Messenger, ed.: *Working time and workers' needs and preferences in industrialized countries: Finding the balance* (London, Routledge, 2004).

⁴⁵ <http://www.ilo.org/travaildatabase/servlet/workingtime>.

⁴⁶ D. McCann: *Working time laws: A global perspective*. Findings from the ILO's Conditions of Work and Employment Database (ILO, Geneva, 2005) (<http://www.ilo.org/public/english/protection/condtrav/publ/wtwo-dm-05.htm>).

⁴⁷ "Decent working time: New trends, new issues" (ILO, forthcoming, 2006).

⁴⁸ "Working time around the world" [working title] (ILO, forthcoming, 2007).

⁴⁹ See: A. Spurgeon: *Working time: Its impact on safety and health* (ILO and OSHRI, Geneva, 2003).

could take place as early as its 99th Session (June 2010). Any future discussion would be based, to a substantial degree, on the results of the meeting of experts.

10. Port work

Developments since November 2005

- 94.** Port work has been revolutionized in recent years by containerization, technological change and the acceleration of globalization, and is a key factor in economic development. At its 285th Session (November 2002), the Governing Body had before it a paper⁵⁰ containing proposals for the agenda of future Conferences, and decided⁵¹ that further research should be undertaken to developing a proposal on an integrated approach to work in ports for a future session of the International Labour Conference. At its 288th Session (November 2003), the Governing Body included this proposal among those selected for further consideration. The Office proposes that the Governing Body postpone consideration of a general discussion on an integrated approach to work in ports until 2010 at the earliest (see paragraph 100).
- 95.** The research pertinent to this subject matter, which since 2005 has been focused on occupational safety and health (OSH) inspection in ports, has strengthened the position that an integrated approach to work in ports should remain a high priority for the Sectoral Activities Programme. The Office has undertaken a worldwide survey/review of existing guidance and practices on inspection of OSH in ports, which led to a report that was completed in June 2006. This report outlines the findings of the survey and includes relevant recommendations that eventually may lead to the development of ILO standards or guidelines on OSH inspection in ports. The decision concerning the revision of the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27), would be taken into account in this context. Owing to resource constraints and other commitments/priorities/ongoing activities related to ports and transport, no further research on an integrated approach to port work has been possible.
- 96.** The Office has continued to undertake activities on the promotion and implementation of the two recently published codes of practice, namely, the ILO/IMO code of practice on security in ports (2004) and the ILO code of practice on safety and health in ports (2005). In parallel, the Office has also continued its work in the domain of social dialogue in the port sector. Moreover, demand from constituents has led to the intensive promotion, updating and implementation of the ILO Portworker Development Programme.
- 97.** Activities pertinent to the ILO/IMO code of practice on security in ports (2004) included the development and validation, within the framework of a tripartite workshop in Singapore, of additional training materials on container security. This “Workshop on Securing the Integrity of Closed Cargo Transport Units’ Movements in the Supply Chain” was undertaken in collaboration with the Singapore Maritime and Port Authority and attended by representatives of other international, regional and national organizations. Further improvements on the training modules on container security are presently being developed in collaboration with the International Maritime Organization, the World Customs Organization and the European Commission. The Office has also promoted this code of practice at international and national events in Alexandria, Dubai, Antwerp, Prague and Vienna.

⁵⁰ GB.285/2, paras. 16 and 156-166.

⁵¹ GB.285/2, para. 21.

98. The Office's activities in relation to the code of practice on safety and health in ports (2005) included further collaboration with the GAPAS ("Gestión Ambiental en Puertos de América del Sur") project of the German Agency for Technical Cooperation (GTZ), including the translation into Spanish of the *ILO Port safety and health management guide* and holding a joint GTZ-ILO workshop on safety and health management in ports (Montevideo, June 2006). Translations of the code into Chinese, Russian and Turkish are in their final stages. A copyright agreement has been signed for its translation into Italian. Consultations are in progress with the Port Training Institute of Alexandria regarding an Arabic translation.
99. The ILO practical guidance manual, *Social dialogue in the process of structural adjustment and private sector participation in ports: A practical guidance manual* was published in 2006 in English, French and Spanish. Training materials supporting the implementation of the manual were completed in June and were validated within the framework of a tripartite workshop at the International Training Centre (ITC) of the ILO in Turin (July 2006).
100. As a result of promotional activities undertaken by the Office for the ILO Portworker Development Programme (PDP), seven new licences for the use of the PDP have been issued during this reporting period, bringing the number of PDP licensees to 74 and a copyright agreement has also been signed with a Turkish container terminal operator for the translation and production at its own cost of the PDP into Turkish. In August 2006, the Thessaloniki Port Authority completed the translation into Greek of the PDP. An ILO PDP Chief Instructors Workshop was held in Dubai in April 2006, during which 20 PDP instructors from various ports operated by an international container terminal operator were trained. The same international container terminal operator has also recently requested the ILO for the copyright to translate and publish the PDP into French at its own cost. The relevant agreement is presently being negotiated. As a French version of the PDP does not presently exist, this development will fill a major gap and open considerable training opportunities for the ports of French-speaking countries, particularly in Africa. The translation into Spanish of the updated version of the PDP (Revision 2, 2005) and the production of the relevant CD-ROM was completed in July 2006 and copies were dispatched to all Spanish-speaking PDP licensees. The PDP is currently available in seven languages (English, Spanish, Chinese, Indonesian, Arabic, Greek and Korean) and its translation into two other languages is in progress (Turkish and Portuguese). The copyrights for the English (original) and Spanish versions of the PDP are held by the ILO, which has the obligation to update them as required.
101. The Office has also provided technical support to an ongoing project on the improvement of safety and health and working conditions in the port sector in the Russian Federation, which is managed by the ITC in Turin. The project is expected to continue in 2007 and 2008 and support has already been requested by the ITC.

Updated proposal

102. The current commitments of the Office include the need to meet the requirements of the PDP (which is an ongoing project), responding to requests of ILO constituents to hold port-related training courses and workshops and for the provision of other forms of technical assistance.
103. In the light of the resource constraints due to the number of ongoing and planned activities, the Office proposes that the selection of this item – a general discussion on an integrated approach to port work – be postponed for future consideration. In this respect, the Office shall submit for consideration by the Governing Body at its 300th Session (November

2007) a proposal for the selection of this item to be included in the agenda of the 99th Session (2010) of the International Labour Conference.

104. This proposed postponement would allow the Office to make suitable arrangements before the 99th Session (2010) of the International Labour Conference for the completion of the relevant research and the timely preparation of the required report.

11. Export processing zones

105. The workers' organizations have maintained an interest in having export processing zones (EPZs) as a topic for a general discussion, most recently suggesting it during the March 2006 discussions. Since the topic was raised in 1997, there has been the Tripartite Meeting of Export Processing Zones-Operating Countries (Geneva, 28 September to 2 October 1998) and discussion in the March 2003 session of the Governing Body on employment and social policy in respect of EPZs.⁵² The conclusions of the 1998 meeting did not include calls for normative action. The Governing Body in March 2003 invited the Office to continue to examine the issues within a tripartite framework, integrating all aspects of decent work. Additionally, it wished that, in supporting the development of decent work country programmes in countries operating EPZs, particular attention be paid to enhancing their contribution to both economic and social outcomes.

106. The conditions in the zones continue to raise concerns about violations of fundamental standards, weak or no application of labour law, the impact on a predominately female workforce in many of the relevant sectors of activity, and the challenges presented for improving productivity. There are also implications from changing trade policies and rules and the evolution in the typology of EPZs. The 2006-07 programme and budget provides a cross-cutting approach to developing ILO advisory services that meet the needs of the constituents through the InFocus Initiative (IFI) on EPZs. The IFI is intended to bring the work of the Office together toward improving conditions of work and productivity in the zones. The work of the IFI should provide a clearer picture of the changing trends and conditions as well as an indication of key shortcomings in law and practice in light of ILO standards, which could provide the basis of a future discussion at the Conference. A general discussion could identify the need for further guidance from the ILO and the forms it might take, as well as relevant approaches in decent work country programmes.

12. New trends in the prevention and resolution of industrial disputes

107. The rapid economic and social changes emerging around globalization are inevitably leading to increased industrial tensions in many countries. It is therefore timely for the International Labour Conference to review developments and experience in relation to dispute prevention and resolution systems with a view to identifying appropriate follow-up actions by constituents and the Office. In this respect, labour disputes are inherent in all labour relations systems. Preventing, where possible, and, when they arise, settling labour disputes in a manner which is effective, prompt and fair are key aspects of sound labour relations. It is essential that accessible and efficient machineries exist in each country for these purposes in the interests both of social justice and stable economic development. An

⁵² "Labour and social issues relating to export processing zones", report for discussion at the Tripartite Meeting of Export Processing Zones-Operating Countries, Geneva, 28 September to 2 October 1998 (http://www.ilo.org/public/english/dialogue/govlab/legrel/tc/epz/reports/epzrepor_w61/index.htm); *Note on the proceedings*, Tripartite Meeting of Export Processing Zones-Operating Countries, Geneva, 28 September to 2 October 1998 (<http://www.ilo.org/public/english/dialogue/govlab/legrel/tc/epz/reports/10213-01/index.htm>); GB.286/ESP/3 and *Record of decisions*, 286th Session (March 2003) of the Governing Body.

International Labour Conference discussion on the issue of dispute prevention and settlement would also enable the tripartite constituents to examine the continuing relevance of a number of related ILO Recommendations:⁵³ following the conclusions of the Working Party on Policy regarding the Revision of Standards, the Governing Body decided to invite member States to inform the Office of their possible need for revision.⁵⁴

- 108.** It might be noted that a proposal in relation to the issue of dispute prevention and settlement was first presented to the Governing Body in 1992 for possible consideration as an International Labour Conference agenda item. Since that time, the focus and contents of the proposal have evolved and it has been short listed by the Governing Body on several occasions, most recently in March 1999, where it was proposed for a general discussion. Such a discussion could cover: overall trends and developments in this area; the roles of conciliation, arbitration and mediation services, and industrial/labour tribunals and courts; strengthening traditional methods of dispute settlement and integrating new approaches, tools and techniques, referring to key features (i.e. the legal framework, institutions, mechanisms and procedures) of successful systems; the role of the social partners; and prospects for technical cooperation.

Geneva, 20 October 2006.

Point for decision: Paragraph 15.

⁵³ The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), the Examination of Grievances Recommendation, 1967 (No. 130), the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), and the Communications within the Undertaking Recommendation, 1967 (No. 129).

⁵⁴ See for example GB.283/LILS/WP/PRS/1/2, para. 48.