



## **Fourth item on the agenda: Occupational safety and health**

### **Report of the Committee on Safety and Health**

1. The Committee on Occupational Safety and Health met for its first sitting on 31 May 2005. Initially, it consisted of 192 members (73 Government members, 48 Employer members and 71 Worker members). To achieve equality of voting strength, each Government member was allotted 3,408 votes, each Employer member 5,183 votes and each Worker member 3,504 votes. The composition of the Committee was modified nine times during the session, and the number of votes attributed to each member was adjusted accordingly.<sup>1</sup>

<sup>1</sup> The modifications were as follows:

- (a) 1 June: 197 members (89 Government members with 315 votes each, 45 Employer members with 623 votes each and 63 Worker members with 445 votes each);
- (b) 2 June: 190 members (101 Government members with 1,974 votes each, 42 Employer members with 4,747 votes each and 47 Worker members with 4,242 votes each);
- (c) 3 June: 172 members (101 Government members with 1,258 votes each, 34 Employer members with 3,737 votes each and 37 Worker members with 3,434 votes each);
- (d) 4 June: 170 members (106 Government members with 999 votes each, 27 Employer members with 3,922 votes each and 37 Worker members with 2,862 votes each);
- (e) 6 June: 171 members (106 Government members with 513 votes each, 27 Employer members with 2,014 votes each and 38 Worker members with 1,431 votes each);
- (f) 7 June: 165 members (106 Government members with 420 votes each, 24 Employer members with 1,855 votes each and 35 Worker members with 1,272 votes each);
- (g) 8 June: 161 members (107 Government members with 713 votes each, 23 Employer members with 3,317 votes each and 31 Worker members with 2,461 votes each);
- (h) 9 June: 156 members (107 Government members with 594 votes each, 22 Employer members with 2,889 votes each and 27 Worker members with 2,354 votes each);
- (i) 13 June: 159 members (110 Government members with 42 votes each, 21 Employer members with 220 votes each and 28 Worker members with 165 votes each).

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2. The Committee elected its Officers as follows:

<i>Chairperson:</i>	Mr. A. Békés (Government member, Hungary)
<i>Vice-Chairpersons:</i>	Mr. C. Lötter (Employer member, South Africa) and Ms. P. Seminario (Worker member, United States)
<i>Reporter:</i>	Mr. A. Annakin (Government member, New Zealand)

3. At its ninth sitting, the Committee appointed a Drafting Group composed of the following members:

<i>Government member:</i>	Ms. N. Kocherhans (Switzerland)
<i>Employer member:</i>	Mr. N. Cote (Canada)
<i>Worker member:</i>	Mr. M. Leemans (Belgium)

4. The Committee had before it Reports IV(1) and IV(2), entitled *Promotional framework for occupational safety and health*, prepared by the Office for a first discussion of the fourth item on the agenda of the Conference: “Occupational Safety and Health – *Development of a new instrument establishing a promotional framework in this area*”. The proposed Conclusions submitted by the Office were contained in Report IV(2).

5. The Committee held 13 sittings.

## Introduction

6. The representative of the Secretary-General, Dr. Jukka Takala, welcomed the delegates, reminding them of the global burden of occupational accidents and diseases. The Committee then proceeded to elect its officers. The Chairperson thanked the Committee for his election, which he saw as a great honour for him and his country. He looked forward to working with the Vice-Chairpersons and members of the Committee in a constructive spirit of cooperation, and was confident of the Committee’s success. The Vice-Chairpersons likewise pledged their commitment to effective collaboration and a successful outcome.

## General discussion

7. The representative of the Secretary-General introduced the subject for discussion by the Committee. In June 2003, the International Labour Conference had adopted a global strategy for occupational safety and health (OSH), the aim of which was to build and maintain a preventative safety and health culture, and this focused on the right to a safe and healthy environment, the principle of prevention and a systems approach to managing occupational safety and health. The strategy included: (1) the promotion of occupational safety and health through awareness raising and advocacy; (2) ILO instruments such as standards (the subject for this Committee), codes of practice and guides; (3) technical assistance and cooperation on occupational safety and health; (4) knowledge development, management and dissemination; and (5) international collaboration.

8. In July 2004, the Office produced Report IV(1), entitled *Promotional framework for occupational safety and health*, which provided much of the technical background and proposals for a new instrument on a promotional framework for occupational safety and health. The same report included a questionnaire about the way forward, and replies to this questionnaire were summarized in Report IV(2), also entitled *Promotional framework for*

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*occupational safety and health*. The second report included a commentary prepared by the Office, together with proposed Conclusions for discussion by this Committee.

9. The proposed instrument was designed so as to promote safer and healthier working environments through a management systems approach and the development of national occupational safety and health programmes and the continual improvement of national occupational safety and health systems. The former were medium-term strategic programmes that aimed to place occupational safety and health high on national agendas, with set targets and time frames. National occupational safety and health systems comprised relevant legislation, tripartite consultation and compliance assurance mechanisms such as inspection, as well as occupational safety and health services, data collection, training and information. National occupational safety and health programmes and systems should be mutually supportive, and ILO Conventions, Recommendations, codes of practice, etc., provided the basis for both.
10. As for the form of the instrument, there had been a mixed response from the 92 countries that replied to the above questionnaire. Most countries favoured either a Convention or a Convention and a Recommendation, as did most workers' organizations. Some countries favoured a Recommendation (only) or a Declaration, as did most employers' organizations. In Report IV(2), the Office proposed a Convention with an accompanying Recommendation as a basis for discussion by the Committee. However, the representative of the Secretary-General emphasized that it was the Committee that would decide on what form the instrument would take.
11. The Employer Vice-Chairperson, speaking on behalf of the Employers' group, congratulated both the Chairperson and the Worker Vice-Chairperson on their appointments and also looked forward to working with the Government members of the Committee. The work done by the Office in producing the report for this Committee was much appreciated. The Committee had an enormous responsibility to ensure a successful conclusion to its deliberations but, to do so, it would be necessary to be open to new approaches. The Governing Body, in 2000, decided to adopt an integrated approach to the ILO's standards-related activities, the first area of which was to be in the area of occupational safety and health, so there was precedent for thinking beyond the norm. He reminded the Committee of the strong consensus reached in 2003 for a new instrument establishing a promotional framework for occupational safety and health.
12. The purpose of this instrument was to ensure that priority be given to occupational safety and health in national agendas and to foster political commitment to developing national strategies for the improvement of occupational safety and health. These strategies were to be based on a preventative safety and health culture and the management systems approach. Further, it was to function as an overarching instrument with a promotional rather than a prescriptive content. The Employers' group was therefore disappointed to find that the basis for this Committee's discussion was a proposal for yet another Convention and Recommendation. It strongly supported a Declaration as the instrument best suited to making a difference, to making a real contribution to safety and health in the workplace.
13. The Worker Vice-Chairperson congratulated the Chairperson and the Employer Vice-Chairperson on their elections and thanked the Office for the preliminary discussions that the Office had organized in March 2005. She noted that protecting workers' safety and health had always formed part of the core mandate of the ILO, yet problems still persisted with over 2 million women and men dying annually from work-related accidents and diseases. New employment practices also increased workers' exposure to occupational hazards and risks. New hazards were also emerging. Preventing occupational accidents and diseases should therefore be given the highest priority. However, the Workers' group

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thought that the Office's proposals did not deal adequately with some of the elements agreed in 2003, namely: the rights of workers to a safe and healthy working environment, the respective responsibilities of governments, employers and workers, and the establishment of tripartite consultative mechanisms on occupational safety and health, workers' participation and representation at all levels, and measures for enforcement. The Workers' group considered that the new instrument should also take account of, build on and integrate existing key ILO instruments, such as the Occupational Safety and Health Convention, 1981 (No. 155), and should not be confined to the promotion of national programmes and systems. Without the link to existing ILO instruments on occupational safety and health, the new instrument would weaken the rights and principles entailed in these instruments. However, she stressed that the goal should not be to impose new obligations on member States and employers, and that therefore the Convention should be easy to ratify.

14. The Workers' group supported the proposal to have a new instrument in the form of a Convention supplemented by a Recommendation. The basic principles to be taken into account in the new instrument were for the working environment to be safe and healthy, for occupational safety and health policies and programmes to be established at the national as well as at the enterprise level and for occupational safety and health to be given high priority. The responsibilities, duties and rights of employers, governments and workers needed to be defined at national and enterprise levels, and occupational safety and health information and training provided. Participation and representation of workers and their representatives should be included at all levels, in particular with respect to prevention initiatives. The promotional framework should include and link policy and key principles to both the national system of laws and regulations and to a national programme that sets priorities, goals and benchmarks in order to improve workplace safety and health. Other ILO instruments serve as the foundation of this framework. She emphasized that the new instrument should improve occupational safety and health at national levels and should contribute to the objectives set forth in the Decent Work Agenda.
15. The Government member of Egypt described the tasks of the National Institute for Occupational Safety and Health, which he represented. It had been established in 1969 and its task was to assist enterprises at all levels in the area of occupational safety and health and to carry out field studies and research to identify and solve occupational safety and health problems. The Institute was also involved in the training of experts and in occupational safety and health awareness-raising activities, in developing standards and data collection. Promotional activities required strategic planning and the involvement of all parties, and a good national framework for the promotion of occupational safety and health required everyone to be involved, including NGOs and especially the media (press and television).
16. The Government member of Japan said that the country had instituted its first Industrial Accident Prevention Plan 50 years ago, and that having a national programme for occupational safety and health had proved to be very effective. In order to take into account national differences, however, the new instrument discussed by the Committee should have minimum requirements and be simple and flexible so that all member States were able to apply it. Japan had already formulated guidelines on occupational safety and health management systems, and industrial occupational safety and health associations had also formulated their own systems based on national guidelines. He commended the ILO guidelines on this subject as a most useful document. He also highlighted the fact that his Government was on the verge of ratifying the Asbestos Convention, 1986 (No. 162), and thanked the Office for the help that it had offered during this process.
17. The Government member of Switzerland reaffirmed her Government's position in 2003, where a mechanism was sought to promote occupational safety and health. Her

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Government was against the idea of having a new Convention and Recommendation, since there were already many instruments dealing with occupational safety and health, and most had very low ratifications, preferring new mechanisms that provided practical protective measures. She expressed her disappointment that the Office had not studied more innovative ways to provide a promotional framework for occupational safety and health. Her Government would support a new instrument in the form of a Declaration, enhanced with practical protective measures.

18. The Government member of the Netherlands endorsed the need for a promotional framework for occupational safety and health, stressing the need for flexibility. He expressed his disappointment that the Committee was not discussing a consolidated Convention on occupational safety and health. Taking this into account, as well as the need for flexibility, his Government could only support a new instrument in the form of a Recommendation or Declaration.
19. The Government member of Australia stated that securing better occupational safety and health was of great importance to her Government. The Committee had a unique opportunity to develop a new promotional instrument for occupational safety and health as a basic principle, and it was important to be aware of the desired outcomes. However, since occupational safety and health Conventions were so poorly ratified, she questioned the Office proposal of a new Convention and Recommendation, as this would be unlikely to promote improvements in occupational safety and health. She said that the new instrument should be given the greatest chance to be ratified and, with this in mind, her Government proposed it take the form of a Declaration, to underpin the ILO's global objective of achieving decent work that is safe work. Such a Declaration should provide for accountability and reporting arrangements equivalent to those applicable under the follow-up to the Declaration on Fundamental Principles and Rights at Work. It should also promote compliance with the principles contained in Convention No. 155 and, as a minimum, should provide for the development and implementation in all member States of a national occupational safety and health policy in consultation with employers' and workers' organizations, periodic review of the policy, guidance to employers and workers on their legal obligations, the right of workers to remove themselves from dangerous work situations, and promotion of sound safety and health practices through education and awareness raising. A promotional campaign for Convention No. 155 should be launched and member States not ratifying it should be asked to report on progress annually. An occupational safety and health Declaration should incorporate a reporting mechanism on the efforts taken to implement the Declaration's principles. This follow-up process should be sufficiently flexible to allow member States to achieve the Declaration's principles within a reasonable time period. She said that this would hold all member States accountable for their efforts in improving occupational safety and health, not just those that had ratified Conventions.
20. The Government member of New Zealand expressed his Government's support for the development of a promotional instrument for occupational safety and health and that the new instrument should provide an overarching framework for programmes of action at the international, national and enterprise level. He described his Government's efforts, in collaboration with workers and employers, to develop a workplace health and safety strategy for New Zealand until 2015. Part of this also included the establishment of an expert national occupational health and safety advisory committee. While developing the strategy, he said that his Government had learned four lessons, which could be kept in mind by the Committee: (1) an inclusive process of consultation was essential for the new instrument to be accepted by all; (2) a comprehensive framework for action should be provided identifying priority areas, without actually prescribing the balance of interventions; (3) there should be an awareness-raising element; and (4) progress should be monitored. Active employee participation, a strong emphasis on good occupational safety

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and health practice as well as highlighting the link between good occupational safety and health practice and productivity were essential. He said that it was most important for occupational safety and health not to be seen as a stand-alone element, but as a key contributor to workplace productivity. His Government supported the new instrument taking the form of a Convention and a Recommendation.

21. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, said that his Government was extremely active in promoting occupational safety and health and that they had undertaken numerous programmes, including the training of teachers, accident research and reduction, and special programmes for small and medium-sized enterprises. The Government of Argentina established an occupational safety and health week, that takes place every year between 21 and 28 April. His Government had signed an agreement adopting the ILO guidelines on occupational safety and health management systems, which will result in his agency becoming the main certification body for certifying companies. His Government supported the new instrument taking the form of a Convention and a Recommendation.
22. The Government member of South Africa described the situation in his country, where a study undertaken in 2004 identified four high-risk sectors and three secondary-risk sectors; the former would be a priority for the next five years. South Africa had already established an accord on safety and health at work – a policy document – signed by the three social partners. With regard to the proposed new instrument, it was very important for it to promote continual improvement. With this in mind, his country supported the idea of a promotional framework for occupational safety and health that progressively improved the national programme and systems. The new instrument should also be flexible, thus allowing for wide-scale adoption, so his Government supported it taking the form of a Convention and a Recommendation.
23. The Government member of India said that his country relied extensively on ILO instruments, especially when drawing up national legislation, and some of the more recent ones on occupational safety and health had had a strong bearing on emerging occupational safety and health legislation in India. On the question of ratifying ILO Conventions, this was only possible when there was consensus between all stakeholders, and he mentioned Convention No. 155 as an example. India realized that economic prosperity could only be achieved by having high standards of safety and health at the workplace, thereby improving the quality of work life. India favoured the new instrument to take the form of a Convention and a Recommendation.
24. The representative of the International Commission on Occupational Health (ICOH) explained that ICOH was a professional organization with members in approximately 100 countries. He expressed the support of ICOH for the proposed instruments, suggesting that the Convention should take into account the Occupational Health Services Convention, 1985 (No. 161), and its accompanying Recommendation (No. 171). These two instruments, and the proposed Convention and Recommendation, should mutually support each other. He emphasized the importance of occupational health services in workplaces, including small workplaces and those within the informal economy and agriculture, as such services supplemented the inspection system. He urged that occupational health services be developed in parallel with labour inspection. He was pleased to note that the proposed Convention specifically referred to consultations with professional associations on occupational safety and health and mentioned in this connection the national institutes for occupational health as consultative partners.
25. In response to the services needed by 3 billion workers, ICOH, in collaboration with the ILO and WHO, had developed a concept for basic occupational health services, which in a cost-effective manner would provide competent occupational health services to the

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underserved. This concept emphasized the principle of prevention, but would also address the need for curative service, as a reduction of the burden caused by injuries and diseases would result in more resources for the preventive aspect. The guidelines for basic occupational health services would provide countries practical guidance and tools on how to apply this service. While stressing the importance of employers' and workers' participation in implementing occupational safety and health programmes, he also called for the involvement of experts to help the implementation. He concluded by mentioning that development of occupational safety and health was a continuing process and he made reference to the 34 committees, established under ICOH, as sources of information and help.

26. The representative of the International Association of Labour Inspection (IALI) explained that the Association was established in 1972 in order to provide professional support to labour inspection services. The aims of the Association were to promote professionalism of IALI members, provide opportunities for exchange of experience, to disseminate information through its web site and other publications, and to promote closer cooperation between members. The Association, now with more than 100 members from all over the world, had worked in close partnership with the ILO and was, in 1978, granted the status of a non-governmental international consultative organization. In its last three-year programme, IALI had implemented a range of activities including conferences and symposia, publication of newsletters and other supporting activities to the members. Particular emphasis was now placed on regional activities. IALI would be holding its triennial Congress and Assembly in the ILO building from 13 to 15 June 2005, addressing new challenges facing labour inspectorates, national occupational safety and health programmes and their implementation, and strategies for specific risks and sectors. While IALI welcomed a promotional framework instrument, the Association had not yet formed its views on the form of the instrument.
27. The representative of the International Federation of Building and Wood Workers (IFBWW) explained that workers in the trades represented by the IFBWW were among those having the most dangerous jobs. Workers in the building and woodworking sectors were often exposed to dust and chemicals, including asbestos; nearly 300 people died every day due to diseases caused by asbestos exposure and nearly all of them were from the building trades. She expressed concern that asbestos was still being used in the building sector, mainly in the form of asbestos-cement products in developing countries, while the material was banned in industrialized countries.
28. The IFBWW considered the ILO Conventions to be relevant and up to date, but called for more effective implementation of them, and supported the proposal for a Convention supplemented by a Recommendation. The new Convention should lay down the basic principles of safety and health at work and outline the defined rights, responsibilities and duties, highlighting the right to a safe and healthy working environment, the right to get information and training about the hazards and their prevention, the right to participation and representation on matters of safety and health, and the right to refuse dangerous work. The participation of workers in occupational safety and health was seen as essential. Joint employer-worker committees had proved useful and were required by law in many countries, at least for larger companies. The IFBWW had called for support to the system of regional safety representatives targeting especially the small companies. This system had been in operation in Sweden since 1947 for the forestry sector and since 1974 for all sectors. More such innovative schemes were called for.
29. The Government member of China supported the adoption of a new instrument. Her Government encouraged all countries to formulate and implement national policies and programmes. She spoke of some of the measures taken or planned in China between 2003 and 2010, and stressed the importance of harmonizing the development of her country's

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society and its economy. A new instrument would be easier for governments to adopt if it were not prescriptive but focused on principles, because the countries of the world were at such different levels of development while experiencing constant technological, social and economic change.

30. The Government member of Jordan recalled his country's extensive collaboration with the ILO and other organizations active in occupational safety and health. A number of Conventions relevant to labour protection had been ratified, for example the Labour Inspection Convention, 1947 (No. 81). Dissemination of occupational safety and health information to workers was a high priority for his country, and the Government's Occupational Health and Safety Institute had been recognized by the ILO for its capacity to serve as a resource centre for other countries in the region. The institution of an occupational safety and health week was another sign of Jordan's new commitment in this area.
31. The Government member of Mexico affirmed his country's commitment to occupational safety and health as a high priority in its labour policy and in its public policy in general. He felt that the work accomplished between the 91st and the 93rd Sessions of the International Labour Conference reflected an important convergence of views among the ILO's constituents on the importance of raising the priority of occupational safety and health in public policy, on involving employers and workers in the formulation of that policy, on the promotion of a preventative safety and health culture, on the construction of more effective normative frameworks at the national and international levels and on the importance of an integrated approach and a global strategy. However, there were several things to be avoided: a Convention that was ineffective because it could not be ratified or implemented; fragmentation of standards; an approach that did not take account of the different levels of development of the countries of the world; creation of new bureaucracies; and adoption of an instrument that was prescriptive rather than promotional in nature. For all these reasons, the Government of Mexico would support that form of instrument that represented the consensus or majority view of the Committee.
32. The Government member of Senegal, speaking on behalf of the African Government members of the Committee,<sup>2</sup> pointed out that, since a summit meeting in Johannesburg in April 2005, the African countries had agreed to adopt an instrument on occupational safety and health that was geared to the needs of the informal sector and small and medium-sized enterprises. The instrument should give a high priority to the training of workers, and such training should be part of an overall national programme. This programme should be formulated in consultation with the social partners; it should also be implemented in a progressive manner, to ensure its permanence. The programme should be centred on occupational health services, but should not neglect the elimination or reduction of major industrial hazards. Furthermore, it was impossible to talk of workplace health without considering HIV/AIDS. All of these considerations led to the conclusion that occupational safety and health had to be taken as seriously as possible by the member States, so that the most appropriate form of an instrument would be a Convention supplemented by a Recommendation.
33. The Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, explained that in her country labour relations were part of a complex system wherein many different institutions had roles defined by

<sup>2</sup> Algeria, Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Ethiopia, Gabon, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Morocco, Mozambique, Namibia, Niger, Nigeria, Senegal, South Africa, Swaziland, United Republic of Tanzania, Tunisia and Zimbabwe.



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law; the State was called on to resolve any conflicts; the Ministry of Labour ensured that labour rights were properly respected and implemented; working conditions may be determined by collective bargaining. She reviewed the evolution of occupational safety and health policy and regulations from 1943 to 2005. Workers were assumed to have a collective right to safe and healthy working conditions. Labour inspection was changing from a system of random inspections with little impact to a more consultative system, with unions having an active role. It was now clear that the formulation of occupational safety and health policy had to be intersectoral and multidisciplinary. Regulations should be harmonized and prevention favoured over protection and compensation. The goal was a culture in which jobs were generated; employers saw workplace safety and health as an investment that added value to their products and workers gained more job satisfaction from improved working conditions. Her delegation favoured an instrument which took the form of a Convention supplemented by a Recommendation and which provided an integrating context for all the pre-existing occupational safety and health instruments.

34. The Government member of Lebanon reiterated the position that his Government had taken when replying to the Office's questionnaire, that they saw no drawback in the formulation of a new Convention and Recommendation. He stated that member States attached great importance to occupational safety and health, and this was reflected by the numerous laws in each country on the various aspects of the matter. His Government attached great importance to occupational safety and health, on the principle that it was better to prevent than to cure. Their labour code contained a whole chapter on occupational safety and health that applied to all workers, including women and adolescents; it included a list of occupational diseases. The Ministry of Labour had a labour inspection unit, in addition to one that monitored compliance with international labour standards in the field of occupational safety and health. It had to be admitted that some parties in Lebanon had not always shouldered their responsibilities, and implementation of international standards was slow and laborious. With this in mind, his Ministry had drafted a national occupational safety and health plan. In this system, employers were obliged to provide occupational safety and health for their workers as well as adequate supervision so that the workers could comply with occupational safety and health rules; workers were obliged to follow the rules, but also to make sure that employers followed them as well; the role of labour inspection had been strengthened. His Government's commitment to implementing international standards applied not only to the native workforce but also to migrant workers. A major contribution to ensuring decent working conditions was made by workplace occupational safety and health committees. Finally, he urged the Committee to take note of the strong role the media could play in raising public awareness of the importance of occupational safety and health.
35. The Government member of Uruguay, speaking on behalf of the Government members of the Committee member States of MERCOSUR, observed that ILO statistics showed how important it was for governments to take action to improve the situation, and expressed support for a Convention supplemented by a Recommendation. Clear standards and instruments were needed to advance occupational safety and health in member States. Complementary promotional activities should be held, such as the World Day for Occupational Safety and Health. Improved working conditions would improve labour relations. The new Government of Uruguay had created a tripartite labour relations committee with a mandate that included occupational safety and health.
36. The Government member of Canada stated that his country supported the development of a promotional instrument for occupational safety and health and that his Government remained committed to improve occupational safety and health through its national laws and regulations. He said that his Government preferred that a new instrument take the form of a Declaration, but would support the Committee's decision if another form of instrument were chosen, provided that it was an overarching instrument with promotional

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rather than prescriptive content; consensus was important. The new instrument should be clear and simple, so as to be easily understandable by everyone, and should serve as a focal point for global awareness raising and promotion.

37. The Government member of the United States noted the importance given to occupational safety and health by the ILO in its Constitution, and said that the development of a new instrument outlining a promotional framework would be very important, as this would enable the ILO to assist member States in developing their own national systems. However, the proposed Conclusions seemed to include provisions already covered in other instruments, particularly the Occupational Safety and Health Convention, 1981 (No. 155), and its accompanying Recommendation (No. 164), as could be seen in the comparative analysis of occupational safety and health instruments provided by the Office. Therefore, her Government preferred that the new instrument take the form of a Declaration. She said that the ILO had employed the use of a Declaration on two occasions, namely the Declaration of Philadelphia in 1944 and the Declaration of Fundamental Principles and Rights at Work in 1998. She said that these Declarations helped promote awareness of the core international labour Conventions as well as workers' rights, and that the same model could be equally successful in the field of occupational safety and health.
38. The Government member of the Bolivarian Republic of Venezuela informed the Committee that in 2002 his country had created a new body for occupational safety and health, National Institute for Occupational Safety and Health (IMPSASALS) and that great progress had been made. For example, occupational safety and health had been defined legally and a new occupational safety and health law was under study in Parliament. He described the functions of this body, which included drafting laws and regulations, coordinating inspection services and developing technical programmes for information and training. He said that four main areas had been given priority status, namely occupational medicine, occupational safety and health and ergonomics, epidemiology and investigation, and communication and research. The integral parts of the national programme were health promotion, the reduction of occupational accidents and diseases, as well as the education and involvement of workers and employers. Six sectors had priority as objects of the programme: basic industries (oil, electricity, iron and steel, and aluminium), construction, health services, manufacturing, agriculture and education. His Government would prefer to have a Convention as the new instrument for a promotional framework in the area of occupational safety and health.
39. The Government member of Trinidad and Tobago, speaking on behalf of the Government members of the Committee member States of CARICOM,<sup>3</sup> pointed out the commitment of his group to ILO Conventions, and highlighted his group's high ratification of the core international labour Conventions. He said that his group was committed to improving occupational safety and health, and that an integrated approach was needed. Unfortunately, no country in his group had ratified Convention No. 155. Nonetheless, the group still considered occupational safety and health to be a priority and a fundamental right. With the help of the ILO Office in Port-of-Spain and the regional CARICOM secretariat, model legislation for occupational safety and health had been produced which had been passed into law in the Bahamas in 2001, and Trinidad and Tobago had passed an Act on occupational safety and health in 2004. The Barbadian Parliament was also discussing a new occupational safety and health bill. He explained that, in the case of Suriname, legislation was being continually modified and that the List of Occupational Diseases had already been embodied in the legislation. In the case of Jamaica, a new Occupational Safety and Health Act has been drafted and will be submitted to Parliament shortly. He

<sup>3</sup> Bahamas, Barbados, Jamaica, Suriname and Trinidad and Tobago.

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drew the Committee's attention to the fact that the Occupational Safety and Health Act of 2004 for Trinidad and Tobago had not been proclaimed, as the provisions could not be enforced. He highlighted the prohibitive costs of transforming workplaces to meet the new standards as one of the causes of this non-proclamation. For example, even the facilities in the Ministry of Labour did not satisfy an occupational safety and health audit under the new Act. All the relevant legislation in CARICOM member States contained the essential elements for promoting occupational safety and health, but in the case of small States these could only be implemented if supported by a campaign, and if there were sufficient technical cooperation to establish the institutions necessary to enforce the laws. He suggested that the campaign should have provisions for compiling national profiles, gathering data and training appropriate human resources that could work together with the tripartite stakeholders to bring workplaces up to the applicable standards. He added that the campaign should be supported by research and guidance that could ensure the effective implementation of legislation. He feared that, without this support, any new instrument that would be adopted would suffer the same low rate of ratification as other ILO occupational safety and health instruments.

40. The Government member of El Salvador drew attention to his country's efforts in improving occupational safety and health. He noted the formation of a national tripartite committee on occupational safety and health, the drafting of new occupational safety and health legislation, the ratification of Convention No. 155, as well as a national programme to reduce occupational accidents and diseases with short-, medium- and long-term targets. He mentioned that Central America and the Dominican Republic had also taken measures on a tripartite basis to improve occupational safety and health. He felt that a Convention and Recommendation would be the most suitable form for a new instrument, as this would help in the establishment of a preventative occupational safety and health culture.
41. The Government member of Indonesia said that the Indonesian Government supported a Convention as the form for a new instrument for three reasons. First, a Convention would give occupational safety and health a higher priority in national policies, which were developed through tripartite cooperation. Therefore, all three parties would be responsible for the implementation of occupational safety and health at both the national and enterprise levels. Second, Indonesia had made it obligatory to implement the ILO's occupational safety and health management system guidelines at the enterprise level through the Manpower Law No. 13 of 2003. Hence, it would be easier to implement policies and programmes because they would be based on the integrated management system, which was one of the important pillars of the promotional framework. Third, a Convention would support collaboration between the national occupational safety and health system and the employment injury benefit schemes.
42. The Government member of Kenya mentioned that his Government was committed to developing and implementing effective occupational safety and health programmes to reduce accidents and diseases and thereby to increase productivity. He listed several occupational safety and health initiatives taken by the country, such as the maintenance of an information centre that was a National Centre in the network of the ILO's International Occupational Safety and Health Information Centre (CIS), and the setting up of a division for the coordination of training and dissemination of information. A guide to be used by approved training institutions had been developed to support training activities. Moreover, the Government had issued a code on the auditing of companies by approved experts, and had endorsed rules concerning safety and health committees, medical examinations of workers of certain industries, and prevention and control of noise. The Government had also drafted a new occupational safety and health bill, so as to have new developments reflected in the national legislation. He noted that all the above activities were implemented through a tripartite committee. He emphasized that the present legislation was developed with due regard to the principles of existing occupational safety and health

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Conventions and Recommendations. He stated that the Government of Kenya supported the adoption of a new instrument, but cautioned that this should take into account the vast challenges individual member countries were facing. Hence the instrument, in the form of a Convention supplemented by a Recommendation, should be simple to implement and appropriate for creation of a safety culture. For the instrument to be implemented, certain objectives should be considered: the creation of awareness among workers and employers, the development of programmes for combating accidents and diseases, the establishment of appropriate auditing procedures and the establishment of schemes for workers' medical examination.

43. The Government member of Tunisia informed the Committee that his Government placed special importance on occupational safety and health and thus had taken a number of initiatives including the development of a labour code that took into account international Conventions, the establishment of an advisory body and an inspectorate, and finally a fund for social solidarity. Tunisia celebrated a national day for occupational safety and health. Occupational safety and health was taught in schools. He mentioned that Tunisia was pleased with the promotional framework and suggested that it should take into account the present trend toward privatization. There should be provision for specific assistance programmes, including assistance to the Palestinian Authority. He hoped that the promotional framework would keep occupational safety and health high on the ILO's agenda, because of the low rate of ratification of the relevant Conventions so far.
44. The Government member of Thailand said that his country had given special emphasis to occupational safety and health in recent years, strengthening its national occupational safety and health system to cover all workers and providing quality occupational safety and health services. Thailand's five-year national occupational safety and health plan had set priorities that included developing new legislation and guidance, strengthening the labour inspectorate, better enforcement, improving the system for the reporting of accidents and diseases and promoting the better management of occupational safety and health and a wider safety culture through national campaigns. ILO standards such as Convention No. 155, as well as the Guidelines on Occupational Safety and Health Management Systems and the Global Occupational Safety and Health Strategy, had all provided useful advice in this process. The promotional framework instrument should commit governments to placing occupational safety and health higher on their national agendas, supporting mechanisms for tripartite cooperation and facilitating progressive improvements of national occupational safety and health systems and programmes. Thailand favoured the instrument being a Convention supplemented by a Recommendation.
45. The Government member of the United Kingdom, referring to the country's long history of occupational safety and health legislation and enforcement, said that the current national occupational safety and health strategy was based on the principle that good occupational safety and health standards were a cornerstone of civilized society. He welcomed the proposal for a new promotional framework instrument, adding that it needed to be sufficiently flexible to accommodate different cultures in a rapidly changing world. However, the ratification of ILO Conventions on occupational safety and health was poor and he doubted whether having another Convention, with or without a Recommendation, would be the way forward for this new instrument, which needed to be widely accepted. The United Kingdom therefore favoured adopting a Declaration or a Recommendation, but would be willing to cooperate in the development of a Convention should the Committee so agree.
46. The Government member of Algeria focused on the need for prevention, mentioning that Algeria had already introduced legislation on occupational safety and health and occupational medicine. Their recently opened Institute for Prevention of Occupational Risks supported all sectors of industry – especially the high-risk ones such as

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construction – providing advice on the prevention of occupational risks and working in collaboration with the labour inspectorate. Their tripartite National Council for Safety and Health at Work provided a forum for social partners to reach consensus on occupational safety and health legislation and other matters. Algeria supported the proposal for the new instrument to be a Convention supplemented by a Recommendation.

47. The Government member of Morocco referred to the country's national occupational safety and health strategy, which was being implemented by means of a new labour code based on international Conventions, awareness-raising campaigns and the training of specialists. Morocco agreed to the proposal for the new instrument to be a Convention supplemented by a Recommendation.
48. The Government member of the United Arab Emirates said that his country attached great importance to occupational safety and health and had much respect for relevant international standards. The Government's concern was to provide training and to ensure that there was adequate compliance with the law.
49. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union <sup>4</sup> and Norway, supported the need to promote occupational safety and health at national and international levels. The current EU strategy, 2002-06, for occupational safety and health included binding and non-binding instruments, and this strategy could be a useful background for the ILO's proposals for a promotional framework, which needed to be acceptable to a much larger number of ILO member States. As far as the form of the promotional instrument was concerned, most of the Government members of the Committee Member States of the European Union <sup>5</sup> and Norway, supported a Convention supplemented by a Recommendation.
50. The Government member of Turkey said that his country was committed to the promotion of occupational safety and health as an important component of decent work and had ratified several international instruments including Convention No. 155 and the Occupational Health Services Convention, 1985 (No. 161). Awareness-raising activities included seminars in several provinces and a national occupational safety and health week during the first week of May, which had been held annually for the past 19 years with the participation of social partners. Social dialogue was very important for achieving advances in occupational safety and health, and the National Occupational Safety and Health Council had been recently established to facilitate the collaboration and participation of social partners. His country would contribute to the efforts of this Committee in devising a new promotional framework for occupational safety and health, one that was flexible and that could be readily implemented.
51. The Government member of Papua New Guinea emphasized the importance of occupational safety and health for national development, labour productivity and social welfare. However, although his country had had basic occupational safety and health legislation for many years, it lacked policy development, strategic planning and promotion of compliance. The Government now recognized that a strong and healthy workforce was a cornerstone to economic and social development, so occupational safety and health had

<sup>4</sup> Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom.

<sup>5</sup> Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Greece, Ireland, Italy, Lithuania, Luxembourg, Poland, Portugal, Slovenia, Spain and Sweden.

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become a priority. Papua New Guinea strongly supported the concept of the promotional framework, but as a small country it lacked the capacity and technical expertise and would look to the ILO for technical support for the promotion and improvement of occupational safety and health.

52. The Worker Vice-Chairperson was heartened by the broad consensus so far on the goal of making occupational safety and health a higher priority at national, international and enterprise levels, and that a promotional framework was needed to achieve that. All were concerned to see work-related accidents and ill-health reduced and to improve the capacity of governments, working in a tripartite manner, to achieve this goal. She restated her firm belief that the form of the instrument should be a Convention supplemented by a Recommendation, and it should have an value for all involved. Referring to points raised previously by the Employer Vice-Chairperson about the need for a new approach, she said that the integrated approach for occupational safety and health was indeed a new approach and that legislation was an integral part of this. Legislation enshrined workers' rights at work and the Workers' group did not support the idea of replacing legislation with voluntary approaches, such as a Declaration.
53. She took the opportunity to refer to the World Day for Occupational Safety and Health, which had been mentioned by several members of the Committee, and reminded them of its origins. The date of 28 April had first been chosen by Canadian trade unionists as an annual day to commemorate those who had died at work, and the date had also been observed in the United States since 1989, where it was known as Workers' Memorial Day. This day was subsequently expanded into a World Day by the ILO and now focused on prevention, but she felt that the original purpose of the day – namely to remember those individuals who had died because of their work – should not be forgotten.
54. The Employer Vice-Chairperson was also encouraged that so many Committee members wanted to see positive improvements in occupational safety and health, but thought that the real issue for the Committee was about how such improvements could be achieved. He referred to comments made by the Worker Vice-Chairperson that the Workers' group did not wish to see any new obligations imposed, but said that if the promotional framework took the form of a Convention this would impose new obligations on those member States that ratified it. He questioned whether the Convention would then not become an instrument with only a few ratifications. He also said that the integrated approach was a much broader concept than the promotional framework and that it included technical cooperation, awareness raising, etc. If the Committee favoured moving towards yet another Convention, this would be maintaining the status quo, which would not ultimately bring about the improvements that were desired.
55. The representative of the Secretary-General informed the Committee of the International Occupational Hygiene Association's support for a promotional framework instrument.

## **Examination of the proposed Conclusions**

### ***Point 1***

56. No amendments were submitted, so point 1 was adopted.

### ***Point 2***

57. Three amendments were submitted. Two of these were identical, one of which was submitted by the Government members of Australia, Canada, United States and

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Switzerland, and the other by the Employer members. Both amendments proposed that the words “a Convention supplemented by a Recommendation” should be replaced by “a Declaration”.

- 58.** The Employer Vice-Chairperson, speaking on behalf of the Employer members, spoke to the two above amendments. Ratification levels of occupational safety and health Conventions were generally low. This was particularly unfortunate in the case of Convention No. 155 because it was an important Convention in this area. Low ratification rates were due, on the one hand, to the prolonged process of ratification and, on the other, to the fact that although most Conventions had global application, not all Conventions were relevant to all countries. Conventions that were not ratified carried little impact, and it was likely that yet another occupational safety and health Convention would suffer the same fate. The adoption of a Convention did not foster political will, and he queried how a new Convention would promote the ratification of other Conventions. Conversely, the promotional framework envisaged by the Committee on Occupational Safety and Health in 2003 called for greater political commitment and increased awareness of occupational safety and health problems, and he considered that this call would be best served by a Declaration. He said that the Employers’ group wanted the instrument to make an appreciable as well as an immediate difference and contested the notion put forward by the Worker Vice-Chairperson that a Declaration was the weakest form of instrument. A Declaration would enable all countries to develop their own national systems and programmes and to improve their occupational safety and health conditions, in accordance with their own conditions and practices.
- 59.** The Government member of Canada, speaking also on behalf of the Government members of Australia, Switzerland and United States, spoke in support of the same amendment. The objective of this Committee was for as many countries as possible to accept the new instrument, which, given the poor ratification levels of occupational safety and health Conventions, pointed to it taking the form of a Declaration. Moreover, since the global occupational safety and health strategy adopted in 2003 called for greater political commitment to occupational safety and health, he considered that a promotional rather than a prescriptive instrument, such as a Convention, was needed. Many promotional frameworks had already been successfully set up and he considered that there was now a need for a promotional framework that could effectively promote occupational safety and health, and that a Declaration was the best means of achieving this.
- 60.** The Worker Vice-Chairperson reiterated the view of the Workers’ group, which was that the instrument should be a Convention supplemented by a Recommendation. She too was concerned about the low ratification levels of existing occupational safety and health Conventions, but also felt that the ILO had not promoted such Conventions adequately, adding that the new promotional framework should address this issue. In the 1990s, the ILO had run a successful campaign to increase ratification of the core Conventions; something similar could be done for occupational safety and health Conventions. She thought that this new instrument should be more promotional than prescriptive, encouraging high-level commitment at the national and enterprise levels. She referred to the remarks of the Employer Vice-Chairperson that the instrument should be symbolic, saying that she hoped that it would be much more than that; what was needed was an instrument that would make a real difference.

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- 61.** The Government member of Senegal spoke on behalf of the African Government members of the Committee.<sup>6</sup> She considered that the low rate of ratifications of occupational safety and health Conventions did not necessarily mean a low ratification rate of a new promotional framework Convention. In addition, the best way to demonstrate political commitment to occupational safety and health issues would be through adoption and ratification. A Convention rather than a Declaration was the better option for achieving this commitment, and the African Government members of the Committee favoured a Convention supplemented by a Recommendation.
- 62.** The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, emphasized that the right to safety and health at work was a fundamental right, and that ratification levels of occupational safety and health Conventions were not indicators of national concern for occupational safety and health. For example, two of the countries that he represented had abolished the use of asbestos without ratification of the Asbestos Convention, 1986 (No. 162). The Governments of the three countries nevertheless supported the adoption of a Convention supplemented by a Recommendation.
- 63.** The representative of the Palestinian Authority called for a promotion of occupational safety and health for workers in occupied territories and countries. Working conditions in Palestine comprised many risks and these related to the employment policies of the occupier. He considered that workers in Palestine were victims of the occupier's policy and called for the burden to be lifted. The Palestinian Authority was in favour of the adoption of a Convention.
- 64.** The Government member of the Libyan Arab Jamahiriya said that his country was concerned to provide good standards of occupational safety and health and had instituted training centres in all its provinces so as to bring their occupational safety and health standards into line with international practice. A council had been established to promote occupational safety and health, and implement promotional programmes. The Libyan Arab Jamahiriya favoured the adoption of a Convention.
- 65.** The Government member of Luxembourg spoke also on behalf of the Government members of Austria, Belgium, Czech Republic, Estonia, Finland, France, Greece, Ireland, Italy, Lithuania, Norway, Poland, Portugal, Slovenia, Spain and Sweden. The Governments of these countries all supported the adoption of a "framework Convention" supplemented by a Recommendation.
- 66.** The Government member of Chile highlighted the value of national tripartite agreements in making a real difference to improving occupational safety and health. The Government had made agreements with their social partners to work together to achieve significant reductions in numbers of accidents nationally, and their targets had been exceeded. New tripartite agreements had been recently made, and the promotional framework would further support such efforts. The agreements had their effect even when ILO Conventions had not been ratified, however, as was the case for Convention No. 155. Chile nevertheless supported the proposal for a Convention supplemented by a Recommendation.
- 67.** The Government member of New Zealand expressed support for a Convention supplemented by a Recommendation. As in 2003, the underlying message was that these needed to act as an overarching instrument for existing ILO law, policy and practice,

<sup>6</sup> The following Governments joined the African Government members of the Committee: Botswana, Ghana, Guinea, Uganda and Zambia.



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allowing a level of further specification to be included in a less binding manner. The instrument needed to be based on high-level principles, and a Convention supplemented by a Recommendation fitted well with New Zealand's outcome-focused strategies. However, he requested clarification of the legal status of a Declaration and a "framework Convention" before affirming his country's position.

68. The Government member of the Bolivarian Republic of Venezuela reiterated his support for a Convention supplemented by a Recommendation.
69. The Government member of Tunisia strongly affirmed the need for the promotional framework to be in the form of a Convention supplemented by a Recommendation, otherwise it would be seen as mere good intention. He added that it was also important for the instrument to take different country cultures into account.
70. The Legal Adviser then responded to the question raised by the Government member of New Zealand. He explained that Conventions were multilateral treaties that conferred rights and responsibilities on member States that ratified them, and that there was a mechanism for supervising their implementation. Recommendations were non-binding instruments that recommended practices, monitoring and so on. Unlike Conventions and Recommendations, Declarations were not mentioned in the ILO Constitution and were not legal instruments. They did not create legal obligations but could recall existing ones. Declarations were more political than other instruments and the ILO had not adopted many. Some, such as the Declaration of Philadelphia, were subsequently included in the ILO Constitution, so that when a country became an ILO member it subscribed to the Declaration as well. Others were the Declaration on Apartheid, 1964; the Declaration of Principles Concerning Multinational Corporations and Social Policy, 1977; and the Declaration on Fundamental Principles and Rights at Work, 1998. The last mentioned had an ad hoc follow-up mechanism, an expensive one and outside the usual practices for Conventions.
71. The Government member of Malaysia, speaking also on behalf of the Government members of Indonesia and Thailand, expressed support for a Convention supplemented by a Recommendation.
72. The Employer Vice-Chairperson asked for a record vote to be taken on the amendment to replace the words "Convention supplemented by a Recommendation" by the words "Declaration". If the amendment were adopted, the text in point 2 of the Conclusions would read: "The instrument should take the form of a Declaration".
73. Put to a vote, the amendments concerning the form of the instrument were rejected by 221,088 votes in favour and 335,580 votes against.<sup>7</sup>

<sup>7</sup> The Employer members requested that the details of the record vote be included in the report. The results were as follows:

For: Germany, Australia, Canada, Republic of Korea, United Arab Emirates, United States, Honduras, Mexico, Netherlands, United Kingdom, Switzerland. 42 Employer members voted for the amendment.

Against: South Africa, Algeria, Saudi Arabia, Argentina, Austria, Bahrain, Barbados, Belgium, Brazil, Burkina Faso, Cameroon, Chile, China, Côte d'Ivoire, Denmark, Dominican Republic, Egypt, El Salvador, Spain, Finland, France, Ghana, Greece, Guatemala, Guinea, India, Indonesia, Islamic Republic of Iran, Italy, Jamaica, Japan, Kenya, Kuwait, Lesotho, Lebanon, Libyan Arab

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74. The Government members of France and Luxembourg submitted an amendment to insert the words “subtitled Framework Convention” after the word “Convention” in the statement of the form of the proposed instrument in point 2 of the proposed Conclusions. The amendment reflected the position of the 17 Committee member States that had been enunciated earlier. It was important for the instrument to be a Convention in order for it to have the highest possible visibility and impact, but it should be as widely ratifiable as possible, and provide a solid foundation for the implementation of existing instruments. It was hoped that the word “framework” would provide a bridge, and a link to an “integrated approach”, between those who favoured a binding instrument and those who did not, although even with the subtitle the instrument would be a binding Convention.
75. At the request of the Worker members, the Legal Adviser reminded the Committee that there were only two international labour standards recognized by the ILO legal system, Conventions and Recommendations. Although certain Conventions had been declared by the Governing Body or Conference to be “fundamental” or “priority” Conventions, the terms did not appear either in the text or in the titles of the instruments. Thus, a “framework” Convention would likewise not differ from any others in the way its ratification and implementation were monitored by the Organization. However, just as applying the term “fundamental” to some Conventions showed that the Organization felt that there was something special about them, using the word “framework” as proposed in the amendment would also lead readers to expect an instrument that was different in some way. If the Committee wished to use “framework”, Members should be clear as to whether the word implied that the proposed Convention provided a frame for Conventions adopted in the past, a framework on which future Conventions could be built, or a framework to support member States’ actions in implementing other Conventions.
76. The Employer Vice-Chairperson observed that, although the content of a text was more important than its title, the latter could communicate a message by itself. He pointed out that the word “framework” had already been used in discussions of a possible consolidated maritime Convention that would be radically different from the instrument in the present proposed Conclusions; this was likely to cause confusion. He offered a subamendment to replace the word “framework” with “promotional” in the subtitle proposed in the original amendment.
77. The Worker Vice-Chairperson opposed the subamendment: while a discussion of the wording of the title would be welcome, it should be undertaken when the title or the preamble of the proposed instrument were debated, not in the present consideration of the form of the instrument. She said that “promotional” reflected the objective of the Convention, and should not be included in its title.
78. The Government member of Senegal, speaking also on behalf of the African Government members of the Committee, felt that the Legal Adviser’s opinion revealed a risk of confusion if a subtitle were applied to the proposed instrument, and opposed both the

Jamahiriya, Luxembourg, Madagascar, Malaysia, Malawi, Morocco, Mozambique, Namibia, Niger, Norway, New Zealand, Uganda, Pakistan, Panama, Papua New Guinea, Poland, Portugal, Democratic Republic of the Congo, Romania, Russian Federation, Senegal, Sri Lanka, Sweden, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Czech Republic, Thailand, Trinidad and Tobago, Tunisia, Uruguay, Bolivarian Republic of Venezuela, Zambia, Zimbabwe. 47 Worker members voted against the amendment.

Abstentions: Hungary.

Absent: Belarus, Colombia, Ecuador, Gabon, Haiti, Jordan, Lithuania, Mali, Malta, Mauritius, Mauritania, Myanmar, Nigeria, Oman, Philippines, Slovenia, Sudan, Suriname, Turkey, Yemen.

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subamendment and the original amendment. The Government member of Argentina, speaking also on behalf of the Government members of Brazil, Chile, El Salvador, Dominican Republic and Uruguay, agreed, noting that the introduction of a subtitle could suggest to readers that the instrument was something different from either of the two types currently recognized in the ILO legal system.

79. The Employer members withdrew their subamendment and opposed the original amendment.
80. In response to the tripartite consensus, the Government members of France and Luxembourg withdrew their amendment. In doing so, the Government member of France called attention to European Union practice, in which the word “framework” was attached to several directives without changing their nature or legal status. He hoped that the ideas exchanged in the discussion of the amendment would prove useful during the debates on other parts of the instrument, as suggested by the Worker Vice-Chairperson.
81. Point 2 was adopted without amendment.

### **Point 3**

82. The Employer members withdrew an amendment that was intended to refer to a Declaration instead of a Convention.
83. The Government members of Argentina, Brazil, Chile, Dominican Republic, El Salvador, Panama and Uruguay submitted an amendment to add the following words after the first line of clause 3: “(a) the Constitution of the ILO;”. The Government member of Uruguay introduced the amendment, saying that a new clause needed to be added to the Preamble with specific mention of the ILO’s Constitution, bearing in mind the aim of this instrument. Both the Worker Vice-Chairperson and the Employer Vice-Chairperson supported the amendment. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also supported the amendment. The amendment was adopted.
84. The Worker Vice-Chairperson submitted an amendment to insert a new clause after the original clause 3(a), as follows: “the fundamental principles to be found in international labour Conventions, in particular, the core Conventions of the ILO”. The Worker members considered that, in setting out a broad framework, there was a need to refer specifically to principles, in particular the fundamental principles and rights in core Conventions. The Employer Vice-Chairperson opposed the amendment because the core Conventions were not to do with occupational safety and health and he believed that such a clause moved the focus of the instrument away from occupational safety and health towards other areas of concern, thus weakening it. There were no views for or against the amendment from the Government members, and the Worker Vice-Chairperson withdrew it.
85. The Worker members submitted an amendment to include in clause 3 (the Preamble) references to several additional occupational safety and health Conventions and Recommendations. These were the: Occupational Health Services Convention, 1985 (No. 161), and the Occupational Health Services Recommendation, 1985 (No. 171); the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection Recommendation, 1947 (No. 81); the Safety and Health in Construction Convention, 1988 (No. 167), and the Safety and Health in Construction Recommendation, 1988 (No. 175); the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Mines Recommendation, 1995 (No. 183); the Safety and Health in Agriculture Convention, 2001 (No. 184), and the Safety and Health in Agriculture Recommendation, 2001 (No. 192). The Worker Vice-Chairperson explained that these Conventions and

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Recommendations were important because of their general application and that they needed to be promoted. The majority of countries had construction, mining and agricultural sectors, and these were the most hazardous.

- 86.** The Employer members could not support the amendment. The Employer Vice-Chairperson was concerned that member States might be inhibited from ratifying a Convention that contained a list of several other Conventions and Recommendations in its Preamble, especially since many of the listed Conventions had not been ratified by most member States. There was also a danger that some important Conventions and Recommendations would be left out of the list. The Government member of the United Kingdom spoke on behalf of the Government members of the Group of Industrialized Market Economies (PIEM) present in the Committee.<sup>8</sup> He said that the IMEC group agreed with the views of the Employer members, particularly that such a list of Conventions and Recommendations in the Preamble to a new Convention might deter member States from ratifying it. The group opposed the amendment.
- 87.** The Worker Vice-Chairperson said that the intention of the amendment was to provide a note of some of the important occupational safety and health Conventions and Recommendations, and that she had understood that a Preamble to a Convention was not legally binding, but requested clarification from the Legal Adviser on this point. After consultation, a spokesperson for the secretariat confirmed that Preambles of Conventions were non-binding, and she referred to the Manual for drafting ILO instruments (2005).
- 88.** The Government member of Senegal, speaking on behalf of the African Government members of the Committee, remarked that the amendment would overburden the Preamble unnecessarily. She also observed that all relevant occupational safety and health Conventions and Recommendations were listed in an annex to the Office Report IV(2), and they could be again listed in a future instrument. The African Government members of the Committee opposed the amendment. Noting the lack of support for the amendment, the Worker Vice-Chairperson withdrew it.
- 89.** The Government member of Argentina, speaking also on behalf of the Government members of Brazil and Uruguay, introduced an amendment to include in the Preamble a reference to the Occupational Health Services Convention, 1985 (No. 161). He referred to clause 7(3)(c) of the proposed Conclusions, which specifically mentioned occupational health services, saying that it would be appropriate to refer to the relevant Convention in the Preamble. The Worker members supported the amendment but the Employer members did not, both of them for the same reasons that they respectively supported and opposed the previous amendment. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, also opposed the amendment. The Government member of Argentina then withdrew it.
- 90.** The Worker members submitted an amendment to add a new clause after clause 3(b): “the realization of decent work for all as a core objective of the International Labour Organization”. The Worker Vice-Chairperson referred to the Director-General’s Report in 1999 and the notion that decent work must be safe work. The Employer Vice-Chairperson agreed with the reasoning of the Worker members but wanted to focus specifically on occupational safety and health. He therefore submitted a subamendment to replace the proposed new clause in the amendment with the wording “the promotion of occupational

<sup>8</sup> Australia, Austria, Belgium, Canada, Czech Republic, Denmark, France, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Poland, San Marino, Switzerland, United Kingdom and United States.

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safety and health in support of the realization of the ILO's core objective of decent work". The Worker Vice-Chairperson then put forward a sub-subamendment, proposing instead the clause: "the promotion of occupational safety and health as part of the ILO's core objective of decent work for all". The Employer Vice-Chairperson supported the sub-subamendment, as did the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee. The amendment, as subamended, was then adopted.

91. The Government member of the United States, speaking also on behalf of the Government member of Canada, introduced an amendment to replace clause 3(d) with a new text: "the priority to be given to occupational safety and health in national agendas included in the Conclusions adopted by the 91st Session (2003) of the International Labour Conference concerning occupational safety and health". He explained that the rationale for the amendment was to focus on giving priority to occupational safety and health in national agendas. The Worker Vice-Chairperson opposed the amendment, saying that all of the Conclusions adopted by the International Labour Conference in 2003 were important and that there was a need to refer back to all of them in the new Convention. The Employer Vice-Chairperson, having initially supported the amendment, agreed with the Worker Vice-Chairperson and withdrew his support for it. The Government member of the United States then withdrew the amendment.
92. The Worker Vice-Chairperson then submitted an amendment to delete the words "in particular the priority to be given to occupational safety and health in national agendas" after the word "health" in line 2 of clause 3(d). She was concerned that, if the focus was only on national agendas, the international and workplace agendas might be forgotten. The Employer Vice-Chairperson opposed the amendment, saying that the Conclusions in 2003, as well as the current discussions, called for occupational safety and health to be given a higher priority at national level. He said that the international agenda had already been well covered in the global occupational safety and health strategy and that the national focus now needed to be sharpened. The Worker Vice-Chairperson withdrew the amendment.
93. The Worker members withdrew an amendment that would have replaced "occupational safety and health" by "a global strategy on occupational safety and health" in point 3(d).
94. The Worker members then submitted an amendment to delete clause 3(e) of the Preamble, which referred to "the importance of the promotion of a national preventative safety and health culture". The Committee agreed to postpone discussion of the amendment until the definitions in point 4 of the Office text had been debated. After adoption of an amended point 4 (see below), the Worker members withdrew the amendment.
95. The Government members of Indonesia, Malaysia and Thailand submitted an amendment to insert the word "continuous" before "promotion" in the clause cited above, on the grounds that the establishment of a preventative safety and health culture was a very long process. The Employer members, Worker members and many Government members supported the amendment, and it was adopted.
96. The Employer members withdrew an amendment to replace "Convention" with "Declaration" in the heading above point 3 in the proposed Conclusions, in light of the Committee's earlier decision on the form of the proposed instrument.
97. Point 3 was adopted as amended.

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## **Point 4**

- 98.** The Government members of Canada and the United States submitted an amendment to delete point 4, which defined the terms “national programme on occupational safety and health” and “national system for occupational safety and health”, because point 6 made their meaning clear enough. The Worker members opposed the amendment, saying that the definitions would help countries understand that a “programme” was a component of a “system”. The Employer members, although sharing the Government members’ desire to be as succinct as possible, agreed that definitions were necessary, and asserted that if they were removed from this part of the proposed instrument they would have to be introduced elsewhere. The amendment was withdrawn.
- 99.** The Worker members submitted an amendment to insert the following statement of scope before the definitions: “This Convention should apply to all branches of economic activity in which workers are employed”. They wished the proposed instrument to be as inclusive as possible. The Employer Vice-Chairperson observed that the amendment seemed incompatible with that desire, since it did not seem to include the self-employed. The Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR agreed, and noted that the informal economy also seemed to be excluded by the Worker members’ formulation. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, and the Government member of Malaysia, sympathized with the intention of the Worker members, but felt that the wording would bring the proposed instrument into conflict with national regulations and thus jeopardize its ability to be ratified. The Worker Vice-Chairperson withdrew the amendment, as well as an associated amendment to insert the words “scope and” before “definitions” in the title of point 4.
- 100.** The Employer members withdrew an amendment to replace “Convention” by “Declaration” in point 4.
- 101.** The Government members of Argentina, Brazil and Uruguay, and separately the Worker members, submitted very similar amendments to add a new clause at the beginning of point 4, to define the term “national policy” as in Convention No. 155. Discussion began with the Worker members’ version: “‘national policy’ refers to the national policy on occupational safety, occupational health and the working environment developed in accordance with Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155)”. All were motivated by the feeling that the promotional framework had three components, not two, and that policies were as necessary as systems and programmes. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, expressed sympathy with this position, but feared that citation of other Conventions might hinder ratification. The Government members of India, Uganda and Bolivarian Republic of Venezuela did not share this reservation, and supported the amendment. The Worker Vice-Chairperson reminded the Committee that the amendment was not importing all of Convention No. 155 into the proposed instrument, but was rather attempting to integrate the latter into the body of existing Conventions. The Government member of Uruguay noted that the lack of an occupational safety and health policy seemed to prevent ratification of Conventions by many countries, which made it important to mention policy explicitly in the proposed instrument.
- 102.** The Government member of the United Kingdom offered a subamendment to insert “the principles of” before “Article 4” in the Worker members’ amendment, to avoid making the ratification of the proposed instrument dependent on countries’ acceptance of the wording of the existing Convention. The Worker members supported this subamendment, but the

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Employer members felt that it was confusing to have material from other Conventions incorporated by reference, since the reader could not see the exact wording of the cited text, and opposed both the subamendment and original amendment. The Employer Vice-Chairperson did, however, recall that the Committee on Occupational Safety and Health of the 91st Session of the International Labour Conference had rejected the repetition of text from one Convention to another. Although the Government member of Switzerland nonetheless felt it preferable to quote the cited definition in full from the existing Convention and opposed the amendment as subamended, the Government member of Senegal, speaking on behalf of the African Government members of the Committee, the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, and many individual Government members, supported the amendment as subamended. The amendment was adopted as subamended.

- 103.** As a result, the Government member of Brazil withdrew the similar amendment submitted by the Government members of Argentina, Brazil and Uruguay.
- 104.** The Government members of Argentina, Brazil and Uruguay then submitted an amendment to change the order of clauses in point 4 so that “national system” preceded “national programme”, on the grounds that there was a logical progression from policy to system to programme. The Worker members agreed, and supported the amendment. The Employer Vice-Chairperson opposed it, asserting that policy influenced programmes, and programmes influenced systems. The Government members of the African and IMEC groups supported the amendment; the Government member of the United Kingdom observed that his country had had a policy since 1833, but had developed programmes only more recently. The amendment was adopted.
- 105.** The Worker members submitted an amendment to change “national programme” to “national action programme” in clause 4(a), in order to reinforce the promotional nature of the instrument and respond to the Employer members’ call for action. The Employer members opposed the amendment, noting that the idea was implicit in the “means of action” already in the definition. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, opposed the amendment, declaring that the concept of “action programme” was very restrictive, and difficult to render gracefully in French. The Worker members acknowledged the problems and withdrew the amendment. They also withdrew another amendment that would have added “action” to “programme” in a different part of point 4.
- 106.** The Worker members then submitted an amendment to the definition of “national programme” that would insert the following phrase after “programme”: “on occupational safety and health and the working environment developed to implement the national policy”. They wished to clarify the link between programmes and policies. The Employer members opposed the amendment because it made the full definition very complex. The African Government members of the Committee, the Government members of the Committee Member States of the European Union, and the Government members of Canada and Switzerland, all agreed that the amended text was less clear than the original, and the Worker members withdrew the amendment.
- 107.** The Government members of Indonesia, Malaysia and Thailand submitted an amendment to modify the definition of a national programme from one that included “objectives, priorities and means of action in the area of occupational safety and health to be achieved in a predetermined time frame” to one that had “been formulated to improve occupational safety and health within a predetermined time frame”. They felt that the definition of “national programme” should be linked to outcomes. The Employer members felt that the amendment made the definition more vague and opposed it. The Worker members

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proposed a subamendment to restore the original text and then replace “to be achieved” by “formulated”. The Employer members supported the subamendment, but wished to sub-subamend it, to keep the idea of achievement. With an adjustment of punctuation proposed by the Chairperson, the Employer and Worker members agreed on the text of the amendment as subamended and sub-subamended, and it was adopted.

- 108.** The Government members of Cameroon, Côte d’Ivoire and Senegal submitted an amendment to replace the words “and means of action” in the definition of a national programme by “, means of action, strategies and indicators”. The Government member of Senegal, noting that the African Government members of the Committee supported the amendment, explained that strategies were a precondition for actions, and indicators were necessary for monitoring achievement. The Worker members supported the amendment, while the Employer members opposed it. The Employer Vice-Chairperson asserted that there was no definition of “strategy”, but in any case policies and programmes could constitute strategies; furthermore, indicators were already referred to in clause 6(2)(c). Although the Government member of Senegal argued that the reference to indicators elsewhere in the proposed instrument was in a much different context, and that it was up to every programme to define its strategy, some 20 countries opposed the amendment, and it was withdrawn.
- 109.** The Employer members withdrew an amendment that had been predicated on the choice of a Declaration as the form of the proposed instruments.
- 110.** The Worker members withdrew an amendment to attach the word “action” to “programme” in clause 4(b), because the expression “action programme” had been rejected in the discussion of earlier amendments.
- 111.** The Worker members submitted an amendment to add a new clause at the end of point 4, to define a national preventative safety and health culture as “one in which the right to a safe and healthy working environment is respected at all levels, where governments, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority”. The Worker Vice-Chairperson recalled the extensive discussions of the concept at the 91st Session (2003) of the International Labour Conference, and the insistence of the Worker members that the simple term “safety culture” could be construed as meaning “modification of workers’ behaviour”. She felt that it would be useful to include the definition of the broader term in the proposed instrument. The Employer members supported the amendment on the basis of the 2003 consensus. There was no opposition from Government members, and the amendment was adopted.
- 112.** Point 4 was adopted as amended.

## **Point 5**

- 113.** The Worker Vice-Chairperson introduced an amendment to replace the original text of point 5, which was headed “Objective”, with the following text:

The purpose of the Convention should be to:

- (a) ensure that each Member gives priority to improving occupational safety and health;
- (b) promote the ratification of occupational safety and health Conventions and effective implementation of ILO occupational safety and health instruments;
- (c) promote the development of a national preventative safety and health culture, based on principles of assessment and management of hazards in the workplace;



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- (d) complement existing ILO occupational safety and health instruments, in particular the Occupational Safety and Health Convention, 1981 (No. 155), and its Protocol, 2002.

- 114.** The Worker Vice-Chairperson explained the reasons for the amendment, namely that stating these items in particular would help to clarify the objectives of the Convention. The Employer Vice-Chairperson opposed the amendment, saying that it would make the objectives of the Convention less clear, that the inclusion of references to other occupational safety and health instruments would inhibit ratification of this one, and that the linking of “a national preventative safety and health culture” to assessing and managing hazards in the workplace ran contrary to the compromise already reached by the Committee on the definition of the term. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, also opposed the amendment, as did the Government members of Egypt, Lebanon and Senegal, speaking on behalf of the African Government members of the Committee.
- 115.** The Worker Vice-Chairperson thought that it was the Committee’s task to ensure occupational safety and health became a high priority on national agendas and that the objective should be to increase ratifications of occupational safety and health Conventions. Given the lack of support for the amendment, however, she subamended it by deleting clauses (c) and (d). The Employer Vice-Chairperson opposed the amendment as subamended, for the above reasons, as did the Government members of Namibia, Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, and the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee. The Government member of Trinidad and Tobago, speaking also on behalf of the Government members of the Bahamas, Barbados, Jamaica and Suriname, also opposed the amendment as subamended, as did the Government member of China. The Worker Vice-Chairperson requested an indicative show of hands from Government members for or against her group’s amendment, after which she withdrew the amendment in its entirety.
- 116.** The Government member of Argentina, also speaking on behalf of the Government members of Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela, submitted an amendment to replace all of the text after the words “should undertake” with the following: “to improve occupational safety and health in all work activities and progressively to ratify all the international labour standards listed in the annex to the Recommendation that accompanies this Convention, with a view to achieving a safe and healthy working environment. Member States that ratify this Convention also undertake to develop a preventative occupational safety and health culture.” The Government member of Argentina explained that this amendment would help to define the objectives of this Convention and progressively improve preventative safety and health culture through the ratification of occupational safety and health Conventions. The Worker Vice-Chairperson supported the amendment. The Employer Vice-Chairperson opposed it for the same reasons that he opposed the previous amendment, as did the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, also opposed the amendment, as did the Government members of Egypt and Lebanon, on the grounds that it would make ratification of this Convention harder. The Government member of Uganda also opposed the amendment. The Government member of Argentina then withdrew the amendment.
- 117.** The Employer Vice-Chairperson introduced an amendment to replace the words “undertake to take steps with a view to” with the words “take active steps towards”. The

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amendment was intended to strengthen the text, not to change its content. The Worker Vice-Chairperson supported the proposal, as did the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, and the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, also supported the amendment, but requested that the Spanish version of the amendment be checked. The amendment was accepted.

- 118.** The Employer Vice-Chairperson submitted an amendment to delete the words “with due regard to relevant ILO instruments on occupational safety and health”. He thought that referring to other ILO instruments at this point might inhibit governments from ratifying the Convention. He accepted that the reference was a valid one, but suggested that it could be placed elsewhere, such as in the Recommendation. The Worker Vice-Chairperson opposed the proposed amendment, since other ILO instruments were very important and a helpful reference point in the Convention. She felt that it was important for this Convention to be integrated within the framework of all other occupational safety and health instruments, so the connection between them needed to be made.
- 119.** The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, opposed the amendment, referring to the arguments from the Worker Vice-Chairperson. The Government member of Tunisia considered that the amendment would conflict with the text of the Preamble and opposed it. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, strongly opposed the amendment because he felt it went against what the ILO stood for and did. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment. The Employer Vice-Chairperson recalled the potential legal difficulties, but in light of the discussion, withdrew the amendment.
- 120.** The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, introduced an amendment to replace the words “with due regard to” by the words “by taking into account the principles in”. It was suggested that this wording would enable as many countries as possible to ratify the Convention. The Worker Vice-Chairperson subamended the phrase so as to delete the words “principles in” in the amendment. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, opposed this subamendment, as did the Employer Vice-Chairperson, and the Worker Vice-Chairperson withdrew the subamendment.
- 121.** The Worker Vice-Chairperson opposed the amendment as originally submitted. The Employer Vice-Chairperson considered that the amendment would be a sensible way forward and supported it. The Government member of Bahrain, speaking also on behalf of the Government members of Saudi Arabia and United Arab Emirates, all supported the amendment, as did the Government members of Ecuador, Libyan Arab Jamahiriya and Romania. Within the spirit of trying to reach a consensus, the Worker Vice-Chairperson then supported the amendment. The amendment was accepted.
- 122.** The Government members of the Bahamas, Barbados, Jamaica, Suriname, and Trinidad and Tobago had submitted an amendment to insert “national law and” after “due regard to”, but after the discussion on the previous amendment, this one was withdrawn.
- 123.** The Worker Vice-Chairperson submitted an amendment to insert a new paragraph after the existing point 5 as follows: “Each Member should promote the right to a safe and healthy

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working environment as established in the Principles of National Policy in the Occupational Safety and Health Convention, 1981 (No. 155), and its Protocol, 2002.” She explained that this amendment was one of several amendments from the Workers’ group aimed at addressing national policy on occupational safety and health, a topic that was absent from the text now being considered. The intention of this amendment was to fill a gap concerning a basic element, namely the right to a safe and healthy working environment, considered to be a fundamental principle of a national policy. The Employer Vice-Chairperson strongly opposed the amendment, claiming that it was not the intention of this instrument to promote workers’ rights, but rather to promote a preventative safety and health culture. He said that the correct context for dealing with rights was the ILO Declaration on Fundamental Principles and Rights at Work. The Government member of Argentina, speaking on behalf of the Government members of all the Latin American countries present, asked for further clarification of the amendment. The Worker Vice-Chairperson referred back to the Conclusions of the 91st Session (2003) of the International Labour Conference, which mentioned the new promotional instrument and stated: “such a practical and constructive instrument should promote, inter alia, the right of workers to a safe and healthy working environment”.

**124.** The Government member of Luxembourg supported the amendment, but the Government members of Morocco, Switzerland and United States all opposed it. After a show of hands from the Government members indicating general opposition to the amendment, the Worker Vice-Chairperson withdrew the amendment.

**125.** The Government member of Argentina, speaking also on behalf of the Government members of Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela, submitted an amendment to add a new paragraph after point 5, as follows:

- (1) Each Member should promote a safe and healthy working environment by formulating a national policy to that end within the terms of reference of the Occupational Safety and Health Convention, 1981 (No. 155), and its Protocol of 2002.

The Employer Vice-Chairperson opposed the amendment because of its reference to Convention No. 155. The Worker Vice-Chairperson strongly supported the amendment, as she believed that it would promote a safe and healthy working environment.

**126.** The Government member of the United Kingdom proposed a subamendment to replace the phrase “within the terms of reference of” with “by taking into account the principles in”. The amendment, as subamended, read:

- (1) Each Member should promote a safe and healthy working environment by formulating a national policy to that end by taking into account the principles in the Occupational Safety and Health Convention, 1981 (No. 155), and its Protocol of 2002.

The Government members of Switzerland and the United States both opposed the subamendment, but the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, supported it. The Government member of the United Kingdom recalled that the Committee had already agreed to define “national policy” with reference to Convention No. 155. The Government member of Argentina supported the text as subamended, as did the Worker Vice-Chairperson.

**127.** The Government member of Uganda expressed concern that the heading above point 5 was “Objective”, but the amendment being discussed seemed to reflect strategies. The Government member of Brazil, speaking for the same group of countries as had proposed the original amendment, said that her group would be proposing a new heading “National policy”. The Government member of Norway indicated support for the amendment as

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subamended, as did the Government member of Lesotho who also asked for further clarification of the term “national policy”. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also supported the amendment, adding that each member State should promote a safe and healthy working environment and that national policy should support this. The Government member of the Bahamas, speaking also on behalf of the Government members of Jamaica and Suriname, supported the amendment as subamended, as did the Government member of Ecuador.

- 128.** The Government member of the United States recalled that the Committee had earlier defined national policy in accordance with Article 4 of Convention No. 155, and he considered that the amendment now being discussed was defining national policy in broader terms taking into account the whole of Convention No. 155 and its Protocol of 2002. He confirmed his opposition to the text as subamended. The Employer Vice-Chairperson remarked that the Government member of the United States had raised a valid point, and submitted a second subamendment that would delete the text after the word “policy”. The amendment as subamended now read:

- (1) Each Member should promote a safe and healthy working environment by formulating a national policy.

The Worker Vice-Chairperson opposed the amendment as subamended. After a show of hands from the Government members indicating general support for the amendment as sub-subamended, the Worker Vice-Chairperson also supported it.

- 129.** The Worker members submitted an amendment to insert a new third paragraph as follows: “Each Member should ensure continuous improvement of occupational safety and health by the development, in a tripartite context, of an effective policy, national system and national programme.” The intent was to emphasize tripartism and to make continuous improvement a policy goal. The Employer Vice-Chairperson expressed doubt that continuous improvement could be ensured, or that “effective” was meaningful without a definition. The Government member of Luxembourg submitted a subamendment to replace “ensure” by “promote” and “effective” by “national”. The Worker members, Employer members and the African Government members of the Committee all supported the amendment as subamended, and it was accepted.

- 130.** As a result, the Government member of Argentina withdrew a very similar amendment submitted by the Government members of Argentina, Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela.

- 131.** The Worker members submitted an amendment to insert a new second paragraph after point 5 that encouraged member States to give occupational safety and health a high priority, to adopt a national policy in accordance with Convention No. 155 even if they had not ratified it, and to consider ratification of that and other important occupational safety and health Conventions. The Worker Vice-Chairperson immediately proposed a subamendment to delete the phrase about alignment of policy with Convention No. 155, because this principle had already been captured in a previously accepted amendment. The Employer members opposed the amendment, with or without the subamendment, on the grounds that it was both confusing and legally untenable for the proposed instrument to impose obligations on member States that they had refused by not ratifying the earlier Convention. The Government members of the Committee Member States of the European Union, the IMEC group, the Africa group, Norway and Tunisia all agreed with the Employer members and opposed the amendment as subamended. The Worker members expressed doubt that the proposed amendment would impose any such obligations, and suggested that the Legal Adviser be called. This was opposed by the Employer members and many Government members. Consequently, the Legal Adviser’s opinion could not be

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heard in the Committee. The Worker members withdrew the amendment and subamendment.

- 132.** The Worker members submitted an amendment that would insert a new fourth paragraph after point 5, enumerating five rights of workers that should be promoted and enhanced by member States. The amendment was opposed by the Employer members: these rights were stated in other Conventions, so to list them in the proposed instrument would be redundant for the countries that had ratified the relevant Conventions and a barrier to ratification for those that had not. The Government member of the United Kingdom agreed, observing that all members of the Committee had agreed that the instrument under consideration was not to be prescriptive. No one could deny that workers had the stated rights, but the proposed amendment was not appropriate to a framework instrument. The Government members of the Bahamas, Barbados, Jamaica, Lesotho, Libyan Arab Jamahiriya, Suriname, Trinidad and Tobago and the IMEC group present in the Committee all likewise opposed the amendment.
- 133.** The Worker Vice-Chairperson stated that this was the most important issue for the Worker members. She feared that the positions reached during the 91st Session (2003) of the International Labour Conference were not being honoured, because paragraph 6 of the Conclusions of that Conference clearly stated that a promotional framework should promote workers' right to a safe and healthy working environment. This discussion was then suspended. In the subsequent session, she continued by saying that she did not see how the International Labour Organization could produce a document that did not assert that right. The Employer Vice-Chairperson replied that workers' rights were already covered in the definition of a preventative safety and health culture, and that it was in fact the Worker members' amendment that threatened the delicate balance achieved in 2003. He repeated his concern that the proposed instrument incorporated wording that had prevented member States from ratifying this and other occupational safety and health Conventions, and that it mentioned rights without mentioning the corresponding responsibilities of workers.
- 134.** The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Romania, submitted a subamendment to delete the enumeration of specific rights and leave the proposed new fourth paragraph reading: "Each Member should promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment". The subamendment was supported by the Government members of Norway and Switzerland, as well as the Government members of the Committee member States of MERCOSUR. The Employer members submitted a sub-subamendment to add to the end of the previously cited text, "as well as promote awareness of the responsibilities of all parties", but withdrew it in response to opposition from the Worker members and a number of Government members. The Worker members expressed support for the amendment as subamended by the Government member of Luxembourg, and the amendment was accepted.
- 135.** The Worker members withdrew an amendment to insert a new heading "Promoting the principles of a national policy" that was identical in effect to an amendment submitted by the Government members of Argentina, Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela. This latter amendment, to insert the heading "IV. National policy" after point 5 and before the previous Part "IV. National programme" in the Office text, was widely supported and accepted.
- 136.** Point 5 was adopted as amended.

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**Point 6**

137. Amendments to reverse the order of section IV, “National programme” and section V, “National system”, were submitted by (1) the Government members of Botswana, Côte d’Ivoire, Namibia, Senegal, South Africa and Zambia; (2) the Worker members; and (3) the Government members of Argentina, Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela. The Worker Vice-Chairperson pointed out that this brought the sections into line with the order of precedence “policy – system – programme” on which the Committee had agreed. The three amendments were accepted.
138. The Worker members withdrew an amendment to insert “action” before “programme” in the title of Part IV.
139. The Government members of Botswana, Côte d’Ivoire, Lesotho, Namibia, Senegal, South Africa and Zambia submitted an amendment to insert the word “monitor” after “implement” in the phrase “Each Member should formulate, implement and periodically review a national programme”. The Government member of Namibia explained that monitoring would be necessary to gather the information for periodic reviews, to determine that the programme was in fact effective. The Employer and Worker members supported the amendment and it was accepted, on the understanding that the Drafting Committee would ensure that the French text included the best equivalent of the English “monitoring”.
140. The Worker members withdrew two amendments to insert the word “action” before “programme” in points 6(1) and 6(2).
141. The Worker members submitted an amendment to add a new clause (a) to point 6(2), and immediately subamended it to read as follows: “contribute to the protection of workers from hazards and with the goal of eliminating work-related death, injuries and diseases”, to reinforce the statement of purpose of national programmes. The Employer Vice-Chairperson objected that, in countries where commuting accidents were held to be occupational, the amendment would impose an impossible goal. Furthermore, this purpose was stated in the definition of national policy, on which national programmes were supposed to be based.
142. The Government member of the Libyan Arab Jamahiriya proposed a sub-subamendment, to replace “with the goal of eliminating” by “in order to limit”. The Worker Vice-Chairperson appreciated the attempt at compromise, but insisted that elimination should be the goal; she recalled that the Employer Vice-Chairperson had said in his opening remarks that one death or injury was one too many. She opposed the sub-subamendment. The Employer Vice-Chairperson insisted that there was no inconsistency between denying the existence of workplace casualties and setting achievable goals, and supported the sub-subamendment. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, supported the sub-subamendment, but asked if “limit” could be rendered by “reduire” in the French version of the clause. The Chairperson asked the Committee if “reduce” could be used in the English version instead of “limit” to translate the word used in Arabic by the Government member of the Libyan Arab Jamahiriya. This proposal was accepted without qualification by the Worker and Employer members and by the Government member of India, whereas the Government members of Bahrain, Jordan, Kuwait, Saudi Arabia and United Arab Emirates accepted “reduce” but would have preferred “limit”.
143. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, submitted a subamendment to replace “hazards” with “work-related risks”. The Employer members supported this subamendment but the Worker members opposed it. The Government

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member of Uganda reminded the Committee that hazards were intrinsic to substances or circumstances, whereas risk expressed the likelihood of a worker suffering from exposure to a hazard; he felt that “hazard” was the better word in the current context.

- 144.** The Government member of Senegal, speaking on behalf of the African Government members<sup>9</sup> of the Committee, proposed a sub-subamendment to insert “hazards and” between “work-related” and “risks”. This was supported by the Worker members, but the Employer members opposed it. The Government member of Luxembourg asserted that governments could expect to reduce risks, but could not necessarily eliminate hazards, because by definition they were intrinsic properties, and that mentioning the elimination of hazards would make the proposed Convention very difficult for many countries to ratify. The Government member of Senegal pointed out that the text itself spoke of protection from hazards rather than their elimination, which was perfectly feasible. Opinion was divided among the Government members of the Committee as to the appropriateness of naming “risks”, “hazards” or both as the object of worker protection in national programmes. The Government member of Mauritania felt that it should be up to each member State to interpret the terms. The representative of the Secretary General reminded the Committee that several ILO codes of practice used “risk” and “hazard” together, and that it was possible to protect against hazards even if they could not be eliminated; Convention No. 155, indeed, used the term “hazard”. The Worker Vice-Chairperson observed that the problem might be related to the fact that in some member States legislation was risk based, whereas in others it seemed to be hazards based. She proposed that, in order to progress, both terms be used, with note being taken of the problem here and a broadly acceptable solution found that could be brought into the second discussion of the Convention at the next International Labour Conference. The Chairperson suggested that it would be preferable to suspend debate on the amendment as sub-subamended overnight for reflection and consultation.
- 145.** As a result of consultations among the Employer, Worker and Government members, the Worker Vice-Chairperson proposed a sub-sub-subamendment that would produce the following wording for the new clause: “contribute to the protection of workers by minimizing work-related hazards or risks in accordance with national law and practice in order to reduce work-related death, injuries and diseases”. The Employer members supported the proposed text. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, submitted a sub-sub-sub-subamendment, to replace “hazards or risks” by “hazards and risks”. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, supported the amendment as most recently subamended, as did the Government member of Egypt. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, did not oppose the amendment, but expressed concern over the inelegance of the French version of the text. The amendment was accepted as sub-sub-sub-subamended.
- 146.** The Government member of Senegal, speaking also on behalf of the Government members of Botswana, Côte d’Ivoire, Lesotho, Namibia, South Africa and Zambia, submitted an amendment to insert the word “monitored” after the word “formulated” in paragraph 2(a). It was said that the amendment was needed to ensure that the national programme was monitored before the final “review”; the French version of the text implied monitoring, but

<sup>9</sup> The following Government joined the African Government members of the Committee: Mauritania.

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the English text did not. The Employer Vice-Chairperson doubted whether the amendment was needed, but the Worker Vice-Chairperson supported it.

- 147.** The Government member of the United Kingdom clarified that a “review” required ongoing monitoring and analysis before final revision, and so the text already implied monitoring. He opposed the amendment, as did the Government member of New Zealand, who also made reference to paragraph 2(c), which mentioned targets and indicators of progress. The Government member of Kenya supported the amendment. The Government member of Algeria suggested that the words “periodically evaluated” could be more appropriate than “monitored”, and the Worker Vice-Chairperson submitted a subamendment to this effect, but withdrew it when it was pointed out that these words already appeared in point 6(1). The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, opposed the amendment, since the amended point 6(1) already referred to “monitoring”, and the Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, also thought that the amendment was not needed. With the assurances that the word “reviewed” had a broader meaning than just “revised”, the amendment was withdrawn.
- 148.** The Worker Vice-Chairperson submitted an amendment to add a new clause 2(b): “be based on principles of prevention, assessment and management of hazards at the workplace level”, reasoning that there was a need to relate national action to the workplace level and that this was consistent with the Conclusions adopted by the 91st Session (2003) of the International Labour Conference. She immediately subamended the amendment so that it referred to “risks” as well as “hazards”. The Employer Vice-Chairperson opposed the principle of the amendment, on the grounds that the proposed Convention was becoming too complex and was repeating what was covered in other standards. Furthermore, the matter of the proposed amendment was already included in Paragraph 13 of the proposed Recommendation that the Committee would be considering in due course. The Government member of Tunisia opposed the amendment, as he considered that it did not add any value to the Convention, but the Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, supported the amendment as indispensable. It likewise found support from the Government members of India, the Philippines and the African Government members of the Committee. The amendment was opposed by the Government members of Romania, Switzerland and the Committee Member States of the European Union.
- 149.** After an overnight suspension of discussion for consultation, the Worker members proposed a sub-subamendment that yielded the following text: “promote the principles of prevention, assessment and management of hazards and risks at the workplace level, in accordance with national law and practice”. The Employer Vice-Chairperson opposed the amendment in its latest version, asserting that the principles of prevention, assessment and management were amply covered in other Conventions, in the ILO *Guidelines on occupational safety and health management systems, ILO-OSH 2001* and even in point 13 of the proposed Conclusions currently under discussion; furthermore, it was not clear what was meant by promoting the principles in accordance with national law and practice. The Worker Vice-Chairperson replied that the revised language was an attempt to ensure that national programmes had some content and did not focus exclusively on process. All the instruments cited by the Employer Vice-Chairperson bore on systems, not programmes. The Government members of Egypt, Papua New Guinea and Uganda supported the amendment in its latest form as making the evolving instrument more concrete, but it was opposed as redundant by the Government members of Indonesia, Norway, Philippines, Romania, United States and the Committee Member States of the European Union. The Worker Vice-Chairperson withdrew the amendment with its sub- and sub-subamendments, while maintaining that it did not violate the concept of a framework instrument to include



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wording that would link it to existing Conventions, but rather reflected the integrated approach favoured by the ILO.

- 150.** The Worker members submitted an amendment to insert the words “initiatives fostering” before “the development” in clause 6(2)(b), on the grounds that it would underline the active nature of national programmes, make the clause more concrete and bring in wording agreed on in 2003. The Employer members felt that the additional words made the statement weaker, not stronger. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, agreed, and the amendment was withdrawn.
- 151.** The Worker Vice-Chairperson submitted an amendment to insert a new clause after clause 6(2)(b), to say that a national programme should “ensure worker participation and representation at all levels”. She said that paragraph 6(1) called for worker participation only in the development of programmes. The Employer members opposed the amendment, pointing out that the issue was dealt with extensively in Article 19 of Convention No. 155, and that such a clause was too prescriptive for a framework instrument. The Government members of Egypt, Norway, Romania, the Committee Member States of the European Union, the African Government members of the Committee and the Government members of the IMEC group present in the Committee all agreed, and the amendment was withdrawn.
- 152.** The Government member of Luxembourg introduced an amendment, proposed also by the Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom, to insert the words “where appropriate” after the words “of progress” at the end of clause 6(2)(c). This would make the clause more flexible and easier for countries to implement. The Worker members sympathized with the desire for flexibility, but felt that the amendment would allow national programmes to be in conformity with the proposed Convention without having any monitoring mechanism at all. The Worker Vice-Chairperson proposed a subamendment to move the word “appropriate” to the second position in the clause, so that it would read “include appropriate targets and indicators of progress”. This was opposed by the proposers and by the Employer members, and was withdrawn. The Government member of the United Kingdom explained that it was important for targets to reflect outcomes, relating to the reduction of accidents and ill health, and not just outputs, for example, relating to numbers of leaflets distributed. “Appropriate” targets should therefore be related to outcomes, if possible. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, Chile, Ecuador and Bolivarian Republic of Venezuela, opposed the amendment: it seemed to admit the possibility of national programmes without targets or indicators of progress, while in fact a country could not have a meaningful programme without them. The African Government members of the Committee agreed. The Worker members and the Government members of the Bahamas, Bahrain, Barbados, Jamaica, Jordan, Lebanon, Saudi Arabia, Suriname, Trinidad and Tobago, and United Arab Emirates likewise opposed the amendment. The Government members of Canada, New Zealand, Papua New Guinea and Switzerland supported it. In view of the balance of opinion against the amendment, it was withdrawn by its proposers.
- 153.** The Government member of Argentina, speaking on behalf of the Government members of the member States of MERCOSUR, introduced an amendment to replace the word “include” with the words “establish priorities” in clause (c), explaining that the establishment of priorities was very important in national programmes. The Employer Vice-Chairperson opposed the amendment because priorities were already included in the definition of “national programme for occupational safety and health”. The Worker Vice-Chairperson supported the amendment because it was an important concept that needed

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emphasizing. The Government member of New Zealand submitted a subamendment to amplify the text further to read “establish objectives, priorities, means of action”, as set out in section II, Definitions. The Worker Vice-Chairperson supported the subamendment, but the Employer Vice-Chairperson opposed it, as did most Government members, because the amendment was seen as repetitive. The subamendment was withdrawn. Several Government members opposed the original amendment, as did the Employer Vice-Chairperson, on the grounds that it was superfluous, and the amendment was withdrawn.

- 154.** The Government member of Senegal, speaking on behalf of the African Government members of the Committee, introduced an amendment to insert the word “strategies” after the word “include” in clause (c). She considered that strategies were needed within national programmes, since they provided the guidance on how the targets would be achieved. The Worker Vice-Chairperson supported the amendment, but the Employer Vice-Chairperson opposed it because he believed that strategies were a much broader concept than this, and their inclusion in the text in this way made them less significant, as well as making the text more complicated. The Government member of Luxembourg, on behalf of the Government members of the Committee Member States of the European Union, and the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, also opposed the amendment because it was considered that the additional wording was not needed and that strategies were already included in national systems. The Government member of Jordan also opposed the amendment, which was then withdrawn.
- 155.** The Government member of France, speaking also on behalf of the Government member of Luxembourg, introduced an amendment to add a new clause after (c) that read: “be supported, where possible, by other complimentary national programmes and plans which will assist in achieving the objective of a safer and healthier working environment”. The Safety and Health Committee at the International Labour Conference in 2003 had considered it important to “mainstream” occupational safety and health as part of other programmes, and the amendment would help foster synergies between different national programmes, so progressing occupational safety and health higher up national agendas. There was no equivalent word in French for “mainstreaming”, which is why the amendment was worded in the way that it was. The Employer Vice-Chairperson supported the amendment, as did the Worker Vice-Chairperson and the Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR. The amendment was accepted.
- 156.** The Worker Vice-Chairperson withdrew an amendment to insert the word “action” after “national” in paragraph (3).
- 157.** The Government member of Senegal, speaking also on behalf of the Government members of Botswana, Côte d’Ivoire, Lesotho, Namibia, South Africa and Zambia, submitted an amendment to delete the words “to the extent possible” in the first line of paragraph (3), since they believed that the endorsement and launching of a national programme by the highest national authorities was essential and not optional. The amendment was supported by the other African Government members of the Committee. The Worker Vice-Chairperson supported the amendment, but the Employer Vice-Chairperson opposed it, as did the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, and the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, because it was felt to be impracticable to expect national programmes to be endorsed at the highest political level in every country. The Government member of Jordan also opposed the amendment, but the Government member of Argentina, speaking on behalf of the Government

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members of the Committee member States of MERCOSUR, Chile and Bolivarian Republic of Venezuela, supported it. However, the amendment was withdrawn.

**158.** Point 6 was adopted as amended.

## **Point 7**

- 159.** The Worker members submitted an amendment to replace the words “progressively develop” by the words “periodically review” in the first line of paragraph (1), then subamended it by combining both sets of words so as to read: “progressively develop and periodically review”. She explained that the periodic review would be a new concept to the national system, but like the national programme, it was necessary both to develop and periodically to review the system to ensure that it was up to date and relevant. The Employer Vice-Chairperson supported this subamendment, as did many Government members and the amendment was accepted as subamended.
- 160.** The Worker Vice-Chairperson submitted an amendment to include the words “inter alia” after the word “include” in paragraph (2), to clarify that the national system should not be limited to the items mentioned in clauses (a), (b) and (c). The Employer Vice-Chairperson supported the intention of the amendment, but questioned whether it was necessary, since the word “include” implied that the list was not exhaustive. The Government member of the United Kingdom also supported the intention of the amendment, but objected to the use of a Latin phrase instead of an English one, suggesting “among others” instead. The Government member of Luxembourg, speaking on behalf of the Committee Member States of the European Union, Norway and Romania, supported the amendment, provided that the English words were used instead of the Latin ones. The Employer Vice-Chairperson and the Worker Vice-Chairperson both approved of the new version, so the amendment was accepted with “among others” instead of “inter alia”.
- 161.** The Government member of Luxembourg, speaking on behalf of the Committee Member States of the European Union, Norway and Romania, introduced an amendment to replace paragraph (2)(a) with the phrase: “laws, regulations, other non-binding instruments on occupational safety and health”. He then subamended the phrase to replace the word “instruments” with “agreements”, explaining that in the European Union many other agreements were used as part of national systems for occupational safety and health. The Worker Vice-Chairperson supported the text as subamended, but the Employer Vice-Chairperson opposed it because he said that in principle all such agreements were binding. The Government member of Luxembourg then subamended the phrase further by adding “collective” before “agreements”. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, opposed both the subamendments, since all collective agreements were binding in their countries and they would be unable to ratify the Convention if it included non-binding collective agreements in the text.
- 162.** The Employer Vice-Chairperson subamended the text further so that the whole phrase just read: “laws, regulations and other relevant instruments”. The Government member of Luxembourg, after consulting with the Government members of the Committee Member States of the European Union, opposed the new text, as it was necessary to have the term “collective agreement” in the Convention for it to be ratified by European Union Member States. The Worker Vice-Chairperson then proposed a sub-sub-sub-subamendment, with the following text: “laws, regulations, collective agreements and other relevant instruments on occupational safety and health”. The Employer Vice-Chairperson supported this, as did the Government member of Luxembourg, and the amendment as finally subamended was accepted.

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- 163.** The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, submitted an amendment to insert the words “or body” after the word “authority” and insert the words “or bodies” after the word “authorities” in paragraph (2)(b). He then subamended the text by adding “in accordance with national laws and practice” after the word “bodies”. He explained that the national occupational safety and health systems in European Union countries involved both designated authorities and non-public bodies, but that some of these bodies needed to work within the legal framework, hence the wording about national laws and practice. The Government member of Morocco voiced her support for the subamended text, and both the Worker Vice-Chairperson and the Employer Vice-Chairperson accepted it, so the amendment as subamended was accepted.
- 164.** The Government member of Senegal, speaking on behalf of the African Government members of the Committee, introduced their amendment to delete the words “including systems of inspections” in paragraph (2)(c). She explained that it was unnecessary to specify inspection systems here, as they already formed an integral part of national mechanisms for ensuring compliance with laws and regulations. The Employer Vice-Chairperson supported the amendment, but the Worker Vice-Chairperson opposed it on the grounds that, if inspection systems were not mentioned, the task of ensuring compliance could be given to private organizations, with third-party audits by private companies replacing government inspections. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Norway, opposed the amendment, as did the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee. The latter added that, although numbers of inspectors were usually quite low and that other methods were used to ensure compliance, the IMEC group did not want to lose the concept of inspection. The Government member of Jordan also rejected the amendment, as did the Government member of Indonesia. After it became clear that most Government members did not support the amendment, the Government member of Senegal withdrew it.
- 165.** The Worker Vice-Chairperson withdrew an amendment to insert the words “adequate and appropriate” after the word “including” in paragraph (2)(c).
- 166.** The Worker Vice-Chairperson withdrew an amendment to insert the words “and monitoring of remedial actions” after the word “inspection” in paragraph (2)(c).
- 167.** The Government member of Uruguay, speaking also on behalf of the Government members of Argentina, Brazil, Chile and Bolivarian Republic of Venezuela, submitted an amendment to add a new clause after paragraph (2)(c): “mechanisms for inter-institutional coordination between the government bodies concerned”. She explained that the aim of this amendment was to promote consultation between relevant government bodies on occupational safety and health matters. The Employer Vice-Chairperson opposed the amendment because he considered that a Convention was not an appropriate means to ensure such consultation, but the Worker Vice-Chairperson supported it. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, opposed the amendment for the same reasons, as did the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, saying that it would be an obstacle to ratification. The Government member of Algeria supported the amendment, but the Government member of Lebanon opposed it, as did the Government member of Bahrain, speaking also on behalf of the Government members of Saudi Arabia and the United Arab Emirates. The Government member of Uruguay explained that the Labour Inspection Convention, 1947 (No. 81), established the

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need for coordination and it was with this in mind that they wished to extend coordination, but, given the views expressed by Committee members, the amendment was withdrawn.

- 168.** The Worker Vice-Chairperson submitted an amendment to insert a new clause: “arrangements at the level of the undertaking to ensure cooperation between management, workers and their representatives as an essential element of organizational prevention measures” after paragraph (2)(c). She argued that the amendment was needed to ensure that there was good connection between the national occupational safety and health system and local enterprises, where accidents and ill health actually occurred, and that national systems could only have an impact if they promoted cooperation between managers and workers at the enterprise level. The concept existed in other ILO instruments. The Employer Vice-Chairperson opposed the amendment because he believed it took the discussion to an enterprise level, whereas this section of the Convention dealt with the national level. He added that this idea was already contained in Article 20 of Convention No. 155 and in point 14(2) of this Convention. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment, as did the Government member of Thailand, saying that such cooperation was to some extent already required under existing national law. The Government member of Uruguay, speaking on behalf of the Government members of the Committee member States of MERCOSUR, Ecuador and Bolivarian Republic of Venezuela, supported the amendment, as it would be the only paragraph actually requiring workplace level cooperation.
- 169.** The Government member of Luxembourg submitted a subamendment to replace “ensure” by “promote”. The Worker Vice-Chairperson supported the subamendment, but the Employer Vice-Chairperson opposed it, saying that he could not accept that a national system could deal with arrangements at enterprise level. The Government member of Luxembourg submitted a further subamendment to replace the word “organizational” by “workplace-related”. The Worker Vice-Chairperson accepted the sub-subamendment, but the Employer Vice-Chairperson opposed it.
- 170.** The Employer Vice-Chairperson then submitted a sub-sub-subamendment to replace the existing text with “promotion of cooperation between management, workers and their representatives”. The Worker Vice-Chairperson opposed this latest subamendment, as there was no mention of the workplace. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, Ecuador and Bolivarian Republic of Venezuela, and also the Government member of Papua New Guinea opposed the latest subamendment on the grounds that it was vital to ensure a linkage between the national system and enterprise. The Government member of Lebanon also opposed it, saying that this type of cooperation needed to be mandatory and not voluntary. The Employer Vice-Chairperson withdrew the sub-sub-subamendment.
- 171.** The Government member of the United States opposed the amendment, even as sub-subamended. He pointed out that there was a whole section of Convention No. 155 devoted to this topic, and that the language of the amendment was very close to that of Article 20 of that Convention, so he felt that the amendment violated the principle of not repeating the content of other Conventions. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment as sub-subamended. The Government member of New Zealand expressed discomfort with the wording, but supported the amendment as sub-subamended because employee participation was such a key part of a national system.
- 172.** The Government member of the United Kingdom proposed a sub-sub-subamendment to move the phrase “at the level of the undertaking” to follow “workers and their representatives”. The Employer members opposed the amendment in its latest form,

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asserting that its substance would be covered by point 14 of the proposed Conclusions. The Worker members did support the sub-sub-amendment, as did 14 Government members of the Committee. In recognition of this breadth of support, the Employer members dropped their opposition and the amendment was accepted as sub-sub-amended.

- 173.** Two amendments of different wording but similar effect were submitted by the Government members of Botswana, Cameroon, Côte d'Ivoire, Lesotho, Namibia, Senegal, South Africa and Zambia, on one hand, and the Worker members, on the other. The former amendment proposed to delete the introductory phrase of paragraph 7(3) and renumber its individual clauses as a continuation of paragraph 2. They felt that the words "where appropriate" in the introductory phrase would enable countries to avoid including important elements in their national systems. The Employer Vice-Chairperson expressed surprise that any governments would willingly make things more difficult for themselves by reducing the flexibility of the proposed instrument, and opposed the amendment. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, indeed opposed the amendment for this reason, as did the Government members of the Bahamas, Barbados, Jamaica, Suriname, Trinidad and Tobago, and the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee. The Government members of Algeria, Egypt, Lebanon and Morocco supported the amendment. The Government member of the United States felt that the purpose of separate paragraphs 7(2) and 7(3), with "where appropriate" in the latter, was not to dispense countries of obligations but to allow different solutions in different countries. The Government member of Côte d'Ivoire, speaking for the proposers, withdrew the amendment.
- 174.** The Worker members' amendment proposed to move clauses (a), (b) and (d) from paragraph 7(3) to paragraph 7(2), so that the phrase "where appropriate" would not apply to them. Given the similarity of the two amendments, the Employer Vice-Chairperson invited the Worker members to withdraw their amendment, in keeping with the principle that a framework instrument should be as flexible as possible. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, opposed the amendment for the same reasons as in the case of the amendment of the eight African Government members of the Committee. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment, and it was withdrawn.
- 175.** The Worker members submitted an amendment to insert the words "the provision of" before "occupational safety and health training" where this was mentioned as an element of a national system. The Employer members supported the amendment and, in the absence of objections from the Government members, the amendment was accepted.
- 176.** The Government members of Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to insert the words "in accordance with national law and practice" after "occupational health services" where they were named as another element of a national system. The Government member of Luxembourg explained that this was intended to make the proposed instrument more flexible and thus more easily ratified. The amendment was accepted with the support of the Worker and Employer members.
- 177.** The Government members of Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to insert a new clause, to add "scientific bodies conducting research in the area of occupational safety and health" as

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an element of a national system. The Government member of Luxembourg reminded the Committee that European countries believed strongly in the importance of research, as witnessed by the European Union's maintenance of the European Foundation for Living and Working Conditions in Dublin and the European Agency for Safety and Health at Work in Bilbao. The Employer member observed that some countries funded activities, not bodies, and proposed a subamendment to shorten the clause to "research on occupational safety and health". The Government member of Luxembourg, speaking on behalf of the proposers of the original amendment, supported the subamendment, as did the Worker members, and the amendment was accepted as subamended.

**178.** The Government members of Argentina, Brazil, Chile, Uruguay and Bolivarian Republic of Venezuela submitted an amendment to reword a clause that named another element of a national system, the amended clause to read "a mechanism for reporting, recording and investigating all work-related accidents, incidents and diseases". In introducing the amendment, the Government member of Argentina immediately subamended it to insert "data analysis" before "investigating" for the sake of completeness. He insisted on the importance of investigating incidents as well as more serious events, in order for serious accidents to be avoided. The Employer members opposed the amendment because of the burden on governments of investigating all incidents. The Worker members proposed a sub-subamendment to remove the word "all" from the clause and to better render in English the sense of the Spanish amendment: "a mechanism for reporting, recording, collecting and analysing data on, and investigating work-related accidents, incidents and diseases". The Employer members objected to this inclusion, because it was already the object of a Protocol to Convention No. 155. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, supported the sub-subamendment because it was compatible with European legislation. He cautioned the Employer members that, in Europe, much of the burden of data collection and reporting fell on enterprises rather than governments. The Government member of Lebanon remarked that, in his country, too, enterprises were responsible for declaring all accidents. He felt that the wording of the clause was less important than that it be binding, but supported the amendment as sub-subamended. The African Government members of the Committee also supported it, but it was opposed by the Government members of Canada, India, Japan, Jordan, New Zealand and Switzerland. The Government member of Switzerland pointed out that "work-related" accidents and diseases was a much broader category than "occupational" accidents and diseases. This latter term was the one on which Swiss recording and notification were based, so a Convention that contained the text of the amendment would be very difficult for her country to ratify. She further demonstrated to the Committee that incidents could be trivial, and that recording and analysing them would be an overwhelming task. The Worker Vice-Chairperson observed that the recording and investigation of accidents and diseases would not be the responsibility of governments alone just because it was inscribed in a national occupational safety and health system, and the words "where appropriate" in the introductory phrases of paragraph 7(3) made the clause non-binding. Nonetheless, the sub- and sub-subamendments, as well as the original amendment, did not find wide support in the Committee and were withdrawn by their respective proposers.

**179.** The Worker Vice-Chairperson introduced an amendment to insert the words "complete and accurate" before "data" in the Office text of the clause under discussion, to give "a mechanism for the collection and analysis of complete and accurate data on occupational accidents and diseases". She immediately subamended the text to delete "complete and". The amendment was motivated by the problems of data quality currently experienced in her country and elsewhere, and by the importance of accurate data for meaningful targets and indicators. The Government member of the United Kingdom opposed the amendment as subamended, because investigators always tried to get the best data possible. The Employer members agreed, noting that the accuracy of data could not be known at the time

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of collection, but only after analysis. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment as subamended, and it was withdrawn.

- 180.** The Government members of Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to add the words “according to relevant ILO references” after the word “diseases” at the end of the clause (7(3)(d)). The Government member of Luxembourg, in introducing the amendment, immediately subamended it to improve the readability of the amended clause by modifying the qualifying phrase and placing it elsewhere in the clause, to give “a mechanism, taking into account relevant ILO references, for the collection and analysis of data on occupational accidents and diseases”. In response to a question from the Worker Vice-Chairperson, he indicated that “relevant ILO references” meant documents such as the Protocol of 2002 to Convention No. 155, which dealt with recording, notification and national statistics. The Employer members supported the amendment as subamended. The Worker members felt uncomfortable with the term “references” and proposed a sub-subamendment to replace the word with “instruments”. On being assured by the representative of the Secretary-General that “instruments” would be an appropriate term, the Government member of Luxembourg supported the sub-subamendment on behalf of the proposers of the original amendment.
- 181.** The Employer Vice-Chairperson supported the text as further subamended, as did the Government members of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR, Ecuador, India, Russian Federation and Thailand. The amendment was accepted as sub-subamended.
- 182.** The Worker Vice-Chairperson submitted an amendment to insert “provisions for” before “collaboration” in paragraph (3)(e), explaining that these were only for editorial reasons. The Employer Vice-Chairperson and several Government members supported the amendment, and it was accepted.
- 183.** The Employer Vice-Chairperson submitted an amendment to replace the words “employment injury insurance scheme” in paragraph (7)(e) with the words “insurance schemes covering occupational safety and health”, saying that this addition would help to cover all insurance schemes dealing with occupational safety and health. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Norway, subamended the text by adding the word “relevant” before “insurance schemes covering occupational safety and health”. This text as subamended was supported by the Employer Vice-Chairperson and the Worker Vice-Chairperson and was accepted.
- 184.** The Government member of Luxembourg withdrew an amendment that covered the same issue as the previous one.
- 185.** The Government member of the Republic of Korea, seconded by the Government member of Thailand, introduced an amendment to insert a new clause after paragraph (3)(e), as follows: “support mechanisms for a progressive improvement of occupational safety and health conditions in small-and medium-sized enterprises.” He explained that it was necessary to pay particular attention to small-and medium-sized enterprises, since the majority of accidents occurred in such enterprises, their numbers were increasing, and they lacked a systematic approach to managing occupational safety and health. The Employer Vice-Chairperson proposed a subamendment to insert the word “micro” before “small”, since all three terms were in common usage. The Worker Vice-Chairperson and several Government members supported the amendment as subamended and it was accepted.



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- 186.** A second amendment submitted by the Government of the Republic of Korea, seconded by the Government member of Thailand, was withdrawn.
- 187.** The Worker Vice-Chairperson introduced an amendment to insert, after point 7, an annex with the same content as the present annex to the Recommendation. She explained that if one of the aims of the Convention were to promote greater levels of ratification of occupational safety and health Conventions, it would be helpful to list relevant instruments in an annex to the Convention. She considered that Governments ratifying this Convention would not be bound to ratifying the listed Conventions because they were contained in an annex. The Employer Vice-Chairperson opposed the amendment, saying that the main purpose of having annexes in Conventions was to place text there that would otherwise make the Conventions too cumbersome. He also considered that annexes were integral parts of Conventions and therefore there would be an obligation on governments ratifying this Convention to also ratify the other listed Conventions. The Worker Vice-Chairperson clarified that the intention was not to create binding obligations on the governments but to be helpful. Given that there might be legal consequences from having such a list in an annex to the Convention, she withdrew the amendment.
- 188.** Point 7 was adopted as amended.

### **Point 8**

- 189.** The Worker Vice-Chairperson introduced an amendment to insert, after the new heading I, a new first point, as follows: “In giving effect to the measures to promote the national policy for occupational safety and health referred to in points ... above, Members should consult with and promote the active participation of employers, workers and their representatives and relevant government authorities and bodies.” She explained that this amendment was one of three which the Workers’ group were submitting so as to insert elements of national policy in the Recommendation. She recalled the agreement at earlier sittings to include provisions for a national policy in the Convention and considered that parallel aspects should be included in the Recommendations. The amendment underlined the need for broad consultations with employers, workers and other authorities and bodies when drafting the policy. The Employer Vice-Chairperson opposed the amendment, saying that provisions for such consultation were adequately covered in the Convention and did not need repeating in the Recommendation. The Government member of the United States also opposed the amendment, recalling the provisions on national policy in Convention No. 155, and those on tripartite involvement in Recommendation No. 164. The Government member of Luxembourg speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, also opposed the amendment for similar reasons, as did the Government member of Senegal, speaking on behalf of the African Government members of the Committee. The Worker Vice-Chairperson withdrew the amendment, but added that she would still encourage the inclusion of elements on national policy in the Recommendation.
- 190.** The Worker Vice-Chairperson submitted an amendment to insert, after the new heading I, a new second point, as follows: “In taking steps referred to in point ... above, to promote and advance at all levels the rights of workers to a safe and healthy working environment, Members should ensure that promotional activities are developed with the participation of representative organizations of employers and workers and are directed, in particular, to promotion of occupational safety and health at the level of the workplace.” She explained that this amendment also aimed at introducing elements of national policy in the Recommendation, in particular the rights of workers to a safe and healthy working environment. The Employer Vice-Chairperson opposed the amendment for the same reasons that the previous amendment was opposed. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member

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States of the European Union, Norway and Romania, opposed the amendment for the same reasons as before, as did the Government member of the United Kingdom speaking on behalf of the Government members of the IMEC group present in the Committee, and the Government member of Senegal, speaking on behalf of the African Government members of the Committee. The Worker Vice-Chairperson then withdrew the amendment.

- 191.** The Worker Vice-Chairperson introduced an amendment to insert, after the new heading I, a new third point, as follows:

The policy should be based on the responsibilities, duties and rights of governments, employers and workers, inter alia:

- (a) governments' responsibility to ensure enforcement of legislation;
- (b) employers' responsibility to ensure a healthy and safe working environment, carry out appropriate risk assessments in relation to safety and health, ensure adequate and appropriate training, provide workers with protective personal equipment when there is no other way to ensure their safety and health and to take immediate steps to stop any operation where there is an imminent and serious danger to safety and health and to evacuate workers as appropriate;
- (c) workers and their representatives rights:
  - (i) to be informed and consulted on safety and health matters;
  - (ii) to participate in the application, review and development of safety and health matters;
- (d) workers' duty to comply with prescribed safety and health measures and to cooperate with employers in order for employers to comply with their own duties and responsibilities.

- 192.** The Worker Vice-Chairperson explained that the amendment aimed at including the basis for a national policy and giving more guidance to the member States on the issues. Acknowledging the duplication, she felt that this was needed to highlight the links between the two instruments, and to amplify point 6 of the Convention. The Employer Vice-Chairperson opposed the amendment, pointing out the duplication and saying that other aspects of the amendment were inappropriate – for example, the responsibility of Governments was more than just ensuring the enforcement of legislation. Further, responsibilities, duties and rights were already covered in other Conventions. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, opposed the amendment, as did the Government member of the United Kingdom, speaking on behalf of the rest of the Government members of the IMEC group. The Government member of China said that the Convention and the Recommendation were part of an integrated approach and that repetition between them was not necessary, and he opposed the amendment. The Worker Vice-Chairperson was surprised to see so much opposition to including guidance about such an important matter in the Recommendation, but accepted it and withdrew the amendment.

- 193.** The Worker Vice-Chairperson withdrew the amendment, objecting that the Committee's rejection of amendments to the Convention text on the grounds that it was binding on member States was no reason to reject amendments to the text of the projected Recommendation.

- 194.** The Government members of Argentina, Brazil, Chile, Dominican Republic, El Salvador, Panama, Uruguay and Bolivarian Republic of Venezuela submitted an amendment to insert a new point after a new heading C.I, to read: "In formulating their national policies, member States should take into account the provisions of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155), and take steps towards ratifying the

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instrument.” In introducing the amendment, the Government member of Uruguay thought that it was for the Recommendation to include details on how policy was to be put into practice, as stated earlier by the Worker members. The Employer members opposed the amendment as redundant, arguing that the proposed Convention already contained stronger wording in the sense of the amendment, and that it was already part of the definition of a national policy. The Worker members felt that the amendment was good and provided a sound basis for the implementation of national policy. The encouragement to ratify Convention No. 155 was important in view of the low number of ratifications of this central Convention. The African Government members of the Committee, as well as Government members of the Committee Member States of the European Union, India, Norway, Romania and the IMEC group all opposed the amendment; the Government member of Luxembourg felt that the reference to Article 4 of Convention No. 155 was redundant, as many countries could not respond to the insistence on taking steps to ratify that Convention. The Government member of Uruguay withdrew the amendment, expressing regret at the Committee’s failure to give the proposed instrument more substance.

195. The Worker Vice-Chairperson reported that consultations with the Legal Adviser had provided reassurance that referring to other instruments in a Convention or Recommendation posed no legal problem, nor did including in an instrument an encouragement to ratify Conventions.
196. The Worker members withdrew an amendment that would have inserted a new heading: “I. Promoting the principles of national policy”; nothing remained to which the heading would have applied.
197. The Government member of Brazil withdrew a similar amendment to insert a “policy” heading, as submitted by the Government members of Argentina, Brazil, Chile, Dominican Republic, El Salvador, Panama, Uruguay and Bolivarian Republic of Venezuela. She reminded the Committee that the proposed Recommendation was now inconsistent with the proposed Convention, because a new heading and paragraph on policy had been adopted in the latter while there was nothing in the former. She hoped that some attention could be given to filling this gap before the second reading of the proposed instruments at the next International Labour Conference.
198. The Government members of Argentina, Brazil, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela submitted an amendment to invert the order of the sections of the proposed Recommendation so that “National System” preceded “National Programme”. This reflected the consensus on the structure of the proposed Convention. The amendment was accepted without discussion.
199. To be consistent with previous decisions, the Worker members withdrew two amendments to insert the word “action” before “programme” in the expression “national programme” in the title and first line of point 8.
200. The Government members of Argentina, Brazil, Chile, El Salvador, Panama, Uruguay and Bolivarian Republic of Venezuela withdrew an amendment to delete point 8 entirely, in favour of a less radical amendment submitted by the Government member of Norway and the Government members of the Committee Member States of the European Union.
201. The Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Sweden, Spain and United Kingdom, introduced an amendment which would delete the text “such as professional associations of occupational safety and health”, that followed “interested parties”. The proposers wished to avoid

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constraining the interpretation of “interested parties” with an example. The amendment was supported by the Employer and Worker members, and was adopted.

**202.** As a result, two amendments bearing on the deleted text fell; one had been submitted by the Government members of the Bahamas, Barbados, Jamaica, Suriname, and Trinidad and Tobago, the other by the Worker members.

**203.** The Worker members submitted an amendment to insert a new point after point 8, enumerating workplace prevention activities that could be part of a national programme. They were motivated by a desire to give more substance to the proposed instrument. The Employer Vice-Chairperson opposed the amendment on the grounds that it repeated elements of Recommendation No. 164, and could be difficult for some countries to implement. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania, also opposed the amendment as weighing down the proposed instrument with specifics when the relevant idea had already been expressed in point 10 of the proposed Conclusions. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, agreed that the issue of workplace promotion had been dealt with adequately in the proposed Convention, and opposed the amendment. The Worker Vice-Chairperson withdrew the amendment, protesting that the Committee’s refusal to include more substantive provisions would leave the proposed instrument an empty shell.

**204.** Point 8 was adopted as amended.

## ***Point 9***

**205.** To be consistent with previous decisions, the Worker members withdrew an amendment to insert the word “action” before “programme” in the expression “national programme” in the first line of point 9.

**206.** The Government members of Cameroon, Côte d’Ivoire, Guinea, Kenya, Lesotho, Malawi, Namibia, Niger, Senegal and South Africa submitted an amendment to replace the words “associated, where appropriate” with “harmonized” in point 9, to give: “National programmes on occupational safety and health should be harmonized with other national programmes and plans, such as those relating to economic development.” They felt that this strengthened the provision. The Worker members proposed a subamendment, to replace “harmonized” by “coordinated”, because in many places “harmonized” implied a very close alignment that might not be appropriate in the present context. The Employer members proposed a sub-subamendment to restore the words “where appropriate” after “coordinated”. Both proposals were supported by the African Government members of the Committee, and in the absence of opposition from other members of the Committee the amendment as sub- and sub-subamended was accepted.

**207.** The Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to delete the rest of the text after the word “plans”, again to avoid constraining the interpretation of the point by giving an example. The Employer members opposed the amendment, because economic development was such an important issue, particularly for developing countries. The Worker members agreed and likewise opposed the amendment. It was withdrawn by the Government member of Luxembourg.

**208.** The Worker members submitted an amendment to expand the linkage of occupational safety and health with other programmes and plans by inserting the words “public health

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and” before “economic development”. This was supported by the Employer members, and in the absence of objection by Government members was accepted.

**209.** Point 9 was adopted as amended.

## **Point 10**

**210.** To be consistent with previous decisions, the Worker members withdrew an amendment to insert the word “action” before “programme” in the expression “national programme” in the first line of point 10.

**211.** The Employer members submitted an amendment to replace the words “, and without prejudice to their obligations under Conventions which they have ratified, Members should take into account the international labour Conventions and Recommendations listed in the annex.” with the words: “Members should, as appropriate, give due regard to relevant ILO instruments on occupational safety and health.” On introducing the amendment, the Employer Vice-Chairperson immediately subamended it to insert “the principles of the” before “relevant”. This was felt to be in harmony with previous decisions, and to eliminate legalistic wording. The Worker members strongly opposed the amendment, on the grounds that it diluted the Office text. They held that it was not just legal jargon to recall countries’ obligations, and the annex provided important guidance.

**212.** The Government member of Canada supported the amendment as subamended. The Government member of Luxembourg suggested a compromise sub-subamendment: to add “listed in the annex” to the end of the amended text. The Employer members supported the sub-subamendment. The Worker members proposed a sub-sub-subamendment, to restore the words “, and without prejudice to their obligations under Conventions which they have ratified”, to give due attention to the rights of workers.

**213.** The Employer Vice-Chairperson opposed the sub-sub-subamendment, firstly because the introduction of “rights” was inappropriate as this was just a repetition, and secondly because he questioned the basis of reintroducing the “without prejudice” part. He asked how it was possible for governments not to fulfil the obligations of a Convention that they had ratified. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Romania, also opposed the text as most recently amended, as did the Government member of Canada, but the Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela, supported it. After some further clarification of Government members’ views, the sub-sub-subamendment was withdrawn.

**214.** The text as sub-subamended was still unacceptable to the Worker Vice-Chairperson, who preferred the original Office text, as did the Government member of Senegal, speaking on behalf of the African Government members of the Committee. The Government member of Argentina, speaking also on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela, also opposed the sub-subamendment, preferring the original Office text, as did the Government members of Thailand and Lebanon. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Romania, supported the sub-subamended text, as did the Government member of the United Kingdom, speaking also on behalf of the Government members of the IMEC group present in the Committee. The Government member of the United Kingdom proposed to amend the text again by adding the words “and content of” after the word “principles”. After some discussion, it became clear that this further amendment had no support because it added little to the original text, and it was withdrawn. More and more

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support was eventually given to the original Office text and the subamendments and the original amendment were withdrawn.

- 215.** The Government member of the United States, speaking on behalf of the Government members of Australia, Canada, Netherlands, Switzerland and United Kingdom, introduced an amendment to delete the words “listed in the annex” in the fourth line of point 10, on the grounds that a list of Conventions and Recommendations would be often amended or augmented, and that the phrase was superfluous. The Government member of Switzerland supported the amendment for the same reasons, adding that updated Conventions and Recommendations were available through the ILO web site. The Worker Vice-Chairperson opposed the amendment, saying that the annex would usefully indicate the major occupational safety and health Conventions and Recommendations and that their updating should not cause difficulties for governments since the list was in a Recommendation. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, agreed and opposed the amendment, preferring the original Office text. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Romania, opposed the amendment for the same reasons, as did the Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela. The Employer Vice-Chairperson agreed that the original Office text was helpful and therefore opposed the amendment. The amendment was withdrawn.
- 216.** The Government member of the United Kingdom, speaking also on behalf of the Government members of Australia, Belgium, Canada, Czech Republic, France, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, San Marino, Switzerland and United States, submitted an amendment to insert the words “principles of the relevant” after the words “take into account the” in the third line of point 10. The amendment had the support of the Government members of Austria, Poland, Spain and Sweden, and the remaining Committee Member States of the European Union and the IMEC group present in the Committee. The Government member of the United Kingdom explained that these words were needed so as to give more flexibility in the text of the Recommendation and to make ratification of the Convention easier. The Government member of Mexico supported the amendment for the same reasons, as did the Employer Vice-Chairperson. The Worker Vice-Chairperson opposed the amendment, however, preferring the Office text, which she considered to be stronger, adding that this point related to formulating national occupational safety and health programmes and not to ratifying the Convention. The Government member of the Russian Federation also opposed the amendment, preferring the Office text, as did the Government member of Senegal, speaking on behalf of the African Government members of the Committee, for the same reasons. The Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, Ecuador and Bolivarian Republic of Venezuela, also opposed the amendment, preferring the Office text, as did the Government members of China, Lebanon and Thailand. The amendment was withdrawn.
- 217.** The Worker Vice-Chairperson withdrew an amendment to insert the words “and relevant reports of other UN agencies, such as the World Health Organization” after the word “annex” at the end of point 10.
- 218.** Point 10 was adopted as amended.

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## **Point 11**

**219.** The Worker Vice-Chairperson submitted an amendment to replace the words “maintaining and progressively developing” with the words “maintaining, progressively developing and periodically reviewing” in the first line of point 11, so as to be consistent with the Convention. The Employer Vice-Chairperson supported the amendment as did several governments, and the amendment was accepted.

**220.** The Worker Vice-Chairperson submitted an amendment to delete the text after “Members” in the second line, and to insert the following text:

should:

- (1) consult with, and promote the active participation of, employers, workers and their representatives and relevant governmental institutions, including public health authorities;
- (2) ensure compliance with national laws and regulations, including adequate and appropriate systems of inspection;
- (3) take steps to ratify and promote the effective implementation of the Occupational Safety and Health Convention, 1981 (No. 155), and other ILO Conventions listed in the Annex to this Recommendation;
- (4) periodically review and, as appropriate, update, on a tripartite basis, national laws and regulations on occupational safety and health giving priority to emerging hazards such as ergonomic, biological and work-related psychosocial hazards.

**221.** The Worker Vice-Chairperson then subamended the text in paragraph (2) above to read: “ensure that mechanisms of compliance referred to in point 7(2)(c) include” instead of “ensure compliance with national laws and regulations, including”, and the text in paragraph (3) above to delete “take steps to ratify and”, and again in paragraph (3) to insert “relevant” before the words “ILO Conventions”. She explained that the intention was to provide further guidance on the above matters and to give priority to emerging hazards such as those mentioned above. The Employer Vice-Chairperson opposed the amendment as subamended, stating that it was repetitive and inappropriate, and that the reference to Convention No. 155 was tantamount to recommending its ratification. While reviewing legislation on a tripartite basis could be appropriate to most countries, updating legislation on such a basis might not be. There was also much debate as to what emerging hazards actually were in each country and this should not be resolved at a global level. The Government member of China also opposed the amendment, preferring the Office text, and the Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed it, saying that it would make obligations on governments heavier and make the instrument harder to ratify. The Government member of the United Kingdom, speaking on behalf of the Government members of the Committee Member States of the European Union and of the IMEC group present in the Committee, opposed the amendment and pointed out that the European Union had recently adopted a non-binding agreement on psychosocial hazards. The Government member of Lebanon also opposed the amendment, preferring the Office text. The Worker Vice-Chairperson withdrew the amendment, hoping that it would be possible to return to these issues at the next meeting of the Committee on Safety and Health in 2006, and that discussions would address the issue of how to promote occupational safety and health and relevant ILO instruments.

**222.** The Government member of Uruguay, speaking also on behalf of the Government members of Argentina, Brazil, Chile, Dominican Republic, Panama and Bolivarian Republic of Venezuela, withdrew an amendment to replace the text that follows the words “Members may” with “create mechanisms for coordinating the competent government

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bodies, and the conditions needed for them to function effectively, in order to enhance their combined action”.

**223.** The Government member of Luxembourg, speaking also on behalf of the Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom, introduced an amendment to delete the rest of the sentence after the words “interested parties” in the third line. He said that their intention was to ensure that the process of consultation referred to here remain as open as possible, and was not just focused on professional associations of occupational safety and health. The Employer Vice-Chairperson supported the amendment, as did the Worker Vice-Chairperson. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, and China, all supported the amendment for the same reasons, and it was accepted.

**224.** Point 11 was adopted as amended.

### ***New point after point 11***

**225.** The Worker Vice-Chairperson introduced an amendment so as to insert a new point after point 11, to read as follows: “With a view to reducing occupational accidents, diseases and deaths, the national system should provide appropriate measures for the protection of workers in high-risk sectors and of vulnerable workers including workers in the informal economy, migrant and young workers.” She said that their intention was to focus on those sectors and groups which faced specific risks and had high rates of fatalities, injuries and illness, and to recommend that national systems focus on these high-risk sectors, particularly construction, mining and agriculture, in order to reduce injuries and deaths. The Employer Vice-Chairperson remarked that the definition of “vulnerable workers” varied from one country to another, but he supported the concept of the amendment.

**226.** The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela, supported the amendment, observing that the informal economy accounted for over 50 per cent of workers in many ILO member States, including Latin American ones. The informal economy, migrant workers and those in high-risk sectors were indeed a priority for national occupational safety and health systems. The Government member of India agreed and also supported the amendment, as did the Government members of Mexico and the Philippines, both of whom mentioned the plight of migrant workers in particular. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, strongly supported the amendment. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, was also concerned about workers in high-risk sectors, but thought that such a list could not be comprehensive, so he proposed a subamendment to delete all the text after the words “vulnerable workers”. However, the Worker Vice-Chairperson considered it very important to include these groups, so she subamended the text by adding “such as workers in the informal economy, migrant and young workers”. This was acceptable to the Committee Member States of the European Union, but the Employer Vice-Chairperson was concerned that regular workers were excluded. He therefore submitted a sub-subamendment to insert, after the words “the protection of” in the second line, the words “all workers, in particular”. The Worker Vice-Chairperson supported this sub-subamendment, as did several Government members.

**227.** The new point after point 11 was adopted as amended.



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## **Point 12**

- 228.** The Worker members submitted an amendment to insert the words “awareness in the workplace and” after the word “raise” in clause (a) of point 12, because the Office text spoke only of raising public awareness, while it was essential to raise awareness of occupational safety and health issues in the workplace as well. The Employer members opposed the amendment. They agreed with the need for occupational safety and health awareness in the workplace, but did not feel that national authorities should be held responsible for it. The Worker members replied that the text spoke of national campaigns, and reminded the Committee that, although public awareness was important for building support for occupational safety and health programmes, the workplace was where accidents happened and so should be of the greatest importance for awareness raising.
- 229.** The amendment was then supported by the Employer members and by the Government members of Bahrain, Lebanon, Saudi Arabia and United Arab Emirates. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also supported the amendment on the grounds that both workers and their families needed to be made aware of risks and preventative measures. The Government member of Thailand added that public awareness campaigns were important for building the safety consciousness of students as future members of the labour force. The amendment was accepted.
- 230.** The Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to replace the word “as” by the word “where” before “appropriate” in the English and Spanish versions of clause 12(a). The amendment was accepted without debate.
- 231.** The Worker members submitted an amendment to insert a new clause after 12(a), with the text: “to ensure that there are recognized mechanisms for delivery of occupational safety and health education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health”. The Worker Vice-Chairperson pointed out that clause 12(b) in the Office text referred to the inclusion of certain concepts in training programmes, but nowhere did the text explicitly propose the establishment of education and training programmes in the first place. In response to a question from the Chairperson about the definition of “recognized mechanisms”, she subamended the amendment to delete “recognized”, so that there would be no implication that some sort of obligatory certification process would be applicable to the education and training programmes. The Employer Vice-Chairperson recalled that on several occasions the Committee had shown a preference for “promote” over “ensure”, and sub-subamended the clause to replace “to ensure that there are” by “to promote”. This was supported by the Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, China and Mexico, and finally by the Worker members. The amendment was accepted as sub-subamended.
- 232.** The Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom submitted an amendment to replace the words “hazard, risk and prevention” by “occupational safety and health” in clause 12(b), to both broaden and simplify the clause. The amendment was supported by the Worker and Employer members, and accepted without debate.
- 233.** The Worker members submitted an amendment to add four clauses after the existing clause (b). The first, “to ensure exchange of occupational safety and health statistics and data between relevant authorities, employers, workers and their representatives”, was

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subamended by the Employer members to replace “ensure” by “facilitate” and sub-amended by the Government member of the United Kingdom to insert “the” before exchange. The resulting text was accepted by the Committee.

- 234.** The second clause, “to provide information and advice to employers and workers and promote or facilitate cooperation between them and their organizations with a view to eliminating hazards or reducing them”, was accepted without modification.
- 235.** The third clause, “to promote the establishment of health and safety policies and of joint safety and health committees and workers’ safety representatives at the level of the workplace”, was opposed by the Employer members and the Government members of India, Switzerland and United States, on the grounds that it was too prescriptive and conflicted with existing national legislation. The text was supported by the Government members of Dominican Republic, Ecuador, Norway, Romania, Bolivarian Republic of Venezuela, the Committee Member States of the European Union and the Committee member States of MERCOSUR. The Worker Vice-Chairperson reminded the Committee that the text under discussion was a proposed Recommendation, and so as a non-binding instrument incapable of conflicting with national laws. However, she offered a subamendment to add “in accordance with national law and practice” at the end of the clause if it would make it more widely acceptable. The Government members of the African Government members of the Committee, the Bahamas, Barbados, India, Lebanon, Mexico, Jamaica, Russian Federation, Suriname, and Trinidad and Tobago, as well as the Employer members, supported the subamendment and the resulting text was accepted.
- 236.** The fourth clause, “to address the constraints of small- and medium-sized enterprises and contractors in the monitoring of occupational safety and health policies and regulations, by establishing a system of regional safety representatives”, was opposed by the Employer members as being out of place in a point that was supposed to deal with the promotion of a national preventative safety and health culture. The Government member of France offered a subamendment by way of a compromise, to replace “monitoring” by “implementation”, to delete “by establishing a system of regional safety representatives” and to insert “in accordance with national law and practice”. The Worker members were unwilling to abandon the concept of roving safety representatives, and sub-subamended the text to read: “to address the constraints of small- and medium-sized enterprises and contractors in the monitoring of occupational safety and health policies and regulations, by establishing a system of regional safety representatives, according to national law and practice”. The Employer members could not support such a controversial concept. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, remarked that the concept was being tested in his country, but that it would be premature to include it in the proposed instrument. He felt that in any case the subamendment of the Government member of France did not exclude a role for regional safety representatives in the promotion of a preventative safety and health culture, even if they were not mentioned explicitly. The Government member of Mexico stated that regional safety representatives were incompatible with the Mexican occupational safety and health system. After the Worker members withdrew their sub-subamendment, the Employer members agreed to support the clause proposed by the Government member of France. The Worker Vice-Chairperson then proposed a subamendment, to insert “micro-,” before “small-” in recognition of the importance of this category of enterprise, as acknowledged earlier by the Committee. This met with general agreement. The Employer members proposed a subamendment to delete “and contractors”, on the grounds that these could be very large enterprises. The Worker members opposed the subamendment because the proposed clause focused specifically on smaller enterprises, and it was withdrawn. The clause was accepted as subamended, and the amendment as a whole was accepted.

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237. Point 12 was adopted as amended.

### **Point 13**

238. The Government members of Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, New Zealand, Netherlands, Poland, San Marino, Spain, Sweden, Switzerland, United Kingdom and United States submitted an amendment to replace the words “based on” with “such as that set out in”, referring to the Guidelines on occupational safety and health management systems, ILO-OSH 2001, in the English and Spanish texts, and insert the word “notamment” after “en se fondant” in the French text of point 13. The Government member of the United Kingdom explained that ILO-OSH 2001 was cited only as an example. The amendment was supported by the Worker and Employer members, and by the African Government members of the Committee, and was accepted.

239. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union and Norway, withdrew an amendment that would have had the same effect as that just accepted.

240. Point 13 was adopted as amended.

### **Point 14**

241. The Worker Vice-Chairperson introduced an amendment to replace the words “national systems” in the second line of paragraph 14(1) with the words “the national system, policy and programme, and the progress that has been made in achieving a safer and healthier working environment”. The intention was twofold: to include the concepts of national policy and national programmes in the profile for review to be consistent with the structure of the instrument; and, through the profile, to look at progress made in occupational safety and health. She pointed out that the language used was the same as that in the Convention. The Employer Vice-Chairperson did not object to the amendment, but preferred the wording of a similar but broader one submitted by a number of European Government members and scheduled for discussion later. The Worker Vice-Chairperson responded with a subamendment to replace “the national system, policy and programme” by the relevant phrase from the amendment cited by the Employer Vice-Chairperson: “the existing situation on occupational safety and health”. The Employer Vice-Chairperson supported the amendment as subamended, as did the Government members of Brazil (speaking on behalf of the Government members of the Committee member States of MERCOSUR), China, Lebanon, Luxembourg (speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania), Namibia (speaking on behalf of the African Government members of the Committee), Papua New Guinea and Thailand. The amendment was thus adopted as subamended.

242. The Government member of Luxembourg withdrew an amendment submitted by the Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom, because its content had been taken over in the amendment just adopted.

243. The Government member of Luxembourg, speaking also on behalf of the Government members of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Norway, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom, introduced an amendment to replace the word “regularly” in the first line of paragraph 14(1) by the words “when necessary”. He

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explained that “regularly” could mean every week or every ten years, and that frequent regular updates could be unnecessary. The Worker Vice-Chairperson opposed the amendment, even if no periodicity was stated in the Office text. “Regularly” implied a systematic approach, and emphasized the ongoing nature of the updates. The Employer Vice-Chairperson supported the amendment; “when necessary” could imply “regularly”, but not vice versa. The Government member of Luxembourg subamended the amendment by adding the word “systematically” before “when necessary”, in deference to the Worker members’ concerns. The Worker Vice-Chairperson continued to prefer “regularly”, feeling that an appropriate periodicity could be determined on a tripartite basis in any given country; the Worker members agreed with the rest of the Committee that the proposed instrument should not authorize unnecessary updates. However, she hoped to find compromise wording, and proposed to sub-subamend the text by replacing “systematically” by “periodically”

**244.** The Employer Vice-Chairperson thereupon proposed a sub-sub-subamendment: “when necessary, on a regular basis,”. The Worker Vice-Chairperson objected that this formulation did not require a national profile to be prepared or updated at all, and the sub-sub-subamendment was withdrawn. After the Government member of Lebanon expressed a preference for the Office text, the Government member of Luxembourg withdrew the amendment.

**245.** The Government member of Luxembourg, speaking also on behalf of the Government members of Austria, Belgium, Czech Republic, Denmark, Spain, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Norway, Netherlands, Poland, Portugal, Slovenia, Sweden and United Kingdom, submitted an amendment which proposed in point 14(2) to delete the entire paragraph following the word “information” in the second line and to replace it by the following words “based on guidelines issued by the ILO. A national occupational safety and health profile could:” followed by five new clauses:

- (a) be prepared at the country level through a process that involves all the national competent and other designated authorities concerned with the various aspects of OSH, and more importantly the most representative organizations of employers and workers;
- (b) include basic data on all parameters that may affect the sound management of OSH, at both the national and enterprise levels, including available legislative framework, enforcement and implementation mechanisms and infrastructures, workforce distribution, human and financial resources devoted to OSH, OSH initiatives at the enterprise level and level of protection;
- (c) provide practical information on ongoing activities at the country level (e.g. activities related to the implementation of international agreements, ongoing and planned technical assistance projects);
- (d) enable a country to identify gaps in and needs for further development of existing legal, institutional, administrative and technical infrastructure related to the sound management of OSH, taking into account relevant ILO Conventions, Recommendations and codes of practice;
- (e) provide a means for improved coordination among all parties interested in OSH. The process of preparing the profile itself may serve as a starting point for improved coordination and should facilitate communications and an improved understanding of the potential problems and activities being undertaken within the country.

**246.** He immediately subamended the amendment in its French version for better correspondence with the English version: “les directives” was replaced by “des directives” and “devrait” was replaced by “pourrait”. The first two lines of point 14(2) would thus read “basées sur des directives du BIT. Un profil national de la sécurité et de la santé au travail pourrait:”. He then subamended the contents of the amendment by deleting its five clauses and adding after the word “could” the words “include the elements of paragraph 44

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of Report IV(1) of the ILO”. As a result, point 14(2) as subamended read: “In addition to the elements provided for in point 7(2) and (3), the national profile on occupational safety and health should include information based on guidelines issued by the ILO. A national occupational safety and health profile could include the elements of paragraph 44 of Report IV(1) of the ILO.”

- 247.** The Government member of Luxembourg explained that the five clauses in the amendment as originally submitted had been taken from paragraph 44 of the report that had been circulated to member States with a questionnaire prior to the drafting of the present proposed Conclusions. He said that the original Office text with nine clauses had seemed long and tedious, but still not complete. The subamendment simplified the text and made it more readable by simply referring to the report rather than quoting it.
- 248.** The Worker Vice-Chairperson objected to the reference to an ILO report to which many people might not have access. She reminded the Committee members that previous discussions on references to ILO Conventions and Recommendations had met with resistance, and opposed the amendment as subamended. She asked the secretariat how the ILO could provide the guidelines referred to in the amendment. The representative of the Secretary-General replied that the question should be directed to the Government members who submitted the amendment, to know whether they were thinking of some existing reference, such as the Protocol to Convention No. 155 or a code of practice, or something to be produced in the future; as a matter of principle, an instrument should not refer to something that did not yet exist. For example, the Office could provide guidance on an Internet site, but that site did not exist yet and the Committee should not make reference to it in the proposed instrument.
- 249.** The Employer Vice-Chairperson also did not think that it was appropriate for a Recommendation to refer to a report. He noted that the amendment and subamendment had eliminated the words “where appropriate”, which the Worker members also favoured.
- 250.** With both the Worker and Employer members preferring the Office text, the Government member of Luxembourg withdrew the amendment.
- 251.** The Government members of Argentina, Brazil, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela withdrew an amendment to delete “and enterprise” from clause (a) of point 14(2).
- 252.** The Government member of the Dominican Republic introduced an amendment submitted by the Government members of Argentina, Brazil, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela, which proposed to insert a new clause after point 14(2)(b): “updating of the list of occupational and work-related diseases;”. She indicated that the proposers wished to have a constant process of updating, to facilitate research, and felt that the amendment complemented the clauses of the Office text. The Worker Vice-Chairperson supported the amendment. The Employer Vice-Chairperson questioned the expression “the list”. He noted that some countries had lists of occupational diseases and some others did not. In any case, a list of occupational diseases seemed more appropriate as a component of a national programme, not part of a national profile.
- 253.** The Government member of Tunisia, in support of the proposed amendment, said that in his country national legislation required that such an updated list exist. Updating was important because new occupational diseases were being identified, and workers were being exposed to new toxic substances. The Government member of Senegal supported the amendment, speaking on behalf of the African Government members of the Committee. She expressed appreciation for the fact that the words “where appropriate” would cover the

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case of countries without official lists of occupational diseases, but asked the proponents of the amendment how occupational diseases were different from work-related diseases.

- 254.** The Chairperson requested clarification as to how a process or activity like updating a list could be considered a part of a national profile.
- 255.** The Government member of the Dominican Republic replied to the Government member of Senegal that the term “occupational disease” was used when referring to those diseases on the official lists of occupational diseases in countries. She said that there were many other diseases that might be caused by work but that were not on such lists. She gave the example of backache, which was not on her country’s list of occupational diseases but which could be work-related.
- 256.** In response to the Chairperson’s question, the Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, subamended the amendment. The new text read: “lists of occupational diseases and work-related diseases”. She said that the updating process was already covered in point 14(1).
- 257.** The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, opposed the amendment as subamended. He asserted that it was redundant in view of the reference to statistics in clause (f), since the compilation of statistics implied the existence of lists. The Worker Vice-Chairperson supported the amendment as subamended. She pointed out that (f) referred only to statistics for occupational diseases, but they might or might not include information on other work-related diseases. She reminded the Committee that such lists were also very important as a basis for compensation. The Employer Vice-Chairperson opposed the amendment as subamended because it made point 14(2) say that a national profile should contain information on lists of diseases, which did not seem sensible. The Government member of Mexico also opposed the amendment as subamended. He explained that no distinction was made in his country’s legislation between occupational and work-related diseases, and that making a distinction in this instrument would engender a long political process. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, insisted that lists were different from statistics, and supported the amendment as subamended. The Government member of China explained that in his country the occupational diseases list does not include all diseases related to work. He reminded the Committee that the ILO had updated its list of occupational diseases in 2002, and that member States, depending on their economic and social development, could do the same. The list was used both for compensation and for compilation of statistics. He supported the amendment as subamended.
- 258.** A straw poll showed that most Government members were not in favour of the amendment as subamended, and the Government member of the Dominican Republic withdrew the amendment.
- 259.** The Employer Vice-Chairperson introduced an amendment to insert the words “including promotional initiatives” after the word “structure” in paragraph (2)(c), because such initiatives were important and it would be helpful to hear of progress in national profiles. The Worker Vice-Chairperson supported the amendment, there were no objections from Government members, and it was adopted.
- 260.** The Worker Vice-Chairperson submitted an amendment to insert the words “safety and health officers, physicians, hygienists and safety and health representatives” instead of the words “officers, occupational physicians and hygienists” in the second line of paragraph (2)(e). She subsequently subamended the text to refer to “occupational physicians”. She explained that the amendment would clarify the Office text and include

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safety and health representatives who played a very important role at the workplace. The Employer Vice-Chairperson opposed it because he considered that the term “safety and health representatives” was too vague and that it would not be practicable to provide national estimates of their numbers. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, opposed the amendment for the same reasons, adding that one could extend the list to other specialists, such as ergonomists, occupational psychologists and safety engineers, and that the professions listed were only indicative. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment for the same reasons, and it was withdrawn.

- 261.** The Government member of Brazil, speaking also on behalf of the Government members of Argentina, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela, withdrew an amendment to replace clause (f) in paragraph (2) with the words: “statistics on incidents, occupational accidents and work-related diseases”.
- 262.** The Employer Vice-Chairperson submitted an amendment to insert the words “in the field of occupational safety and health” after the words “policies and programmes” in paragraph (2)(g). He immediately subamended it so as to refer only to “occupational safety and health”. The Worker Vice-Chairperson supported the amendment as subamended, as did Government members, and it was adopted.
- 263.** The Government member of Barbados, speaking also on behalf of the Government members of the Bahamas, Jamaica, Suriname, and Trinidad and Tobago, submitted an amendment to insert a new clause “financial and budgetary resources” after clause (2)(i). He considered that such information was important and should be included in a national profile. The Worker Vice-Chairperson agreed with the amendment but subamended it to read “financial and budgetary resources with regard to occupational safety and health”, adding that such resources were an important indicator of national commitment to occupational safety and health. The Government member of Senegal, speaking on behalf of the African Government members of the Committee, supported the subamended text for the above reasons, as did the Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, adding that the information was also useful in sensitizing public opinion.
- 264.** The Government members of Lebanon and Bahrain opposed the subamended text and so did the Government member of Indonesia, speaking also on behalf of the Government member of the Philippines, who said that financial resources for occupational safety and health often came from several government ministries and the private sector, and this would make them difficult to estimate. The latter speaker also referred to the words “any other relevant information” in paragraph (2)(i), which she considered sufficient to cover financial resources as well. The Government member of Bahrain, speaking also on behalf of the Government members of Saudi Arabia and the United Arab Emirates, also opposed the text as subamended.
- 265.** The Government member of Namibia reiterated the support of the African Government members of the Committee for the amended text, and the Government member of Papua New Guinea also supported it, saying that government claims to give priority to occupational safety and health should be complemented by resource allocation. The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, said that their group members already published such information so the inclusion of the clause would not create any difficulties for them, but they were concerned only about other countries for which the clause might cause problems. However, he added that having to publish such information could act as a spur to increasing resources for occupational safety and health. Having

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listened to the views of the Government members, the Employer Vice-Chairperson supported the subamended text; a show of hands amongst Government members also indicated strong support for it, and it was adopted.

- 266.** The Worker Vice-Chairperson submitted an amendment to add a new clause “mechanisms for the provision of occupational health services and the number of workers covered by such services” after clause (2)(i). She said that occupational health services were important and that it would be useful for their coverage to be articulated in national profiles. The Employer Vice-Chairperson thought that stating the number of workers covered by such services was meaningless in itself and he subamended the text to read simply “occupational health services”. The Worker Vice-Chairperson subamended the text again so as to read “mechanisms for the provision of occupational health services and the coverage of workers by such services”, and the Employer Vice-Chairperson supported this.
- 267.** The Government member of the United Kingdom, speaking on behalf of the Government members of the IMEC group present in the Committee, opposed the amendment as subamended, since national profiles already had to refer to occupational health services because the latter were included in point 7(3) to which point 14 referred. Moreover, he considered that measuring the coverage of such services was very time-consuming and did not in itself contribute to the reduction of accidents and diseases. For the same reasons, the Government member of Senegal, speaking on behalf of the African Government members of the Committee, opposed the subamended text, as did the Government member of Tunisia. The Government member of the Philippines thought that a review of the occupational health services and their coverage in her country could be useful, so she supported the text as subamended.
- 268.** The Government member of Mexico queried how it would be possible to establish the coverage of occupational health services within the informal economy. The Worker Vice-Chairperson explained that the intention of the amendment was to provide useful information about the provision and coverage of occupational health services, and that it was only relevant for those countries where such services existed. The proposed new clause would not place further obligations on governments, as it did not require such services to be provided. However, given that the amendment would cause problems for some governments, the Employer Vice-Chairperson withdrew his support for the text as subamended, and the Worker Vice-Chairperson, also in light of the discussion, withdrew the original amendment and subamended versions.
- 269.** Point 14 was adopted as amended.

## **Point 15**

- 270.** The Worker members submitted an amendment to replace the Office text of point 15 by the following:
15. The International Labour Organization should:
- (1)(a) facilitate the exchange of information on national policies, systems and programmes on occupational safety and health, including best practices and innovative approaches, and the identification of new and emerging hazards and risks in the workplace; and
  - (b) assess the progress that has been made in achieving a safer and healthier working environment.
- 271.** The Worker Vice-Chairperson explained that the expanded point 15 would reflect the “policy – system – programme” structure found elsewhere in the proposed instruments. The Worker members preferred “best” practices to those that were merely “good”. New



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and emerging hazards and risks merited inclusion, and the ILO could play a valuable role in their identification. The Worker Vice-Chairperson subamended the text, to insert “and report on” after “assess” in clause (b), in order to further facilitate the sharing of information. The Organization already engaged in these activities, but the fact deserved to be put in writing.

- 272.** In response to the question from the Chairperson, the representative of the Secretary-General confirmed that “Organization” was the appropriate word in this context, rather than “Office”.
- 273.** The Employer members opposed the amendment on the basis that a reference to “best” practice is a narrower concept than that proposed by the Office – i.e. good practices. It seemed inappropriate to give instructions to the ILO by way of a Recommendation.
- 274.** The representative of the Secretary-General informed the Committee that there was no prohibition against including instructions to the Organization in a Recommendation, citing the Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181). However, the carrying out of the instructions depended on the funding accorded by the Governing Body of the International Labour Office and ultimately by the International Labour Conference. An alternative way to give instructions to the Organization and others was the adoption of resolutions, for which there was a well-established mechanism.
- 275.** The Employer Vice-Chairperson expressed reassurance as to the propriety of the amendment, but remained opposed on the basis of its content, even after the Worker members submitted a subamendment to replace “best practices” with “good practices”. The Government member of the United States also opposed the amendment. He noted that the competent authorities in his country were already subject to many reporting requirements, and that the amendment represented a considerable additional burden. Furthermore, the word “assess” implied that the ILO would be making value judgements about the ways different countries went about implementing the provisions of the Convention, which was unacceptable. Finally, unless some new mechanism were created the ILO had no way to assess the performance of countries that had not ratified the proposed Convention.
- 276.** In response to a proposal from the Chairperson to discuss the two clauses of the amendment separately, the Government members of Brazil (speaking on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela), China, India, Luxembourg (speaking on behalf of the Government members of the Committee Member States of the European Union, Norway and Romania), Libyan Arab Jamahiriya, Russian Federation and United Kingdom (speaking on behalf of the Government members of the IMEC group present in the Committee) supported clause (a) as subamended. In view of the widespread support, the Employer members dropped their opposition and the amendment was adopted.
- 277.** Clause (b) was supported by the Government members of the Committee Member States of the European Union, and the Government member of Lebanon, but opposed as redundant by the Government member of New Zealand. The Government member of Brazil, speaking on behalf of the Government members of the Committee member States of MERCOSUR, subamended the clause to replace “assess” by “inform on”. This was supported by the Worker members, who testified that they had not intended for their original amendment to impose a new assessment mechanism. The Employer members opposed the subamendment because it did not say who was to be informed. The Government member of Switzerland opposed the clause as imposing new costs on the ILO; having chaired discussions on the Organization’s budget in the Governing Body, Switzerland was fully aware of the financial constraints on the Office’s activities. She also

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endorsed the objections of other speakers. The Government member of the United Kingdom agreed with the Government member of Switzerland in opposing the clause, asserting that money was better spent on activities than reports. The Government member of Argentina, speaking on behalf of the Government members of the Committee member States of MERCOSUR and the Bolivarian Republic of Venezuela, supported the clause, declaring that the occupational safety and health-related Conventions guaranteed workers' lives, and that monitoring their implementation should thus have high priority. The Government member of Sweden also supported the clause as subamended, although he noted that the ILO's occupational safety and health programme was already engaged in disseminating information. The Government member of France recalled the widespread support for the monitoring of programme performance that had been expressed earlier in the Committee's discussions. The African Government members of the Committee, the Government members of the Committee Member States of the European Union, except the United Kingdom, and the Government member of Algeria added their support. The Employer members thereupon withdrew their opposition, and the remainder of the amendment was adopted as subamended.

**278.** The Worker members submitted an amendment to add a further paragraph to point 15:

(2) In addition, the International Labour Organization should:

- (a) promote the ratification and effective implementation of ILO instruments on occupational safety and health, in particular the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Health Services Convention, 1985, (No. 161), the Labour Inspection Convention, 1947 (No. 81), the Safety and Health in Construction Convention, 1988 (No. 167), the Safety and Health in Mines Convention, 1995 (No. 176), and the Safety and Health in Agriculture Convention, 2001 (No. 184);
- (b) give due attention to the provision of technical assistance to member States to assist them with the ratification and effective implementation of these and other Conventions listed in the Annex below.

**279.** The Worker Vice-Chairperson explained that the amendment was motivated by the recurring insistence of Committee members on the necessity of ratifying and implementing existing Conventions. The Employer Vice-Chairperson opposed the amendment on the grounds that it simply repeated the "job description" of the International Labour Office. The Government member of the United States objected that the International Labour Office already had a unit dedicated to monitoring ratification, and that this amendment appeared to be aimed at giving them instructions. The African Government members of the Committee, the Government members of the Committee Member States of the European Union and the Government members of Jordan, Libyan Arab Jamahiriya, Norway and Romania all opposed the amendment as an unnecessary restatement of basic tasks of the International Labour Office. The Worker members withdrew the amendment.

**280.** Point 15 was adopted as amended.

### ***New point after point 15***

**281.** The Government member of Uruguay introduced an amendment submitted by the Government members of Argentina, Brazil, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela, to insert a new point after point 15, as follows:

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V. PROMOTION OF OCCUPATIONAL SAFETY AND HEALTH  
AT THE INTERNATIONAL LEVEL

16. The ILO and its constituents shall make very effort to ensure that the right to life enshrined in the ILO's international Conventions on occupational safety and health is included in the fundamental rights.

- 282.** She recalled the presentation on the global toll of accidents and diseases that had been presented at the opening of the Committee's deliberations. She declared that it was unacceptable for workers to risk their lives in the creation of wealth, and incompatible with the ILO's concept of decent work as reflected in the Declaration on Fundamental Principles and Rights at Work (1998). The Employer Vice-Chairperson objected that the expression "right to life" had wide-ranging implications and different meanings in different countries that made it inadvisable to incorporate it in the present text. Further, after the Committee's insistence on casting that text in the form of a Convention supplemented by a Recommendation rather than a Declaration, it was inappropriate to now raise issues that could only be accommodated in a Declaration. The Worker Vice-Chairperson supported the amendment as a contribution to raising the profile of occupational safety and health in the International Labour Organization. The Government members of Algeria, Lebanon and Morocco likewise supported the amendment. The Government member of the United States strongly opposed the amendment because: the word "ensure" was inconsistent with decisions taken earlier by the Committee; the expression "international Conventions" raised the question of what other kinds there were; "fundamental rights" were undefined and the term "right to life" was subject to many interpretations. The Government member of Luxembourg proposed a subamendment to delete "international" before "Conventions" and to add the phrase "as described in the core Conventions of the ILO" after "fundamental rights". A technical expert from the secretariat observed that the right to life was not articulated in any ILO instruments, nor did the notion of "core Conventions" appear in ILO standards.
- 283.** The Worker Vice-Chairperson submitted a sub-subamendment to refer to "a right to a safe and healthy working environment" instead of "a right to life". The Employer Vice-Chairperson said that referring health and safety as a fundamental right contradicted earlier agreement in the Committee on the concept of a national preventative safety and health culture, which referred to rights in the context of corresponding responsibilities and duties, and he opposed this sub-subamendment. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, requested the Office's advice about the terms "fundamental rights" and "core Conventions". The ILO Legal Adviser explained that the terms had no agreed legal significance but had been articulated by the Office and approved by the International Labour Conference in 1998, when it adopted the ILO Declaration on Fundamental Principles and Rights at Work. At that time it was understood that the rights and principles contained in the so-called ILO core Conventions were "fundamental" only insofar as their protection was necessary for the enjoyment of the rights contained in the other ILO instruments. However, fundamental human rights had been laid down in other documents such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, rather than in ILO "core Conventions". The right to a safe and healthy working environment, encompassed in the right to life, could be inferred from these other instruments. It would therefore be meaningless to relate the right to a safe and healthy working environment, as proposed in the above sub-subamendment, to the fundamental principles and rights at work or to so-called ILO core Conventions.
- 284.** Having heard the legal advice, the Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, withdrew his subamendment, but the Worker Vice-Chairperson reintroduced her sub-subamendment as a subamendment so as to refer to "a right to a safe and healthy

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working environment” instead of “a right to life”. The Employer Vice-Chairperson agreed with the concept but considered it inappropriate to introduce it in the Recommendation, reiterating the need to have such a concept supported by corresponding responsibilities and duties. He opposed the amendment as subamended. The Government member of Tunisia also opposed it, believing that it would have been better to place such a text in the Preamble. Agreeing with this, the Government member of Senegal, speaking on behalf of the African Government members of the Committee, also opposed the amendment as subamended. The Government member of Switzerland also opposed it, adding that if member States ratified the occupational safety and health Conventions, the right to a safe and healthy working environment would be enshrined in national legislation. The Government member of Luxembourg, speaking on behalf of the Government members of the Committee Member States of the European Union, also opposed the amendment for legal reasons, as did the Government member of Lebanon.

**285.** The Government member of Argentina, speaking also on behalf of the Government members of Brazil, Chile, Dominican Republic, Panama, Uruguay and Bolivarian Republic of Venezuela, was surprised at the degree of opposition to the amendment. He agreed that the wording of the text and its position in the instruments could be improved, but he hoped that there was no doubt about the need to attach to occupational safety and health the same degree of importance within ILO circles as was given to subjects covered by the core Conventions. However, in view of the discussion he withdrew the amendment, noting that the issue would be brought up next year.

**286.** The new point after point 15 was withdrawn.

### **Point 16**

**287.** The Government member of Canada, speaking also on behalf of the Government members of Australia, Netherlands, United Kingdom, Switzerland and United States, withdrew an amendment to delete point 16.

**288.** The Employer Vice-Chairperson submitted an amendment to replace the word “shall” in the second line with the word “may”, because he considered that the former wording imposed too strong a requirement on the Governing Body. The Worker Vice-Chairperson opposed the amendment, preferring the Office text, which she understood meant that the Governing Body would adopt any list that they had reviewed and updated. The Employer Vice-Chairperson subamended his amendment to replace “shall” with “should”, in keeping with the language of a Recommendation; the Worker Vice-Chairperson supported the subamended text. The representative of the Secretary-General said that the Office text reflected the usual sequence of wording in Recommendations, namely that the first word in a Paragraph was “should”, followed by “shall” in following sentences. With this assurance, the Employer Vice-Chairperson withdrew his amendment.

**289.** Point 16 was adopted as amended.

### **Annex**

**290.** The Employer Vice-Chairperson submitted an amendment to insert, after the list of Recommendations in the annex, a new section headed “III. Codes of practice”, to contain the complete list of ILO codes of practice on occupational safety and health. He also submitted a subamendment to correct two errors concerning dates of publication. He stated that it would be useful to have a list of all occupational safety and health instruments together in one annex, particularly as some codes of practice were more useful than some of the older Conventions. The Worker Vice-Chairperson opposed the amendment, saying

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that it was inappropriate to include codes of practice, since this instrument was about national action whereas codes of practice were more relevant at the enterprise level. Moreover, the list of Conventions and Recommendations in the annex contained only those that had been deemed up to date, whereas the proposed list of codes of practice was comprehensive. The Government member of the United States opposed the amendment for the same reasons, expressing concern about the length of the annex if the amendment were adopted. The Employer Vice-Chairperson accepted that codes of practice focused on the workplace, and since the addition of such codes to the annex was not a vital matter for the Employers' group, the amendment was withdrawn.

**291.** The annex was adopted.

**292.** At its 13th sitting, the Committee adopted its report, subject to changes requested by several members, as well as the proposed Conclusions as presented at the end of the report. The Committee also adopted a resolution to place on the agenda of the next ordinary session of the International Labour Conference an item entitled "Occupational safety and health" for a second discussion with a view to the adoption of a Convention and a Recommendation.

**293.** Changes requested by the Employer members, the Worker members and the Government members of Argentina (on behalf of the Government members of the Committee member States of MERCOSUR), Brazil, China, El Salvador, Senegal (on behalf of the African Government members of the Committee), Switzerland, Trinidad and Tobago (on behalf of the Government members of CARICOM), the United Kingdom (on behalf of the Government members of the Group of Industrialized Market Economies [IMEC] present in the Committee and the Government members of the Committee Member States of the European Union), Uruguay and the Bolivarian Republic of Venezuela were noted and incorporated in the report. The statements attributed to the Legal Advisor in the report were verified.

**294.** The Director-General of the ILO, Secretary-General of the Conference, congratulated the Committee on its efficiency and productivity, and thanked the secretariat and support staff for their contribution. He particularly saluted the spirit of consensus that was shown by the holding of only one vote during two weeks of work. He declared that safety and health constituted a core element of the Decent Work Agenda, that decent work must be safe work. He recalled that occupational safety and health had been the first topic to be discussed in the context of an integrated approach to international labour standards, and that the Committee and its promotional framework Convention and Recommendation were a direct result of those discussions. He congratulated the Committee for its openness in exploring this new type of Convention, and felt that it would contribute greatly to raising public awareness of the need to put occupational safety and health higher on the world's agenda.

**295.** The Government member of Senegal, speaking on behalf of the African Government members of the Committee, thanked the Chairperson and the secretariat for their support to the work of the Committee, the Employer and Worker members for their spirit of collaboration, and the members of her group for their contribution. The Government member of the United Kingdom, speaking on behalf of the Government members of the Group of Industrialized Market Economies (IMEC) present in the Committee and the Government members of the Committee Member States of the European Union, echoed these sentiments, acknowledging that certain Committee members had wanted a different form of instrument while others had wanted more detailed content, but all had put the highest value on reaching consensus and moving the work of the Committee forward. The Government member of the Bolivarian Republic of Venezuela emphasized the importance of the Committee's work for improving the quality of information and training in the area

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of occupational safety and health, and for making everyone an active participant in the development of a preventative safety and health culture.

- 296.** The Employer Vice-Chairperson thanked the Committee, his Government and Worker counterparts, as well as the Employer members, and expressed particular satisfaction with the Chairperson's contribution to the success of the Committee.
- 297.** The Worker spokesperson associated himself, personally and on behalf of the Vice-Chairperson, with the foregoing speakers' remarks, particularly paying tribute to the Chairperson's ability to keep the Committee on track with skill and good humour. He expressed gratitude to the Worker members for their hard work and support.
- 298.** The representative of the Secretary-General thanked all the participants. He remarked that the International Labour Conference was sometimes likened to a circus, where every Committee was a ring. If one pursued that analogy, it came naturally to liken the groups of Government members to the elephants, for their intelligence and their ability to move things. He called on the Committee members and the Office to work over the next 12 months to refine the instruments that had been approved.
- 299.** The Chairperson wanted his closing remarks to be distinguished by mentioning the crucial role of the interpreters first, rather than later in his acknowledgements, as previous speakers had done. He thanked everyone for the pleasure that he had in chairing a meeting that had been widely recognized as a success, and looked forward to an equally successful meeting in a year's time.
- 300.** The report of the Committee, the proposed Conclusions and the resolution to place on the agenda of the next ordinary session of the Conference an item entitled "Occupational safety and health" are submitted for consideration.

Geneva, 13 June 2005.

*(Signed)* Mr. A. Békés,  
Chairperson.

Mr. A. Annakin,  
Reporter.

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## Proposed Conclusions

### A. Form of the instrument

1. The International Labour Conference should adopt an instrument establishing the promotional framework on occupational safety and health.
2. The instrument should take the form of a Convention supplemented by a Recommendation.

### B. Proposed Conclusions with a view to a Convention

#### I. Preamble

3. The Convention should include a Preamble referring to:
  - (a) the Constitution of the International Labour Organization;
  - (b) Paragraph III(g) of the Philadelphia Declaration which provides that the International Labour Organization has the solemn obligation to further among the nations of the world programmes which will achieve adequate protection for the life and health of workers in all occupations;
  - (c) the Occupational Safety and Health Convention, 1981 (No. 155), and the Occupational Safety and Health Recommendation, 1981 (No. 164);
  - (d) the promotion of occupational safety and health as part of the International Labour Organization's core objective of decent work for all;
  - (e) the Conclusions concerning occupational safety and health adopted by the 91st Session (2003) of the International Labour Conference, in particular the priority to be given to occupational safety and health in national agendas;
  - (f) the importance of the continuous promotion of a national preventative safety and health culture.

#### II. Definitions

4. For the purpose of this Convention:
  - (a) "national policy" refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);
  - (b) "national system for occupational safety and health" refers to the infrastructure which provides the main framework for implementing national programmes on occupational safety and health;
  - (c) "national programme on occupational safety and health" refers to any national programme that includes objectives, priorities and means of action formulated to

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improve occupational safety and health, to be achieved in a predetermined time frame;

- (d) “a national preventative safety and health culture” refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where governments, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

### **III. Objective**

5. Each Member which ratifies this Convention should take active steps towards achieving progressively a safer and healthier working environment through national programmes on occupational safety and health by taking into account the principles in relevant ILO instruments on occupational safety and health.

### **IV. National policy**

6. Each Member should promote a safe and healthy working environment by formulating a national policy.
7. Each Member should promote continuous improvement of occupational safety and health by the development, in a tripartite context, of a national policy, national system and national programme.
8. Each Member should promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

### **V. National system**

9. (1) Each Member should establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with representative organizations of employers and workers.
- (2) The national system for occupational safety and health should include among others:
- (a) laws, regulations, collective agreements and other relevant instruments on occupational safety and health;
  - (b) an authority or body, or authorities or bodies responsible for occupational safety and health, designated in accordance with national law and practice;
  - (c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;
  - (d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.
- (3) The national system for occupational safety and health should include, where appropriate:
- (a) information and advisory services on occupational safety and health;



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- (b) the provision of occupational safety and health training;
  - (c) occupational health services in accordance with national law and practice;
  - (d) research on occupational safety and health;
  - (e) a mechanism for the collection and analysis of data on occupational accidents and diseases, taking into account relevant ILO instruments;
  - (f) provisions for collaboration with relevant injury insurance schemes covering occupational accidents and diseases;
  - (g) support mechanisms for a progressive improvement of occupational safety and health conditions in micro, small and medium-sized enterprises.

## **VI. National programme**

- 10.** (1) Each Member should formulate, implement, monitor and periodically review a national programme on occupational safety and health in consultation with representative organizations of employers and workers.
- (2) The national programme should:
- (a) contribute to the protection of workers by minimizing work-related hazards and risks, in accordance with national law and practice, in order to reduce work-related deaths, injuries and diseases;
  - (b) be formulated and reviewed on the basis of analysis of the national situation on occupational safety and health, including the national system for occupational safety and health;
  - (c) promote the development of a national preventative safety and health culture;
  - (d) include targets and indicators of progress;
  - (e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving the objective of a safer and healthier working environment.
- (3) The national programme should be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

## **C. Proposed Conclusions with a view to a Recommendation**

### **I. National system**

- 11.** In establishing, maintaining, progressively developing and periodically reviewing the national system for occupational safety and health defined in point 4(b) above, Members may extend the consultations provided for in point 9(1) above to other interested parties.
- 12.** With a view to reducing occupational accidents, diseases and deaths, the national system should provide appropriate measures for the protection of all workers, in particular workers

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in high-risk sectors and of vulnerable workers such as those in the informal economy, migrant and young workers.

**13.** In promoting a national preventative safety and health culture, Members should seek:

- (a) to raise awareness in the workplace and public awareness on occupational safety and health through national campaigns linked, where appropriate, with international initiatives;
- (b) to promote mechanisms for delivery of occupational safety and health education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health;
- (c) to introduce occupational safety and health concepts in educational and vocational training programmes;
- (d) to facilitate the exchange of occupational safety and health statistics and data between relevant authorities, employers, workers and their representatives;
- (e) to provide information and advice to employers and workers and promote or facilitate cooperation between them and their organizations with a view to eliminating or reducing hazards;
- (f) to promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers' safety representatives, in accordance with national law and practice;
- (g) to address the constraints of micro, small and medium-sized enterprises and contractors in the implementation of occupational safety and health policies and regulations in accordance with national law and practice.

**14.** Members should promote the management systems approach to occupational safety and health, such as that set out in the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

## **II. National programme**

**15.** In formulating and reviewing the national programme on occupational safety and health defined in point 4(c) above, Members may extend the consultations provided for in point 10(1) above to other interested parties.

**16.** The national programme on occupational safety and health should be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.

**17.** In formulating and reviewing the national programme on occupational safety and health, and without prejudice to their obligations under Conventions which they have ratified, Members should take into account the international labour Conventions and Recommendations listed in the annex.

## **III. National profile**

**18.** (1) Members should prepare and regularly update a national profile which summarizes the existing situation on occupational safety and health and the progress that has been

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made in achieving a safer and healthier working environment. The profile should be used as a basis for formulating and reviewing the national programme.

- (2) In addition to information on the elements provided for in point 9(2) and (3) above, the national profile on occupational safety and health should include information on the following elements, where appropriate:
  - (a) coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;
  - (b) technical standards, codes of practice and guidelines on occupational safety and health;
  - (c) educational and awareness-raising structures including promotional initiatives;
  - (d) specialized technical, medical and scientific institutions with linkages to various aspects of occupational safety and health, including research institutes and laboratories concerning occupational safety and health;
  - (e) human resources active in the area of occupational safety and health, such as inspectors, officers, occupational physicians and hygienists;
  - (f) occupational accident and disease statistics;
  - (g) occupational safety and health policies and programmes of organizations of employers and workers;
  - (h) regular or ongoing activities related to occupational safety and health, including international collaboration;
  - (i) related data addressing, for example, demography, literacy, economy and employment, as available, as well as any other relevant information;
  - (j) financial and budgetary resources with regard to occupational safety and health.

#### **IV. *International exchange of information***

**19.** The International Labour Organization should:

- (1) facilitate the exchange of information on national policies, systems and programmes on occupational safety and health, including good practices and innovative approaches, and the identification of new and emerging hazards and risks in the workplace;
- (2) inform on progress made in achieving a safer and healthier working environment.

#### **V. *Updating of the annex***

**20.** The list as annexed to this Recommendation should be reviewed and updated by the Governing Body of the International Labour Office. Any new list so established shall be adopted by the Governing Body and upon adoption shall replace the preceding list and shall be communicated to the Members of the International Labour Organization.

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## Annex

### I. Conventions

Labour Inspection Convention, 1947 (No. 81)  
Radiation Protection Convention, 1960 (No. 115)  
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)  
Labour Inspection (Agriculture) Convention, 1969 (No. 129)  
Occupational Cancer Convention, 1974 (No. 139)  
Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)  
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)  
Occupational Safety and Health Convention, 1981 (No. 155)  
Occupational Health Services Convention, 1985 (No. 161)  
Asbestos Convention, 1986 (No. 162)  
Safety and Health in Construction Convention, 1988 (No. 167)  
Chemicals Convention, 1990 (No. 170)  
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)  
Safety and Health in Mines Convention, 1995 (No. 176)  
Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)  
Safety and Health in Agriculture Convention, 2001 (No. 184)  
Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

### II. Recommendations

Labour Inspection Recommendation, 1947 (No. 81)  
Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)  
Protection of Workers' Health Recommendation, 1953 (No. 97)  
Welfare Facilities Recommendation, 1956 (No. 102)  
Radiation Protection Recommendation, 1960 (No. 114)  
Workers' Housing Recommendation, 1961 (No. 115)  
Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)  
Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)  
Occupational Cancer Recommendation, 1974 (No. 147)  
Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)  
Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)  
Occupational Safety and Health Recommendation, 1981 (No. 164)  
Occupational Health Services Recommendation, 1985 (No. 171)  
Asbestos Recommendation, 1986 (No. 172)  
Safety and Health in Construction Recommendation, 1988 (No. 175)  
Chemicals Recommendation, 1990 (No. 177)  
Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)  
Safety and Health in Mines Recommendation, 1995 (No. 183)  
Safety and Health in Agriculture Recommendation, 2001 (No. 192)  
List of Occupational Diseases Recommendation, 2002 (No. 194)

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**Resolution to place on the agenda of the next  
ordinary session of the Conference an item  
entitled “Occupational safety and health”**

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fourth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention and a Recommendation concerning occupational safety and health,

Decides that an item entitled “Occupational safety and health” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Convention and Recommendation.

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