



SECOND ITEM ON THE AGENDA

Agenda of the International Labour Conference**(a) Agenda of the 93rd Session (June 2005)
of the International Labour Conference****Contents**

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Introduction

Background

1. At its 286th Session (March 2003) the Governing Body initiated a discussion on the date, place and agenda of the 93rd Session (2005) of the Conference. It decided that this session of the Conference should open on 7 June 2005 and that it should be held in Geneva.
2. The agenda of the 93rd Session (2005) of the Conference will include the following *standing items*:
 - Reports of the Chairperson of the Governing Body and the Director-General, including the Global Report on forced labour under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work;
 - Programme and Budget proposals for 2006-07 and other financial questions; and
 - information and reports on the application of Conventions and Recommendations.
3. According to its normal practice, the Conference also deals with three *technical items* at the same session. One of these would be the second discussion on a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector as the first discussion on this subject will be held at the 92nd Session (2004) of the Conference.
4. On the basis of the proposals in the present document the Governing Body is now invited to designate two additional items which would complete the agenda of the 93rd Session (2005) of the Conference.
5. It should be recalled that this issue should normally have been settled at the March 2003 session of the Governing Body. At that time the Governing Body decided, however, to postpone this question so that it could make its selection in the light of the outcome of the first general discussion based on an integrated approach at the 91st Session (June 2003) of the Conference.¹ As a follow-up to the resolution on occupational safety and health adopted following this discussion,² the development of a new instrument establishing a promotional framework in the area of occupational safety and health is now also proposed to the Governing Body for consideration in the context of the agenda of the Conference in 2005.

Proposals

6. The Governing Body is presently invited to select two out of the eight subject matters proposed in this document. They include the new proposal on an instrument on

¹ See ILC, 91st Session (2003), PV 22, Report of the Committee on Occupational Safety and Health.

² *ibid.* Resolution concerning occupational safety and health, in particular para. 1(a) and para. 6 of its accompanying conclusions concerning ILO standards-related activities in the area of occupational safety and health appended to the Recommendation.

occupational safety and health (OSH) and seven resubmitted proposals. Six of them are resubmitted without any change, while the seventh – the proposal on the promotion of youth employment – has been slightly updated. In March 2003 the resubmitted proposals remained unchanged but they were accompanied by a brief summary of the relevant points raised in November. This summary is also reproduced below.

7. Should the Governing Body decide to place the proposal on a new instrument in the area of OSH on the agenda of the 96th Session (2005) of the Conference, the Governing Body is invited to ask the Office to prepare and organize consultations on this issue, mainly in the form of a questionnaire, and to decide on the proposed shortened time schedule for the preparation of this item for the Conference discussion.³

8. *Against this background, the Governing Body is invited:*

(a) *to complete the agenda of the 93rd Session (2005) of the International Labour Conference by selecting two of the following eight proposals presented below:*

- (i) *a new instrument establishing a promotional framework in the area of occupational safety and health;*
- (ii) *new measures concerning discrimination in employment and occupation – extension of the grounds on which discrimination is prohibited in Article 1 of Convention No. 111 (standard setting);*
- (iii) *child labour and protection of children and young persons (general discussion based on an integrated approach);*
- (iv) *promoting youth employment (general discussion based on an integrated approach);*
- (v) *decent jobs and productivity (general discussion based on an integrated approach);*
- (vi) *promoting decent work in reconstruction of conflict-affected countries (standard setting);*
- (vii) *gender equality in the world of work (general discussion based on an integrated approach); and*
- (viii) *the role of the ILO in technical cooperation (general discussion);*

[in the event the Governing Body decides to place item (i) on the agenda of the 93rd Session (2005) of the Conference]:

(b) *to decide to request the Office to prepare a questionnaire for the development of the new instrument establishing a promotional framework in the area of occupational safety and health on the basis of article 39 of the Standing Orders of the Conference, in the light of the outcome of the*

³ See paras. 20-21 below.

general discussion on ILO standards-related activities in the area of occupational safety and health;⁴ and

- (c) to approve the proposed programme⁵ concerning a reduced timetable for the preparatory stages of the first discussion on the new instrument establishing a promotional framework in the area of occupational safety and health.*

New proposal

Social protection

1. ***A new instrument establishing a promotional framework in the area of occupational safety and health***

Summary

The present proposal follows up on the conclusion of the first general discussion based on an integrated approach on ILO standards-related activities in the area of occupational safety and health (OSH) held at the Conference in 2003. The Conference adopted by consensus a resolution on OSH containing conclusions on a global strategy and an action plan. Accordingly, the Conference considered that “a new instrument establishing a promotional framework in the area of OSH should be developed on a priority basis”, and invited the Governing Body to give due consideration to the adopted conclusions.

The envisaged instrument should be aimed at ensuring that priority is given to OSH in national agendas, fostering political commitments to develop, in a tripartite context, national strategies for a continuous improvement of national OSH systems including legislation, supporting measures and enforcement. It should have a promotional rather than prescriptive content and be based on two main principles: the implementation of a preventative safety culture and a systems approach to the management of OSH. It was also agreed that: “such a practical and constructive instrument should promote, inter alia, the right of workers to a safe and healthy working environment; the respective responsibilities of governments, employers and workers; the establishment of tripartite consultation mechanisms on OSH; the formulation and implementation of national OSH programmes based on the principles of assessment and management of hazards and risks at the workplace level; initiatives fostering a preventative safety and health culture; and worker participation and representation at all relevant levels. It should strive to avoid duplication of provisions which are in existing instruments. In order to enable an exchange of experience and good practice on OSH in this respect, the instrument should include a mechanism for reporting on achievements and progress.”

One of the issues that was discussed, but where final agreement was not reached, was whether the proposed instrument should be adopted in the form of a Convention and/or a Recommendation or in some other form. While the Governing Body may wish to consider this issue already at this stage, it may also consider it more appropriate that this issue be resolved at a later stage in the light of the views of the constituents on the more precise content of this instrument solicited in the consultative process where a questionnaire is a central element.

Background

9. At its 91st Session (2003) the International Labour Conference held its first general discussion based on an integrated approach. This discussion was focused on ILO standards-related activities in the area of OSH and resulted in the adoption, by consensus,

⁴ See GB.288/LILS/2/2: “Practices for the preparation of international labour Conventions: (b) Questionnaire – Articles 38 and 39 of the Standing Orders of the International Labour Conference”.

⁵ See para. 20, below.

of a resolution concerning OSH including conclusions concerning ILO standards-related activities in the area of OSH – a global strategy and an action plan.⁶ Priority action is outlined in relation to ILO instruments and includes the proposed development of a new instrument establishing a promotional framework in the area of OSH.

10. The decision to set the agenda for the 93rd Session (2005) of the Conference this November instead of in March 2003 provides an opportunity for the Governing Body to take the outcome of this general discussion into account. The present proposal is submitted for consideration as an item for the agenda of the 93rd Session (2005) of the Conference against this background. This corresponds to the intention of a general discussion based on an integrated approach, as previously agreed by the Governing Body.
11. One of the issues that was discussed, but where final agreement was not reached, was the question of the form of the proposed instrument, i.e. a Convention and/or Recommendation or some other form such as a Declaration.⁷ Unlike Conventions and Recommendations, Declarations are not provided for in the ILO Constitution; and the infrequent use of this type of instrument has thus evolved through practice.
12. While it rests with the Conference to take a final decision on the form of the instrument to be adopted, the Governing Body may, and often does, provide directions not only on the substance but also on the proposed form of instruments it places on the agenda of the Conference. While it may wish to follow this practice, the Governing Body may also consider that, in this case, this issue should not be decided in the abstract but rather in the light of consultations with the constituents on all relevant issues in relation to the proposed instrument. In keeping with the procedures for the preparation of technical items for the agenda of the Conference, such consultations will be held mainly through the questionnaire provided for in articles 38 or 39 of the Standing Orders of the Conference.

The global strategy

13. It follows from the general discussion that the proposed new instrument is an essential element in the newly adopted plan of action for the promotion of a global strategy on OSH. This should be seen against the background that, in spite of the large number of instruments in this area (some 47 Conventions and Recommendations and at least 19 codes of practice), ILO and national efforts to create impact through ratification and supervision and otherwise do not seem to have been as successful as intended. The ratification levels of the relevant Conventions are low and, overall, the impact of current up-to-date standards

⁶ See ILC, 91st Session (2003), resolution on occupational safety and health, conclusions concerning ILO standards-related activities in the area of occupational safety and health – a global strategy, (“Conclusions”) para. 6, *Provisional Record* No. 22. In addition to the presently proposed instrument, the action plan to implement the global strategy includes several other elements relevant for action at the national, enterprise and ILO levels. Information on proposed follow-up thereto is provided in the following two documents also before the Governing Body at this session: GB.288/2/2, “Agenda of the International Labour Conference, (b) Proposals for the 95th Session (2006) of the International Labour Conference”, and GB.288/3/1, “Effect to be given to resolutions adopted by the International Labour Conference at its 91st Session (2003)”.

⁷ Codes of practice were also mentioned in this context. However, according to established ILO practice, codes of practice are not considered by the Conference but are submitted to the Governing Body for approval for publication. As the Conference invited the Governing Body to take the proposed new instrument into account *in the context of the agenda of the Conference*, it could be concluded that the Conference did not contemplate the possibility of this instrument being adopted in the form of a code of practice.

“does not seem to level with the importance given to OSH in a human, national and global perspective”.⁸

- 14.** Prevention is the key to improvements in the area of OSH, but efficient prevention requires attention at all levels of society. OSH is not an issue that should be entirely delegated to technicians and specialists; it is an area which requires action and care at the highest national political levels. These premises are articulated in the two basic pillars of the global strategy and action plan; the promotion of a *preventative safety culture* and the implementation of a *systems approach* to the management of national OSH systems. These themes are thus also central and constitute the purpose of the proposed new instrument.

A preventative safety culture

- 15.** A preventative safety culture is 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.⁹ The instrument should outline the basic premises for developing a preventative safety culture and the action that should be taken at all different levels.
- 16.** An essential element in implementing provisions of this nature would be developing national OSH programmes based on the collection and maintenance of information on national progress in order to identify national needs and possible shortcomings. Such systematically collected information would assist member States in their efforts to develop their national OSH systems but would also constitute an important tool for the ILO to structure assistance and monitor progress.

A management systems approach

- 17.** OSH is composed of specific and interrelated components each serving individual functions and with special characteristics, but each also contributing, albeit in different ways, to the functioning of the system. The large number of ILO instruments on a wide-ranging number of subject matters and relevant issues in this area, as well as correspondingly diverse national law and practice in most member States, reflect this situation. It was agreed that what was lacking was an overarching framework that would ensure the operation of all these different elements. A management systems approach constitutes such a framework which could make the components function together. The recently adopted Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001)¹⁰ for the enterprise level are based on this methodology and the proposed systems approach at the national level should be modelled on this concept and methodology.

⁸ ILO, Report VI, *ILO standards-related activities in the area of occupational safety and health*, ILC, 91st Session, June 2003, para. 176.

⁹ See conclusions adopted by the 91st Session of the ILC, para. 4.

¹⁰ The text of these guidelines is found on <http://mirror/public/english/protection/safework/cops/english/index.htm>

The proposed new instrument

- 18.** An important part of the conclusions adopted was the proposal to develop a new instrument establishing a promotional framework in the area of OSH. It was agreed that what was needed was a new “high status” instrument, which would be widely adhered to. Agreement was also reached on the following elements concerning the proposed purpose, form and content of this instrument:

A new instrument establishing a promotional framework in the area of OSH should be developed on a priority basis. The main purpose of this instrument should be to ensure that a priority is given to OSH in national agendas and to foster political commitments to develop, in a tripartite context, national strategies for the improvement of OSH based on a preventative safety and health culture and the management systems approach. In its function as an overarching instrument with a promotional rather than prescriptive content, it would also contribute to increasing the impact of existing up-to-date ILO instruments and to a continuous improvement of national OSH systems including legislation, supporting measures and enforcement. Such a practical and constructive instrument should promote, inter alia, the right of workers to a safe and healthy working environment; the respective responsibilities of governments, employers and workers; the establishment of tripartite consultation mechanisms on OSH; the formulation and implementation of national OSH programmes based on the principles of assessment and management of hazards and risks at the workplace level; initiatives fostering a preventative safety and health culture; and worker participation and representation at all relevant levels. It should strive to avoid duplication of provisions which are in existing instruments. In order to enable an exchange of experience and good practice on OSH in this respect, the instrument should include a mechanism for reporting on achievements and progress.¹¹

- 19.** The general discussion thus resulted in the drawing up of the major outlines of a proposed “overarching” instrument that would create a promotional framework for OSH. The type of instrument to be adopted will depend on the purpose it should serve and is intrinsically related to the content it should have. What is at issue is, in particular, whether the instrument should aim at proposing directions for national policies in ILO member States or if ILO member States would be expected to commit themselves towards the implementation of defined objectives. In any event, and as agreed, the new instrument(s) should complement and not duplicate existing instruments in this area. The preparatory questionnaire on the basis of article 39 of the Standing Orders of the Conference should provide different solutions on this, taking into account the agreed purpose of this instrument and terms of the conclusions adopted by the Conference.

Procedural considerations

Schedule for preparing the new instrument

- 20.** Should the Governing Body decide to place this item on the agenda of the 93rd Session (2005) of the Conference, the Office will have 18 instead of the regular 26 months at its disposal for preparing the discussion.¹² Although the preparatory work carried out for the general discussion, as well as the discussion held, would greatly facilitate the preparatory work for a possible discussion in 2005, a decision on a shortened time schedule would be called for. Such a shortened time schedule could, for example, be the following:

¹¹ See conclusions adopted by the 91st Session of the ILC, para. 6.

¹² For more details regarding the procedure to follow in preparing such items for standard setting, see GB.279/3, para. 4.

- 15 April 2004

Dispatch of the preliminary report accompanied by a questionnaire.

- 15 October 2004

Deadline for the receipt of replies to the questionnaire.

- March 2005

Dispatch of the final report.

Method for preparing the new instrument

21. Without prejudice to the decision regarding the form of the proposed instrument, a questionnaire pursuant to article 39 of the Standing Orders of the Conference is called for in order to solicit the views of the ILO constituents on the content of the proposed instrument. Through the responses to the OSH survey in 2002 the Office already has a broad and up-to-date information base on national law and practice in the area of OSH in the majority of ILO member States. The questionnaire to be prepared should thus focus on the articulation of the agreement reached on its stated purpose and content.

Conclusion

22. Against this background, and based on the conclusions of the discussion held at the Conference in June 2003, the Governing Body is invited to consider placing the question of the adoption of a new instrument establishing a promotional framework in the area of OSH on the agenda of the 93rd Session (2005) of the Conference. Should the Governing Body decide to do so it may wish to give guidance on the form of such an instrument; to ask the Office to prepare and organize consultations on this issue, mainly in the form of a questionnaire, and to decide on the proposed shortened schedule for its preparation.

Resubmitted proposals

Summary of discussions in November 2002¹³

23. As regards the proposal for standard setting on the item *New measures concerning discrimination in employment and occupation – Extension of the grounds on which discrimination is prohibited in Article 1 of Convention No. 111*, the statements made concerned the support (or lack thereof) for this proposal. Most Governments that addressed this proposal were positive, while the Employers' group and some Governments stated that they were not in favour of standard-setting action on this subject.
24. With respect to the proposed general discussion based on an integrated approach concerning *child labour and the protection of children and young persons*, Governments (with one exception) and both the Employers' and Workers' groups shared the view that it was important for the ILO to address this subject matter, in particular with a view to developing strategies to translate the recent wave of ratifications into practical application. With reference to points raised in the Governing Body discussion, it should be noted that the proposed general discussion could, inter alia, examine the experiences gained in the

¹³ Excerpt from GB.286/3/1.

context of the Time-Bound Programmes promoted by the InFocus Programme on Child Labour: IPEC, as well as strategies to ensure the effective abolition of child labour in general, and not limited to the worst forms, in line with Convention No. 138. Another important target for the discussion would be on developing technical assistance to member States on how to apply the provisions on hazardous work in practice. The exact contents of hazardous work have to be determined in each country, and the discussion could address the structuring of technical cooperation – including tripartite consultations – which would effectively assist member States in this process. ILO assistance and guidance are strongly sought by the constituents in this respect. The more specific issue of the directions to take with respect to the revision on night work instruments should be considered within the context of a discussion on how to guide the process of identification of hazardous work.

25. The proposal for a general discussion based on an integrated approach regarding *decent jobs and productivity* was supported for inclusion on the agenda of 2005 by several Governments. Other members of the Governing Body supported it for future discussions but requested the Office to carry out further research, particularly taking into consideration how work on the Global Employment Agenda progresses. Some members of the Governing Body including the Employers' and Workers' groups requested clarification regarding how this item fitted in with and could be discussed under the integrated approach. In response it could be noted that developing a strategy covering the various ILO means of action in this area would contribute to promoting policies, strategies and approaches to achieve both productivity improvement and decent jobs objectives. The preparatory work for such a discussion would include conducting surveys and consultations to determine the global and national opportunities and challenges to an integrated strategy. This discussion will also be informed by the Report of the World Commission on the Social Dimension of Globalization, the Decent Work Agenda and the *World Employment Report*. Productivity improvement through the "high road" is multidimensional with several ILO means of action and thematic areas involved, e.g. social dialogue, safety and health, working conditions, training, rights at work, employment policy, sectoral activities, etc., and a number of international labour standards could directly contribute to achieving the complementary objectives of decent jobs and productivity. Consequently, the envisaged general discussion could formulate conclusions and recommendations for a coherent, synergetic and integrated plan of action covering the overall guiding policies, priorities for knowledge generation and dissemination, technical cooperation, advocacy and promotional work, etc. that will guide the work of the Office, including, as appropriate, the development of international labour standards or other instruments.
26. The proposal for standard setting on *promoting decent work in reconstruction of conflict-affected countries* received some support. A number of Governments expressed the view that further research should be carried out in order to determine, more precisely, the possible scope and content of standards in this area. Strategies for technical cooperation should also be addressed.
27. Several Governments as well as the Employers' and Workers' groups were positive regarding further consideration of the proposal for a general discussion based on an integrated approach on *gender equality in the world of work*.
28. With reference to the 1987 resolution requesting that technical cooperation be reviewed in a general discussion every five years, and that the last review was held in 1999, several Government members of the Governing Body and the Employers' and the Workers' groups expressed support for the proposed general discussion on *the role of the ILO in technical cooperation*.

Fundamental principles and rights at work¹⁴

2. ***New measures concerning discrimination in employment and occupation – Extension of the grounds on which discrimination is prohibited in Article 1 of Convention No. 111 (standard setting)***

Summary

In its Special Survey of 1996 on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee of Experts found that a number of grounds on which discrimination is prohibited in other ILO standards, in other international standards and, above all, in national legislation, are not covered by this Convention. Convention No. 111 is, however, the ILO's principal instrument against discrimination. It is therefore recommended that the Governing Body consider the adoption of a Protocol which would leave the Convention itself unchanged and would allow countries ratifying it to accept formally additional grounds on which discrimination would be prohibited. This would consolidate the ILO's protection against discrimination, and bring the ILO into closer harmony with more recent international human rights instruments adopted by other organizations and with developing national practice.

Introduction

- 29.** In its 1996 Special Survey on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee of Experts on the Application of Conventions and Recommendations recommended that consideration be given to adopting a Protocol to the Convention that would provide additional grounds on which discrimination would be prohibited under the Convention, taking account of changes which have taken place in this field and are reflected in national law, as well as incorporating prohibited grounds of discrimination already covered in other ILO Conventions.
- 30.** The Committee of Experts suggested adding a Protocol that could be ratified in addition to the Convention, either by countries that had already ratified it, or at the time of ratification of the Convention. Convention No. 111, one of the ILO's fundamental Conventions, would remain unmodified. There appears to be general agreement that the approach to consolidate and extend the grounds on which discrimination should be prohibited in employment and occupation would be the preferred one, should the subject be dealt with.

The situation in national law and practice

- 31.** Convention No. 111 requires ratifying States to take action against discrimination in employment and occupation on the basis of race, colour, sex, religion, political opinion, national extraction and social origin. The Committee found, however, that there was sufficient indication in national laws on discrimination, or in other ILO Conventions, to merit the adoption of a Protocol that would allow States to undertake additional obligations in respect of some or all of the following criteria (listed in alphabetical order): age, disability, family responsibilities, language, matrimonial status, nationality, property, sexual orientation and state of health. Recent research reveals an increasing number of countries extending grounds of prohibited discrimination to include the aforementioned ones. Indications are given below of how these criteria are addressed in national law and practice.

¹⁴ Reproduced from GB.285/2, paras. 22-36.

Age

- 32.** Recent research has identified over 35 countries that have included age among the prohibited grounds of discrimination. National labour legislation makes specific reference to age among grounds of discrimination for workers in *Benin, Brazil, Canada, Chad, Côte d'Ivoire, Croatia, El Salvador, Finland, Hungary, Israel, Niger, Poland, Spain, Tajikistan, Ukraine, Venezuela* and *Yemen*. Some countries prohibit discrimination on the basis of age in certain aspects of the labour conditions, e.g. salaries, termination of employment, access to employment; such is the case in *Australia, Belgium, France, Ireland, Latvia, Mauritania, Mali, Portugal* and *Singapore*. Other countries have preferred to include general provisions that prohibit discrimination on the basis of age covering the entire population in their constitution, human rights acts or other legislation (for example, *Costa Rica, Czech Republic, Ecuador, Hungary, Ireland, Madagascar, New Zealand, South Africa, Switzerland* and *Thailand*). Currently, some countries (such as *France, Netherlands, Slovenia* and *Russian Federation*) are considering legislative proposals prohibiting discrimination against workers specifically on grounds of *age* in employment and occupation.

State of health

- 33.** A worker's state of health should not be an acceptable motive for refusing to employ or for dismissing him or her, unless there is a very strict relationship between the worker's present state of health and the normal occupational requirements of a given job. A variety of measures have been adopted in this regard in different countries, some concerning the state of health generally, bearing in mind that one of the current problems linked to state of health is discrimination against workers who are HIV-positive or who have contracted AIDS. Those countries with legislation and regulations on this subject consider that a definition of unlawful discrimination based on the HIV status of a worker should be as broad and universal as possible. Such a definition should include discrimination against both symptomatic and asymptomatic carriers of the virus, as well as that based on the mere suspicion that an individual could be a carrier because he or she belongs to a so-called high-risk group, or because of his or her relationship with a carrier. More than 15 countries have incorporated in their legislation a prohibition of any kind of discrimination based on *health status* including people who are HIV-positive or who have contracted AIDS including *Colombia, Costa Rica, Ecuador, Finland, France, Italy, Hong Kong, New Zealand, Philippines, Portugal, South Africa, Thailand* and *Zimbabwe*. Several member States specifically define disability to include individuals infected by HIV/AIDS, e.g. *Australia, Canada* and the *United Kingdom*. Inclusion of such a provision would be in agreement with the recently adopted ILO code of practice on HIV/AIDS and the world of work.

Disability

- 34.** More than 40 member States have adopted measures to protect and promote equality of opportunity between disabled and other workers. While some countries have adopted constitutional provisions that prohibit discrimination specifically against disabled persons (for example, *Antigua and Barbuda, Costa Rica, Ecuador, Finland, Germany, Ghana, Netherlands, Paraguay, New Zealand, Switzerland* and *Thailand*), more countries have adopted legislation prohibiting discrimination in employment and occupation based on the grounds of disability (*Argentina, Australia, Austria, Brazil, Canada, Guatemala, Guyana, Hong Kong, Hungary, Ireland, Kuwait, Namibia, Niger, Philippines, South Africa, Spain, Sweden, Trinidad and Tobago, United Kingdom, United States* and *Zimbabwe*). Others have adopted measures to protect disabled workers in certain aspects, i.e. access to employment, or promulgated laws that cover the rights of the disabled (*Benin, Bolivia,*

France, Gabon, Honduras, Iceland, Italy, Luxembourg, Madagascar, Poland, Uruguay, Venezuela and Viet Nam).

Sexual orientation

- 35.** Member States are increasingly adopting measures specifically protecting workers who are vulnerable to discrimination on the basis of their sexual orientation. Over 20 member States have prohibited some form of discrimination on this ground in their legislation, e.g. *Australia, Canada, Costa Rica, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Ireland, Israel, Luxembourg, Netherlands, New Zealand, Norway, Slovenia, South Africa, Sweden and Switzerland*. For example, article 23(3) of the new Constitution of *Ecuador*, adopted on 5 June 1998, provides for equality of rights and opportunities, and the freedoms recognized for all individuals, without discrimination, inter alia, on the basis of sexual orientation.

Language

- 36.** A growing number of member States also expressly include the prohibition of discrimination on the basis of the specific grounds of language in their current constitution, anti-discrimination or labour legislation. Such protection is provided for in *Azerbaijan, Angola, Bolivia, Cambodia, Colombia, Egypt, Ecuador, Ethiopia, Greece, Finland, Germany, Italy, Malawi, Mali, Mozambique, Nicaragua, Peru, Russian Federation, Senegal, Slovenia, South Africa, Spain, Switzerland and Thailand*.

Coverage in other standards

- 37.** The Committee of Experts also devoted considerable attention in the Special Survey to the additional grounds for discrimination that are covered in other ILO standards. [Even though] Convention No. 111 [is the ILO's principal instrument on the prevention of discrimination,] [it] does not cover many of the areas on which ILO standards offer the strongest – and often the only – protection in international law. These include age,¹⁵

¹⁵ The Maternity Protection Convention, 1919 (No. 3), Art. 2; Night Work (Women) Convention, 1919 (No. 4), Art. 3; Night Work (Women) Convention (Revised), 1934 (No. 41), Art. 3; Night Work (Women) Convention (Revised), 1948 [and Protocol, 1990] (No. 89), Art. 3; Migration for Employment Convention (Revised), 1949 (No. 97), Art. 6, para. 1(a)(i); Plantations Convention, 1958 [and Protocol, 1982] (No. 110), Art. 46; Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), Art. 6; Private Employment Agencies Convention, 1997 (No. 181), Art. 5(1); Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), Para. 9(2); Human Resources Development Recommendation, 1975 (No. 150), Para. 50(b)(v); Older Workers Recommendation, 1980 (No. 162), Para. 3; Termination of Employment Recommendation, 1982 (No. 166), Para. 5(a); Private Employment Agencies Recommendation, 1997 (No. 188), Para. 9.

nationality,¹⁶ trade union membership,¹⁷ disability¹⁸ and family responsibilities.¹⁹ The adoption of a suitable Protocol would allow the consolidation of protection and added coherence in the ILO's advisory and supervisory efforts on the subject. This may be a particularly important point in the context of the ILO's work in bringing its body of standards up to date and rendering them more coherent.

- 38.** For example, Convention No. 156 on workers with family responsibilities, adopted after Convention No. 111, calls for persons to be protected against discrimination, as defined in Convention No. 111 on the basis of their family responsibilities. Convention No. 158 on termination of employment, 1982, prohibits termination on grounds, inter alia, of race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, social origin or absence from work during maternity leave.
- 39.** Finally, human rights standards adopted by other international organizations since the 1958 ILO Convention have further expanded the protection offered in international law against discrimination, without all these grounds being covered in Convention No. 111.²⁰ The

¹⁶ The Maternity Protection Convention, 1919 (No. 3), Art. 2; Maternity Protection Convention (Revised), 1952 (No. 103), Art. 2; Plantations Convention, 1958 [and Protocol, 1982] (No. 110), Arts. 2 and 46; Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), Art. 6; Seamen's Welfare in Ports Recommendation, 1936 (No. 48), Para. 3; Vocational Training (Agriculture) Recommendation, 1956 (No. 101), Para. 3(1); Indigenous and Tribal Populations Recommendation, 1957 (No. 104), Para. 35(b); Plantations Recommendation, 1958 (No. 110), Para. 2. It should be noted that the ground of nationality is fundamental to the standards relating to migrants and that provisions intended to ensure them equality of opportunity and treatment and/or protection against discrimination are therefore included in the corresponding instruments, namely: the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48), Arts. 2 and 10; Migration for Employment Convention, 1939 (No. 66); Migration for Employment Convention (Revised), 1949 (No. 97), Art. 2; Equality of Treatment (Social Security) Convention, 1962 (No. 118), Art. 3; Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); Maintenance of Social Security Rights Convention, 1982 (No. 157); Migration Statistics Recommendation, 1922 (No. 19); and the Migration for Employment Recommendation, 1939 (No. 61); Migration for Employment Recommendation (Revised), 1949 (No. 86); Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100), Para. 45.

¹⁷ The Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82), Art. 18(1) and (2); Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Art. 1; Plantations Convention, 1958 [and Protocol, 1982] (No. 110), Art. 2; Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), Art. 14(1) and (2); Social Policy in Dependent Territories Recommendation, 1944 (No. 70), Para. 41(3); Plantations Recommendation, 1958 (No. 110), Para. 2; Workers' Housing Recommendation, 1961 (No. 115), Para. 25. Trade union membership of migrant workers is referred to in Recommendation No. 100, Para. 38, and in the Migrant Workers Recommendation, 1975 (No. 151), Para. 8(3); Private Employment Agencies Recommendation, 1997 (No. 188), Para. 9.

¹⁸ The Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), Art. 6; Private Employment Agencies Convention, 1997 (No. 181), Art. 5(1); Employment (Transition from War to Peace) Recommendation, 1944 (No. 71), Para. 43(3); Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99), Paras. 25 and 41; Private Employment Agencies Recommendation, 1997 (No. 188), Para. 9.

¹⁹ The Workers with Family Responsibilities Convention, 1981 (No. 156); Workers with Family Responsibilities Recommendation, 1981 (No. 165); Private Employment Agencies Recommendation, 1997 (No. 188), Para. 9.

²⁰ Selected list of international instruments: *disability* has been interpreted as included in "other status" in ICESCR, article 2(2) – CESCR General Comment No. 5 (E/1995/22-e/c.12/1994/20, p.

Committee of Experts stated that, “with a view to the coherence of international human rights law, it would be desirable to take these into account in considering the present Convention”. Of these other instruments, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, both adopted in 1966 and now widely ratified, both contain the following passage: “The States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” On the regional level, the Committee of Experts noted also the European Convention on Human Rights, adopted in 1950, which in its Article 14 prohibits discrimination on the basis of “sex, race, colour, language, religion, political or other opinion, association with a national minority, property, birth or other status”.²¹

Conclusions

40. The Governing Body is therefore invited to give further consideration to the proposal by the Committee of Experts to examine a Protocol to Convention No. 111 on possible additional grounds of discrimination. The Committee recommended that the Governing Body and the Conference consider two alternative solutions in this respect. The first would be to allow States to ratify the Protocol and to choose which of the additional grounds listed in it they would wish to accept as additional obligations under the Convention (see paragraph 24). The second possibility would be to adopt a list of “core” grounds that would have to be accepted when ratifying the Protocol, and allowing States to decide to accept others from the list as well. This latter solution has been favoured by most of those who have referred to it in previous consultations. The Committee considered that this should be done with no modification to the existing instrument, but simply by the adoption of a Protocol that could be ratified on a voluntary basis.
41. The Committee of Experts also pointed out that a provision already exists in Convention No. 111 allowing governments to undertake obligations in regard to grounds other than those detailed in the Convention. Article 1(1)(b) states that the definition of discrimination can be modified to include any other distinction, exclusion or preference which may be determined by the government of the ratifying country after consultation with representative employers’ and workers’ organizations. While some stated in previous consultations that this route should be pursued, the Committee of Experts suggested the Protocol as a better way of allowing States to extend the grounds covered by the Convention. It may also be noted that suggestions by the Committee of Experts to governments that they have recourse to Article 1(1)(b) have not yet met with a positive response.

99), para. 2; *language* as ground for discrimination is clearly established in international law: see UN Charter, articles 1, 13, 55, 76; UDHR, article 2; ICCPR/ICESCR, article 2; ICCPR, article 4; *nationality* has been interpreted as included in the category “other status” in ICCPR – Human Rights Committee, Communication No. 196/1985 (*Gueye et al. v. France*), paras. 9.4, 9.5 and 10 – ICCPR, articles 2, 26. *But see* ICESCR, article 2(3) providing that developing countries may determine to what extent to guarantee economic rights to non-nationals: *see also* relevant CESCR Committee interpretations; and *sexual orientation*: see, inter alia, Optional Protocol cases, Human Rights Committee, under the ICCPR.

²¹ Many analogous provisions exist, e.g. in the Inter-American human rights provisions (OAS Charter and Protocol of Buenos Aires, Convention on Human Rights and Protocol of San Salvador); European Convention on Human Rights and various Protocols, European Social Charter and the African Charter on Human and Peoples’ Rights.

42. It may be expected that this Protocol would have several important differences from Article 1(1)(b). It should be noted that the text of the Convention provides no clear indication of how such a determination should be made or communicated to the Committee of Experts, unlike a Protocol, which is clearly open to explicit ratification. Upon adoption, a Protocol would have to be submitted to the competent authorities of all member States in the same manner as Conventions and Recommendations, and would therefore have to be considered formally by governments. There is no obligation on governments which have ratified the Convention to undertake any formal consultation on the grounds of discrimination under Convention No. 111, and they do not appear in fact to carry out consultations in this regard.
43. Ratification of the Protocol would give rise to an international obligation as well as a public commitment to the grounds specified by the government ratifying it, providing a rallying point for action concerning the prevention of discrimination in employment and occupation. Depending on national legal systems, it would embed the grounds selected in national law as well as in international commitments, in a way that a voluntary declaration under Article 1 of the Convention would not. Finally, there is no contradiction between the approach of ratifying an additional Protocol and that of making additional declarations under Article 1 of the Convention – they would be compatible and could be complementary if governments were to begin using the procedure allowed for in the Convention.

3. ***Child labour and protection of children and young persons (general discussion based on an integrated approach)***²²

Summary

The main pillars in the area of child labour are the fundamental Conventions Nos. 138 and 182 and their supplementing Recommendations Nos. 146 and 190. Based on these instruments, the InFocus Programme on Child Labour (IPEC) combines various activities from promotion of standards to technical cooperation. It is now considered timely to propose a general discussion to consider: (1) necessary measures to ensure the effective abolition of child labour in general, not limited only to its worst forms; and (2) action related to the protection of children and young persons in general including a discussion on existing instruments regulating night work of young persons and medical examination. These two are closely linked because, where there is not sufficient protection, work or employment may become hazardous and should be eliminated as child labour even where the general minimum age is reached. It is proposed to hold a general discussion at the Conference based on an integrated approach. This would enable the Conference to examine and set further directions for how standards, promotion, advocacy and technical cooperation activities can be combined to achieve the effective abolition of child labour and to increase the protection of children and young persons. In this context, the Conference could examine how to combine a promotion of the up-to-date instruments with a more systematic and tailor-made assistance to member States in order to enhance the replacement of the older instruments and to enable these older instruments to be abrogated at a later stage, as appropriate. The discussion could also address the follow-up to be given to the decisions to revise the instruments on night work of children and young persons. The question of night work of children and young persons could thus be linked to the wider issue of hazardous child labour – a priority subject covered by the two fundamental Conventions, and on which ILO assistance and guidance are strongly sought by the constituents.

The background

44. The main pillars of the ILO's efforts to eliminate child labour, especially its worst forms, are the two up-to-date Conventions (the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182)), as accompanied by their

²² Reproduced from GB.285/2, paras. 37-52.

supplementing Recommendations (the Minimum Age Recommendation, 1973 (No. 146), and the Worst Forms of Child Labour Recommendation, 1999 (No. 190), respectively). These instruments, which figure among the fundamental Conventions, are receiving overwhelming support from member States as highlighted by the surge of ratifications.²³

- 45.** As recognized by the ILO and the international community, child labour is not a subject that can be dealt with only by achieving legislative conformity with international standards. It demands comprehensive and integrated measures so as to break the vicious cycle of poverty, social inequality and child labour. This characteristic of the child labour issue is demonstrated in the transformation of the International Programme on the Elimination of Child Labour into an InFocus Programme on Child Labour (IPEC). IPEC takes a kind of “integrated” approach combining standards, promotion, advocacy, knowledge enhancement and technical cooperation activities. In fact, all IPEC activities take Conventions Nos. 138 and 182 as key instruments guiding action towards the effective abolition of child labour. In particular, the time-bound programmes, which IPEC is promoting to help countries eliminate the worst forms of child labour within a defined period of time, emphasize the need to complement the prohibition by policies and measures to address the root causes of child labour, e.g. to combat poverty and to promote universal education and social mobilization.
- 46.** It should also be recalled that these actions are undertaken in the framework of Conventions Nos. 138 and 182 and are complemented by the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up. The effective abolition of child labour is one of the four fundamental principles in the Declaration. In the context of its follow-up, the International Labour Conference examined in 2002 a Global Report on child labour for the first time, and the next time will be in 2006.

A wider approach

- 47.** The recent actions in this area have focused on the elimination of child labour, especially in its worst forms. It is now timely to propose a general discussion with a wider and more comprehensive approach. The scope of such a discussion could cover two aspects regarding children and young persons: (1) how to ensure the effective abolition of child labour in general, not limited to its worst forms, but including child labour which needs to be eliminated according to Convention No. 138; and (2) how to ensure an effective protection of children and young persons in general, including a discussion on existing instruments regulating night work of young persons and medical examination.

Elimination of child labour

- 48.** Given the recent standard-setting activity in this area, this subject would appear to be covered by up-to-date standards. Thus, a discussion on these aspects of child labour at the Conference would be essentially on how to promote and accelerate further the ratification of these Conventions and assist the constituents in effectively implementing them.
- 49.** It should also be recalled that there are a number of earlier sectoral Conventions which have already been revised by Convention No. 138.²⁴ Thus further ratification of

²³ See appendix.

²⁴ See Article 10 of Convention No. 138. These include, in addition to those listed in the appendix, the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), and the Minimum Age (Fishermen) Convention, 1959 (No. 112). The promotion of Convention No. 138 as

Convention No. 138 should lead to their denunciation by the countries concerned and help streamline this group of standards. However, flexibility is built into Article 10 of Convention No. 138, which contains detailed conditions for the ipso jure denunciation of most of those earlier Conventions. As a consequence, a ratification of Convention No. 138 does not always automatically result in denunciations of all the revised Conventions ratified by the same country. For example, a State that ratified Convention No. 59 (which sets the minimum age of 15 years in industry) and subsequently ratified Convention No. 138 declaring a general minimum age of 14 years continues to be bound by Convention No. 59 unless it declares the minimum age in industry to be 15 years. This situation confuses the level of the national commitment, and slows down the replacement of instruments by the up-to-date ones. The required remedy appears to be a more systematic and tailor-made assistance to member States in addition to the promotion of the ratification of Convention No. 138. The aim would be to move remaining obligations under older Conventions towards obligations under Convention No. 138 and have the older Conventions denounced and/or abrogated at a later stage as appropriate.

- 50.** In this context it should be noted that some demands from constituents for IPEC's technical cooperation are particularly standards-related, for example, when assistance and guidance are requested to help them make the national determination of hazardous work. This is one of the first requirements in tackling child labour in its hazardous forms, both under Convention No. 138 and Convention No. 182. In response, IPEC has been taking a variety of action from publication of user-friendly documents on the topic, through compilation of information on existing national rules and regulations, to preparation of experts' meetings. This type of technical assistance will continue to be provided and may well result in proposals to develop codes of practice or guidelines. A Conference discussion would add further impetus to this kind of assistance and mainstream it in the ILO's regular activities with a clear connection to the promotion of the relevant standards. More generally, a Conference discussion may also help further clarify the practical applications of the notions of child labour, including its worst forms.
- 51.** One dimension which Convention No. 182 has added to the fight against child labour is the explicit reference to operational measures required to eliminate its worst forms (e.g. monitoring mechanisms, programmes of action, time-bound measures, international cooperation) in addition to the definition of what needs to be tackled as the worst forms. Extra light is shed by Recommendation No. 190 which suggests many possible actions to be taken by many actors. A Conference discussion may also deepen a consideration for necessary measures to ensure the effective abolition of child labour in general, including child labour which is not in its worst forms but needs to be eliminated in terms of Convention No. 138.

Other instruments relating to children and young persons

- 52.** In its efforts to protect children and young persons, the ILO has also taken action by adopting standards with a specific focus on night work and on medical examination of children and young persons.²⁵
- 53.** As regards the instruments concerning night work, the Governing Body has already decided, as a result of the work of the Working Party on Policy regarding the Revision of Standards, that Conventions Nos. 6, 79 and 90, as well as Recommendations Nos. 14 and

well as Convention No. 182 in the maritime and fishing sectors should also be seen in the light of the review of the standards-related activities in the maritime and fishing sectors which is under way (see GB.280/5) or which is being proposed (see Part II).

²⁵ See appendix.

80, should be revised. The most recent General Survey by the Committee of Experts on night work of women in industry²⁶ concluded that “member States are much less inclined to abolish, modify, or otherwise relax the prohibition on night work of young persons than the prohibition, if any, applicable to adult women workers” (paragraph 111 *in fine*). One of the issues to consider is whether the abovementioned revision should be done independently or considered in a wider context in direct relation with the objective of the effective abolition of child labour.

- 54.** Convention No. 182 forged a global consensus that hazardous work by all girls and boys under 18 years of age must be tackled urgently as one of the worst forms of child labour. This reconfirms the minimum age of 18 for hazardous work under Convention No. 138. Hazardous work is defined as “work which, by its nature or *the circumstances in which it is carried out*, is likely to harm/jeopardize the health, safety or morals of children”. However, Convention No. 182, as well as Convention No. 138, leaves the determination of hazardous work to national decisions. It should be recalled that Recommendation No. 190 explicitly includes “work during the night” as one of the criteria of hazards to be considered in such determination. Therefore, it may well be argued that the revision of standards concerning night work of those under 18 years should be discussed within this general context in relation to these two fundamental Conventions. In particular, given the strong demand from constituents for the ILO’s help in the national determination of hazardous work, as indicated in paragraph 7 above, any discussion of standard setting on such issues as night work of children and young persons could be accompanied by more general consideration as to the possibility of international guidance (whether in the form of standard setting or more informal codes of practice or guidelines) on what should be the “hazardous work” to be prohibited and eliminated, supplementing the efforts for the implementation of Conventions Nos. 138 and 182.
- 55.** More generally speaking, the conditions in which work is carried out constitute the crucial criteria for the definition of hazardous child labour to be eliminated. Thus, it can be argued that, where the safety and health at work of those under 18 is not adequately protected, employment or work falls into the notion of hazardous child labour to be eliminated even if the person has reached the general minimum age for work. From this standpoint, international labour standards relating to the protection of children and young persons, such as night work and medical examination of young persons, are inseparably linked to the issue of child labour and constitute one group of standards which should be discussed as a whole in the context of an integrated approach.
- 56.** In the context of the work of the Working Party on Policy regarding the Revision of Standards, requests for information were adopted by the Governing Body concerning a series of Conventions and Recommendations on the subject of medical examination of young persons.²⁷ The Governing Body invited member States to inform the Office of any obstacles or difficulties encountered that might prevent or delay the ratification of Conventions Nos. 77, 78 and 124, and to contemplate the need for a full or partial revision of these Conventions including their possible consolidation. Moreover, the Governing

²⁶ General Survey of the reports concerning the Night Work (Women) Convention, 1919 (No. 4), the Night Work (Women) Convention (Revised), 1934 (No. 41), the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948, ILC, 89th Session, 2001.

²⁷ See appendix. Of relevance in this context is also the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16). The Governing Body decision to revise this Convention should be seen in the light of the review of the standards-related activities in the maritime sector which is under way (see footnote 2).

Body invited member States to inform the Office of any obstacles or difficulties encountered in the implementation of the related Recommendations Nos. 79 and 125. A discussion of the directions to take on the subject matter of these instruments could effectively take place in the framework of an integrated approach.

57. Among various possible issues relative to the protection of children and young persons, the discussion could start by indicating the areas where further standard setting, as well as other means of action, including promotion and assistance, would be required.
58. This line of thought could lead further to broaden the youth employment issue. The term “youth” usually covers those whose age ranges from about 15 to 24 years old. Such a definition would clearly overlap with the definition of “child” found in Convention No. 182. The worst forms of child labour in the case of adolescents above the general minimum age and the deficit of decent work for youth may in fact be two sides of the same coin. In the implementation of Convention No. 182, when an adolescent is withdrawn from one of the worst forms of child labour, a sustainable solution for his/her social integration should be found.
59. Against this background, the Governing Body might wish to retain for further examination an item for a general discussion on child labour and the protection of children and young workers based on an integrated approach at the 93rd Session (2005) of the International Labour Conference. On the one hand, such a discussion would seek to identify the directions to take to ensure the effective abolition of child labour in general, as provided not only in Convention No. 182 but also in Convention No. 138, on the other, possible action related to employment and work of children and young persons. This would allow the Conference to examine the protection of children and young persons in a wider perspective in the context of a comprehensive approach to eliminate child labour. It would also cover several important questions including night work of children and young persons and medical examinations of young persons, linking them to the issue of hazardous work, which should be tackled as a priority in the combat against child labour, and on which further international guidance might be sought.

Appendix

Protection of children and young persons

1. *Elimination of child labour*

Instruments	No. of ratifications (as at 18/09/02)	Status
Up-to-date instruments (Conventions whose ratification is encouraged and Recommendations to which member States are invited to give effect)		
Minimum Age Convention, 1973 (No. 138)	117	Fundamental Convention
Minimum Age Recommendation, 1973 (No. 146)	–	This Recommendation is related to a fundamental Convention and is considered up to date
Worst Forms of Child Labour Convention, 1999 (No. 182)	129	Fundamental Convention
Worst Forms of Child Labour Recommendation, 1999 (No. 190)	–	This Recommendation is related to a fundamental Convention and is considered up to date

Instruments	No. of ratifications (as at 18/09/02)	Status
Instruments with interim status (This category comprises instruments which are no longer fully up to date but remain relevant in certain aspects)		
Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41)		- The Governing Body decided the maintenance of the status quo with regard to Recommendations Nos. 41 and 52
Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52)		-
Outdated instruments (Instruments which are no longer up to date; this category includes the Conventions that member States are no longer invited to ratify and the Recommendations whose implementation is no longer encouraged)		
Minimum Age (Industry) Convention, 1919 (No. 5)	20	The Governing Body invited the States parties to Convention No. 5 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), and denouncing Convention No. 5 at the same time, with a recourse to technical assistance as required
Minimum Age (Agriculture) Convention, 1921 (No. 10)	13	The Governing Body invited States parties to Convention No. 10 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which would involve the denunciation of Convention No. 10 on the condition stated in Article 10(5)(b) of Convention No. 138, with a recourse to technical assistance as required
Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)	8	The Governing Body invited States parties to Convention No. 33 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which would ipso jure, involve the immediate denunciation of Convention No. 33 on the condition stated in Article 10(4)(b) of Convention No. 138, with a recourse to technical assistance as required
Minimum Age (Industry) Convention (Revised), 1937 (No. 59)	15	The Governing Body invited States parties to Convention No. 59 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which would ipso jure, involve the immediate denunciation of Convention No. 59 on the condition stated in Article 10(4)(a) of Convention No. 138, with a recourse to technical assistance as required
Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)	0	The Governing Body decided that the status of Convention No. 60 would be re-examined in due course with a view to its possible abrogation by the Conference
Minimum Age (Underground Work) Convention, 1965 (No. 123)	25	The Governing Body invited States parties to Convention No. 123 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which would ipso jure, involve the immediate denunciation of Convention No. 123 on the condition stated in Article 10(4)(f) of Convention No. 138, with a recourse to technical assistance as required
Minimum Age (Underground Work) Recommendation, 1965 (No. 124)		- The Governing Body noted that Recommendation No. 124 was obsolete and that this Recommendation should be withdrawn, while deferring the proposal to withdraw this instrument to the Conference until the situation had been re-examined at a later date

Instruments	No. of ratifications (as at 18/09/02)	Status
Minimum Age (Coal Mines) Recommendation, 1953 (No. 96)	-	The question of the withdrawal of this Recommendation is on the agenda of the 92nd Session (2004) of the International Labour Conference

2. *Employment of children and young persons*

Instruments	No. of ratifications (as at 18/09/02)	Status
Up-to-date instruments (Conventions whose ratification is encouraged and Recommendations to which member States are invited to give effect)		
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)	43	The Governing Body invited member States to contemplate: (i) ratifying Conventions Nos. 77, 78 and 124 and to inform the Office of any obstacles or difficulties encountered that might prevent or delay the ratification of these Conventions; and
Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)	39	(ii) the need for a full or partial revision of these Conventions, including their possible consolidation
Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)	41	
Medical Examination of Young Persons Recommendation, 1946 (No. 79)	-	The Governing Body invited member States to give effect to Recommendations Nos. 79 and 125 and to inform the Office of any obstacles or difficulties encountered in the implementation of these Recommendations
Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125)	-	
Instruments to be revised (Instruments whose revision was decided by the Governing Body)		
Night Work of Young Persons (Industry) Convention, 1919 (No. 6)	51	The Governing Body decided the revision of Conventions Nos. 6, 79 and 90 and Recommendations Nos. 14 and 80
Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)	20	
Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)	50	
Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14)	-	
Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80)	-	

Employment

4. *Promoting youth employment (general discussion based on an integrated approach)*²⁸

Summary

Youth employment was discussed during the 88th Session of the ILC in 2000 as a part of a general discussion on "Human resources training and development: Vocational guidance and vocational training". However, the current political, social and economic context and foreseeable developments in the coming years call for a comprehensive discussion on youth employment.

²⁸ Updated proposal.

In particular, the United Nations Secretary-General's Youth Employment Network and the recent United Nations General Assembly resolution on "Promoting Youth Employment" provides an opportunity for the ILO to respond to the international community's growing concern with employment of young people as an underpinning for poverty eradication, sustainable development and durable peace. "Decent and productive work for young women and men" is the most explicit link of the ILO to the Millennium Development Goals (MDGs). An ILC discussion on youth employment in 2005 would be timely both in providing a global analysis and evaluation of progress in promoting decent and productive work for young people, as called for by the United Nations General Assembly, but furthermore as an important contribution to the five-year review by the United Nations of the implementation of the MDGs, which will take place later in that year. Promoting decent work for youth could be seen as a natural next step following the efforts on the elimination of child labour in which the ILO has been at the forefront in the global community. A general discussion on youth employment based on an integrated approach would thus provide the Organization with an opportunity to review not only the most effective strategies in this area but also to assess the different tools at its disposal to assist member States in implementing such strategies, including standards and ILO programmes and activities, especially technical cooperation policies and programmes.

Background

- 60.** Youth employment is not a new issue to the ILO. "Youth" was an item for general discussion at the 72nd Session of the ILC in 1986. This discussion originated from the "Resolution concerning young people and the ILO's contribution to International Youth Year" adopted by the 69th Session of the ILC in 1983. Since then a number of initiatives particularly relevant to youth were implemented by the Office, including the Action Programme on Youth Employment (during the 1996-97 biennium) and the Action Programme on Strategies to Combat Youth Marginalization and Unemployment (during the 1998-99 biennium). These action programmes have provided the ILO with both knowledge and experience on youth employment, in terms of research, publications and technical cooperation projects. A resolution concerning youth employment was adopted at the 86th Session of the ILC (1998). At the 273rd Session of the Governing Body in November 1998, youth employment was proposed as an agenda item for a general discussion of the 89th Session of the ILC (2001). In the context of the second discussion on a shortlisted proposal on this subject matter in March 1999, a member of the Governing Body proposed to defer further consideration of this item until after the conclusion of the general discussion at the 88th Session (2000): "Human resources training and development: Vocational guidance and vocational training". During this Conference discussion, the question of youth employment and training received specific and particular attention.
- 61.** Recent developments and changes in the broader political, social and economic context may call for a comprehensive discussion on decent work for young people that goes beyond vocational training and guidance. One of the draft resolutions submitted to the 90th Session of the ILC in 2002 concerning international employment and skills,²⁹ integrated youth employment issues and put them within the broader political context of the United Nations Secretary-General's Youth Employment Network.³⁰ During the same ILC session, the Committee on the Informal Economy recommended that the ILO's work on the informal economy be linked with the Millennium Development Goals and with the Youth Employment Network.

²⁹ Submitted by the Government delegations of *Canada, Finland, Ireland, Sweden* and the *United Kingdom*.

³⁰ See GB.286/ESP/5: "United Nations Initiative on Youth Employment", paper submitted for discussion to the Employment and Social Policy Committee.

- 62.** More than 1 billion people today are between 15 and 25 years of age and nearly 40 per cent of the world's population is below the age of 20. Eighty-five per cent of these young people live in developing countries where many are especially vulnerable to extreme poverty. The ILO estimates that around 74 million young women and men are unemployed throughout the world, accounting for 41 per cent of all the 180 million unemployed persons globally,³¹ and many more young people are working long hours for low pay, struggling to eke out a living in the informal economy. There are an estimated 59 million young people between 15 and 17 years of age who are engaged in hazardous forms of work.³² Young people actively seeking to participate in the world of work are two to three times more likely than older generations to find themselves unemployed.³³ Even worse, the global situation is deteriorating. Around the world, youth unemployment rose by 16 million between 1995 and 2002.³⁴ For the 500 million young people who will enter the workforce within the next decade, rapid globalization and technological change offer new opportunities for productive work and incomes. But for many working-age youth, these trends only increase the vulnerability inherent in the transition from childhood to adulthood. Across the planet, millions of young people are failing to gain an entry into the workforce, and discrimination against young women is especially pervasive. The vast majority of jobs available to youth are low paid, with few benefits or prospects for advancement.
- 63.** A generation without the hope of stable employment is a burden for all of society. Decent work deficit in the early stages of a young person's career can harm job prospects for life. Underemployed or unemployed youth will have less to spend as consumers, less to save and invest which, instead of strengthening societies and economies, will become a burden on them. Investments by governments, employers and workers in education and training will be wasted if young people do not move into productive jobs that enable them to pay taxes and support public services. Comprehensive youth employment policies provide a positive, practical and forward-looking message with which to respond to the growing anxiety and insecurity both around the world and within local communities.

ILO standards and instruments relating to youth employment

- 64.** There are numerous Conventions and Recommendations dealing with different aspects of employment of young persons, such as employment policy, vocational training and education of young persons, working conditions (e.g. pay, working time and night work), minimum age, medical examinations and surveillance, occupational safety and health and inspection.
- 65.** While relevant and up-to-date instruments include the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the key instrument is the Employment Policy Convention, 1964 (No. 122), which is one of the four priority

³¹ *Global Employment Trends* (ILO, Geneva, 2003), p. 1, and *World and regional estimates for selected key indicators of the labour market*, Wesley Schaible and Ramya Mahadevan-Vijaya, Employment Paper 2002/36 (ILO, Geneva, 2002), p. 20.

³² *A future without child labour: Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (ILO, Geneva, 2002), figure 3.

³³ *Youth and work: Global trends* (ILO, Geneva, 2001), p. 4.

³⁴ *Global Employment Trends* (ILO, Geneva, 2003), op. cit.

Conventions of the ILO. Issues to consider in relation to Convention No. 122 include exploring possible strategies to strengthen this Convention and its application in the context of youth, its specific needs as well as the needs, requirements and institutional realities of developing countries where employment in the formal economy is small, if not insignificant. The purpose would be to develop and begin implementing a medium-term strategy towards strengthening standards on the promotion of good quality employment as a complement to fundamental principles and rights at work. This discussion will be informed by and draw on conclusions of the discussion on *Decent work in the informal economy* at the 90th Session (2002) of the ILC.

- 66.** Particular attention should also be given to the question of the relationship between youth employment and child labour, taking into account the two fundamental Conventions in this area: the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).
- 67.** Two additional Recommendations, neither of which are up to date, also address relevant issues in this context. These include the Human Resources Development Recommendation, 1975 (No. 150), and the Special Youth Schemes Recommendation, 1970 (No. 136). Based on the work of the WP/PRS, the Governing Body has decided that Recommendation No. 136 has an “interim status” and that Recommendation No. 150 required revision. The revision of Recommendation No. 150 is on the agenda of the 91st Session of the Conference in 2003 for a first discussion.

International policy context

- 68.** Meeting at the Millennium Summit in September 2000, Heads of State and Government resolved to “develop and implement strategies that give young people everywhere a real chance to find decent and productive work”.³⁵ This commitment of the Millennium Declaration provides the ILO’s most explicit entry point to the 15-year roadmap which the international community has set itself to implement the Millennium Development Goals. In order to support this global commitment on youth employment and to explore imaginative approaches to the youth employment challenge, the United Nations Secretary-General, together with the President of the World Bank and the Director-General of the ILO, set up a Youth Employment Network drawing on “the most creative leaders in private industry, economic policy and civil society, including youth leaders”.³⁶
- 69.** The 12-member panel³⁷ of the Network met in July 2001 at the ILO in Geneva under the chairmanship of the United Nations Secretary-General, and together with the Director-General of the ILO, and the President of the World Bank. The panel’s recommendations³⁸ encourage world leaders to take personal responsibility for translating the commitments taken at the Millennium Summit into action. Heads of State and Government are invited to develop national youth employment reviews and action plans with targets for the creation of jobs and for the reduction of unemployment. Governments are invited to volunteer to

³⁵ United Nations, General Assembly, resolution 55/2, para. 20.

³⁶ *We the peoples: The role of the United Nations in the 21st century*, United Nations, New York, 2000, pp. 25-26.

³⁷ Saifuddin Abdullah, César Alierta, Ruth C.L. Cardoso, Hernando de Soto, Geeta Rao Gupta, Bill Jordan, Allan Larsson, Rick Little, Maria Livanos Cattai, Magatte Wade, Ralph Willis and Rosanna Wong.

³⁸ United Nations, General Assembly, document A/56/422.

lead this process in preparing their action plans and in sharing their experiences with others. The panel has also developed a straightforward political message which can be summarized in four principles:

1. **Employability:** Invest in education and vocational training for young people, and improve the impact of those investments.
2. **Equal opportunities:** Give young women the same opportunities as young men.
3. **Entrepreneurship:** Make it easier to start and run enterprises to provide more and better jobs for young women and men.
4. **Employment creation:** Place employment creation at the centre of macroeconomic policy.

70. In December 2002, the United Nations General Assembly adopted a resolution,³⁹ introduced by Senegal and co-sponsored by 106 United Nations member States, on promoting youth employment. This resolution provides a strong intergovernmental mandate to the panel's recommendations by encouraging all United Nations member States to prepare national reviews and action plans on youth employment, involving youth organizations and young people. It also "invites, within the context of the Youth Employment Network, the International Labour Organization, in collaboration with the secretariat, the World Bank, and other relevant specialized agencies, to assist and support governments and to undertake a global analysis and evaluation of progress made". This resolution demonstrates the strength of international consensus and commitment around the goal of "decent and productive work for young people" – and around the Secretary-General's Youth Employment Network as the means of action for meeting this commitment. The United Nations resolution was discussed at the Governing Body at its 286th Session in March 2003 where its Committee on Employment and Social Policy recommended responding favourably to the General Assembly's invitation.

71. On 30 June-1 July 2003, the High-level Panel of the Youth Employment Network met at the ILO. This second meeting of the Panel included youth representatives, Government delegations, representatives of employers and trade unions, a variety of partner organizations as well as representatives from the Office, the World Bank and the United Nations secretariat. The Panel proposed five new steps to be taken by the Network, one of which recommends inviting workers' and employers' organizations to play important roles including in the design and implementation of the national programmes.

Technical cooperation

72. Youth employment is a theme where a variety of issues in the world of work converge, including employment policies, training, entrepreneurship and small enterprise development, gender, discrimination, investment policies, crisis and reconstruction, HIV/AIDS, informal economy, to name but a few.

73. The Office has taken a lead to support technical cooperation activities to follow up on both ILO instruments and international commitments on youth employment. It has:

- developed products in the area of youth employment, including an overview of recent trends; a youth employment guide for employers, "Meeting the youth challenge"; a youth employment manual for workers, "Promoting decent employment for young

³⁹ See Appendix to GB.286/ESP/5 for full text of the resolution.

people”; a youth career guidance manual for school leavers, and the adaptation of other products, such as those on Start and Improve Your Business;

- developed working papers on youth employment published by different technical units, which will be reissued under a single series in order to facilitate dissemination and knowledge sharing;
- organized the ILO/Japan Tripartite Regional Meeting on Youth Employment in Asia and the Pacific in March 2002;
- supported “lead countries” of the Youth Employment Network, including Azerbaijan, Egypt, Indonesia, Sri Lanka, Senegal, Namibia and Hungary, in collaboration with the United Nations and the World Bank;
- supported the High-level Panel’s four working groups;
- been taking actions or plans to do so in the immediate future in Bahrain, Brazil, Burkina Faso, China, Ghana, India, the Islamic Republic of Iran, Nigeria, Philippines, Saudi Arabia and Viet Nam; and
- initiated a variety of resource mobilization efforts on youth employment at the global, regional and national levels.

74. A general discussion on youth employment based on an integrated approach would provide the Organization with an opportunity to review not only the most effective strategies in this area but also to assess the different tools at the ILO’s disposal to assist member States in implementing such strategies, including standards, ILO programmes and activities in this area, as well as the ILO’s technical cooperation policies and programmes. The discussion could focus on the impact of programmes, in which young people are identified as a specific beneficiary. Furthermore, the ILO’s overall programme on technical cooperation could be evaluated from a youth perspective: What is the overall impact of technical cooperation programmes and projects throughout the ILO’s four strategic sectors on young people? How accessible are these programmes to young people, and to what extent do they take into consideration their specific concerns? The discussion could also provide the opportunity to explore the relation between ILO standards and instruments on youth, and its capacity to implement such standards through technical cooperation.

A window of opportunity

75. Following the Governing Body’s consideration of the United Nations General Assembly’s resolution on promoting youth employment (GB.286/ESP/5), the Office may be called upon to undertake a number of actions in the framework of the Youth Employment Network. At the same time, this could provide a new opportunity for the ILO to promote decent work for young people. One of the tasks that the ILO is invited to perform by the United Nations General Assembly is to undertake “a global analysis and evaluation of progress made” on youth employment, taking into account the national reviews and action plans which all United Nations member States are encouraged to develop. The year 2005 is an important benchmark when the United Nations will carry out a five-year review of implementation of the Millennium Development Goals, including the commitment to “develop and implement strategies that give young people everywhere a real chance to find decent and productive work”. At present, youth employment is the target with which the ILO is most explicitly linked amongst the entire agenda of the Millennium Development Goals. A discussion on youth employment by the ILC in 2005 would then serve to strengthen the impact of ILO standards and technical cooperation on employment with the broader political mandate of the United Nations. Specifically, this discussion would

contribute to an enhanced role for employment and decent work towards achievement of the Millennium Development Goals.

76. Furthermore, the ILO has been at the forefront of the elimination of child labour. Decent and productive work for young people is a natural next step where decent work should be promoted. The complexity of the issue and strong demand from the world community might call for a comprehensive discussion on youth employment at the ILC, the most appropriate international forum to discuss decent work for young people.

5. *Decent jobs and productivity (general discussion based on an integrated approach)*⁴⁰

Summary

The forces fuelling globalization, such as rapid advance in information and communication technology, are transforming production systems, work organization and the labour markets. At the same time, with the increasing liberalization of domestic and international markets, enterprises are faced with increased competition. Already there are fears expressed that these changes could lead to degradation of quality of jobs. On the other hand, there is recognition of the intimate links between productivity and decent work. This is central to the ILO Global Employment Agenda.

In the light of these, there is need to re-examine the notion of productivity and its link to decent jobs. The ILO, with its tripartite structure and with its instruments and other means of action, could play very important roles in ensuring that strategies and approaches adopted by member countries and enterprises meet the goals of productivity improvement and the promotion of decent jobs. While many of the existing international labour standards and the Declaration on Fundamental Principles and Rights at Work have direct bearing and relevance to pursuing the "high road" to productivity and competitiveness, there is need to make explicit the guiding principles and basic approaches that would guide the ILO and the social partners in pursuing productivity strategies that would lead to enterprise viability and decent jobs. It is proposed to hold a general discussion based on an integrated approach to develop an efficient plan of action covering ILO instruments, programmes and other means of action that would contribute to promoting policies, strategies and approaches that will achieve both productivity improvement and decent jobs objectives.

Background

77. With the rapid pace of economic globalization and the increasing liberalization of domestic and international markets, enterprises are faced with increased competition. This pressure, brought about by the increased market liberalization in a globalized economy, could easily lead to enterprises trying to achieve short-term competitiveness through low wages, poor working conditions, precarious employment conditions and employment of child labour. While not widespread yet, this "race to the bottom" competitive strategy can be a looming reality. Already, the potential high social cost of this heightened competition is becoming a major concern to the social partners.
78. The forces fuelling globalization, such as the rapid advance in information and production technologies, are transforming production systems and the labour markets. The need for flexibility, speed and adaptability is resulting in new forms of production structures and work organizations based on networks, globalized manufacturing and on value chains that transcend enterprise and national boundaries. Unless firms and workers are able to adapt and acquire new capabilities and develop new approaches towards achieving the goal of productive work, the new production structure could create the conditions detrimental to the achievement of decent work for all. The World Commission on the Social Dimension of Globalization has indeed highlighted the need for countries and enterprises to adopt

⁴⁰ Reproduced from GB.285/2, paras. 53-70.

conscious and deliberate policies and strategies in order to maximize the benefits that globalization brings while at the same time minimizing its negative social consequences.

- 79.** Decent work is productive and remunerative work done in conditions of freedom, equity, security and human dignity. Productivity improvement when pursued through participation and consultation, development of the national and enterprise human and social capital, innovation and better work organization, and sharing of productivity gains among others, is a powerful means for creating and sustaining decent work. Through these “high road” approaches involving consultation and participation of the social partners through tripartite and bipartite productivity improvement institutions at national and enterprise levels, social dialogue is strengthened and freedom of association re-enforced. Productivity improvement through better work design and improved working conditions leads to better workers’ safety and health. Improved productivity means viable enterprises that create and sustain job opportunities for women and men as well as being able to contribute to social security schemes.
- 80.** Studies have shown that long-term competitiveness can only be achieved through continuous total productivity improvement. Sustainable and long-term real productivity gains in turn are achieved through “high road” approaches which emphasize good human resources management and development, enterprise and industry upgrading, labour-management cooperation and consultation, and equitable sharing of productivity gains among stakeholders. These approaches build the human and social capital of the enterprise, which are the key factors for long-term productivity, competitiveness and viability.
- 81.** While the benefits of such high road approaches [to productivity and competitiveness] have been achieved by many enlightened and progressive enterprises, both domestic and multinational alike, there is need to encourage further the spread of such practices and to propagate “best practices” that highlight the complementarities of economic and social objectives.
- 82.** Clearly, in the face of increased competitive pressures and of the changing nature of production, there is a need to develop new concepts and modalities that will be consistent with the principles of the Declaration of Philadelphia, calling for the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in the preparation of social and economic measures. Competitiveness when achieved through approaches that meet both economic and social objectives would enable countries and enterprises to take advantage of opportunities arising from globalization while minimizing the potential negative social impacts.
- 83.** The need to place productive employment at the centre of economic and social policies has been highlighted in the ILO Global Employment Agenda. It places great emphasis on people’s productivity, recognizing that improving productivity of working men and women serves the end of promoting decent work. Conversely, efforts to promote productivity are enhanced by the promotion of decent work, as decent work itself is a productive factor. Improving productivity is thus the cornerstone of the Global Employment Agenda, and one of the economic foundations of decent work.
- 84.** Among the ILO’s different means of action, existing international labour standards provide valuable guidance and reference points. There is, however, a need to organize and synthesize them in a coherent and explicit set of principles and recommended basic approaches that would guide the social partners in pursuing the productivity improvement strategies that meet enterprise viability and decent work objectives.

ILO means of action

- 85.** The ILO response to these modern economic realities is based on the underlying principles and goals of the Declaration of Philadelphia as well as the Declaration on Fundamental Principles and Rights at Work. The 1984 resolution on the contribution of the ILO to production and productivity improvement noted the necessity of productivity improvement in order to assure economic growth, and underlined the close interrelationship between quantity and quality of employment and other labour issues and productivity improvement.
- 86.** Among the ILO's means of action, international labour standards are key. The subject matter relevant in the present context touches on a series of different instruments such as Recommendations Nos. 94, 113 and 129 which call for cooperation, consultation and communication at the national, industrial and undertaking levels, Convention No. 154 and Recommendation No. 163 on collective bargaining, Convention No. 142 and Recommendation No. 150 on human resource development, Conventions Nos. 155 and 174 and Recommendation No. 164 on safeguarding the health and safety of workers, Recommendation No. 189 concerning job creation in small and medium-sized enterprises, Conventions Nos. 26, 94, 95, 99 and 131 and Recommendations Nos. 84, 85 and 135 concerning wages and remuneration, as well as Conventions Nos. 138 and 182 and Recommendations Nos. 146 and 190 relating to the employment of minors and child labour. Research on the links between international labour standards and productivity and competitiveness are ongoing. Note should also be taken of the General Survey on the Employment Policy Convention, 1964 (No. 122), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Human Resources Development Convention, 1975 (No. 142), and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), that will be submitted to the 92nd Session (2004) of the International Labour Conference.
- 87.** Technical cooperation activities have been undertaken aimed at building the capacities of member countries, the tripartite constituencies and the enterprises to promote decent work through the high road approach to productivity and competitiveness. Along this line, ILO activities related to productivity improvement, competitiveness and quality jobs were the subject of an action programme implemented in the 1998-99 biennium. Studies undertaken under this action programme underlined the changing nature of competition under changed market conditions brought about by globalization and trade liberalization. Guides and manuals on how to improve productivity and competitiveness at national and enterprise levels following the "high road" that achieves both economic and social goals were also developed. Current work includes the development of socially responsible approaches when undertaking enterprise restructuring aimed at improving productivity and competitiveness, and expanding the notion of human resource management and development in the context of the changing nature of the structure of production, work organization and increasing knowledge content of work. Technical cooperation projects on developing local managerial and labour capabilities to integrate the fundamental principles and rights at work in productivity and competitiveness enhancement efforts are being implemented.

Proposed solution

- 88.** The present subject matter has previously been submitted for a general discussion. It should be noted, however, that the Governing Body has recently adopted a new practice to place items on the agenda of the International Labour Conference for general discussions based on an "integrated approach". Such discussions are aimed at examining a specific subject area, assessing the coherence, relevance and impact of current ILO responses to the problems and challenges in that area and developing a plan of action, taking into account

all the ILO's different means of action. Such a plan of action would aim at directing the ILO's future response to the problems and challenges in that area.

89. Given the importance and broad scope of the subject matter of decent jobs and productivity and the need to develop a comprehensive ILO response, it would seem appropriate to hold such a general discussion based on an "integrated" approach in the International Labour Conference on this subject.
90. Such a discussion would provide an opportunity further to examine the benefits that can be achieved through these high road approaches as well as the most efficient means to implement them. It could also look at widening the framework of the notion of productivity beyond economics to examine such emerging concepts as social productivity and the integration of productivity with the notion of social stability and equity. On such a basis the general discussion could examine how the ILO could further promote policies, strategies and approaches that will achieve both productivity improvement and decent jobs objectives and draw up a plan of action (for the furtherance of these objectives) covering all different means of action [of the ILO] including standard setting and the development of other instruments, technical cooperation, knowledge-management and dissemination of information. Such general discussion would further the aims of the ILO Declaration on Fundamental Principles and Rights at Work to ensure that social progress goes hand in hand with economic progress.
91. The discussion could take note of and put into current context the various Conventions and Recommendations that bear on the promotion of productive, remunerative and quality jobs; clarify the meaning of productivity particularly in the context of the new production structure, new forms of work organization, changing nature of work and employment and increased competition brought about by rapid globalization; highlight the key factors that are now critical to improving productivity for sustainable economic and social development and identify key roles for the social partners in creating the necessary conditions, at enterprise, national, regional and international level, for continuous improvement of efficiency and effectiveness of work with the recognition of the fundamental workers' rights and responsibilities. The general discussion could also review the appropriateness of considering further standard-setting activities including the possibility to adopt an instrument, which could provide guidance to constituents on policy and practice in the area of productivity upgrading.
92. A discussion could draw on experiences from ongoing sectoral studies on how social performance is managed across global supply chains and on how enterprises manage the various aspects of their corporate social responsibility. Case studies are being undertaken to show the positive links between good management practices reflecting the fundamental principles underlying international labour standards and the enterprise's triple bottom lines. The use of modular training packages on integrating the fundamental principles and rights at work in enterprises' values, systems and processes is being developed.
93. A key element in discussion will be the experiences gathered through the *World Employment Report 2003*, which has as its theme the relationship between productivity, employment and poverty reduction. Various studies will be undertaken with the aim of understanding better and building on the experiences of several countries where gains in productivity, output and employment have formed the virtuous circle of growth and development. In addition, information will be accessible in collaboration with the global network of national productivity centres that is being maintained.

Conclusion

94. Against this background it is proposed to hold a general discussion on the subject of "Decent jobs and productivity". Should the Governing Body decide to include such an item on the agenda, the Conference may wish to examine the problems, challenges and opportunities related to productivity in the era of globalization in the context of decent work; the strategies and approaches, consistent with ILO principles and fundamental rights at work and reflecting the principles behind core labour standards and other related international labour standards, that would be likely to achieve both the goals of productivity improvement and the creation and sustenance of decent jobs, in an era of rapidly changing structure of production and distribution, new forms of work organizations and rapid technological advance; how the benefits and gains from productivity improvement could be fairly shared among the stakeholders; the skills and competencies required for continuing productivity improvement; the policy and legal environment will be supportive of the achievement of the productivity and decent jobs objectives; the roles of the social partners. The aim of such a discussion would be to develop an efficient plan of action covering ILO instruments, programmes and other means of action that would contribute to promoting policies, strategies and approaches that will achieve both productivity improvement and decent jobs objectives.

6. **Promoting decent work in reconstruction of conflict-affected countries (standard setting)**⁴¹

Summary

The current exponential increase in armed conflicts poses serious challenges to the implementation of the Decent Work Agenda in terms of massive unemployment and poverty and, by the destruction of social and economic infrastructure, making job creation and the promotion of democracy, human rights and labour standards more difficult. A comprehensive framework is needed for addressing the issues relating to reconstruction in the context of decent work and encompassing poverty reduction and employment promotion, social and economic reintegration, relief and reconstruction, social protection, social dialogue for peace and reconciliation, and early warning systems.

The ILO has a role to prevent war and social conflict, to support the process of reintegration and reconstruction, and to build durable peace. The ILO lacks a current and appropriate policy framework including up-to-date instruments to respond not only to immediate but also longer term needs of conflict-affected countries and the roles of the constituents in this sphere. At tripartite consultative meetings, constituents have repeatedly stressed the urgent need for a policy framework and for intensified ILO action in this area. An earlier proposal for a discussion at the International Labour Conference in 2004 had been submitted to the Governing Body as part of the portfolio.

In recent years, through the work of its InFocus Programme on Crisis Response and Reconstruction, the ILO has gained more valuable experience on how to develop an appropriate response to the issues that may occur in the context of the most prevalent types of armed conflict. It is thus proposed to place the item of promoting decent work in the reconstruction of conflict-affected countries on the agenda of the International Labour Conference in 2005 with a view to developing an ILO instrument, most probably in the form of a Recommendation, to serve as a policy framework for ILO and constituents' activities in this area.

The problem

95. The Organization has a long history of involvement in post-conflict issues, starting from its origins under the Treaty of Versailles at the end of the First World War. In 1944, towards the end of the Second World War, the ILO adopted the Declaration of Philadelphia as well as a set of four Recommendations: the Employment Organization (Transition from War to

⁴¹ Reproduced from GB.285/2, paras. 71-91.

Peace) Recommendation (No. 71), along with the Social Security (Armed Forces) Recommendation (No. 68), the Employment Service Recommendation (No. 72), and the Public Works (National Planning) Recommendation (No. 73). Two of these instruments (Recommendations Nos. 72 and 73) were withdrawn by the International Labour Conference at its 90th Session (2002) on the ground that they no longer contributed to the furtherance of the objectives of the Organization. The remaining two instruments also cover issues which were particularly relevant in the immediate aftermath of the Second World War broadly relating to employment, income security and medical care in respect of persons being discharged from the armed forces, and other war-affected groups. These measures were to be planned and implemented by governments in cooperation with employers' and workers' organizations. They underline the mission of the ILO to prevent war and social conflict, to support the process of reintegration and reconstruction, and to build sustainable peace. Lasting peace, as the Declaration of Philadelphia asserted, can only be built on the foundation of social justice.

- 96.** The last decade has witnessed an alarming increase in the frequency and intensity of armed conflicts around the world. Currently, about a third of ILO member States are in conflict, emerging from conflict, re-entering into conflict or affected by conflict in a neighbouring country. These conflicts result in massive unemployment, underemployment and poverty. Further, as job opportunities shrink, young persons entering the labour force find that there are no jobs available, and this in turn can lead to further violence, conflict and social instability. The destruction of economic and social infrastructure and the deterioration in the law and order situation, often accompanied by the flight of capital, make it even more difficult to create new opportunities for productive work.
- 97.** Armed conflicts often result in threats to democracy, to the rights of trade unions and employers' organizations and to the observance of human rights and labour standards. At the same time, labour standards provide built-in mechanisms for early warnings of likely conflict, mitigation of the impact of conflict, dialogue for reconciliation and peace, and a framework for reconstruction and a return to development. The tripartite ILO structure makes it possible for the ILO to be in touch with a spectrum of actors at the country level and elsewhere and to obtain up-to-date information on indicators of potential conflict and triggers which may set it off.
- 98.** Decent employment which cements peace and social dialogue is a major instrument for peace and reconciliation. The ILO's strategic objectives relating to fundamental rights and principles at work, the promotion of employment, social protection, tripartism and social dialogue need, therefore, to be pursued resolutely in such conflict-related and unstable situations. Furthermore, the possibilities to achieve the UN Millennium Development Goal of reducing poverty by half by 2015 in conflict-affected countries will to a significant extent depend on a rapid recovery and a return to peace and development.
- 99.** The ILO and its constituents thus have a critical role to play in this context, in particular in relation to post-conflict reconstruction. The ILO can help member States and the social partners to tackle the major challenges of reconstruction and reintegration of different groups in the population, including ex-combatants, refugees, internally displaced persons, women, the disabled, children, youth and poor and disadvantaged groups. Working together, they can help to strengthen existing institutions or create new institutions, re-establish social cohesion, and redress gender inequalities, taking advantage of the opportunities offered by the process of reconstruction.
- 100.** In the past 60 years since the adoption by the ILO of Recommendations Nos. 68 and 71, the nature, origins and impacts of armed conflicts have changed in important ways. In the context of the twenty-first century, several different features of conflict and post-conflict situations need to be addressed, including the fact that most conflicts are within States;

their origins vary; they can last a long time; conflict situations tend to recur; civilians are involved as perpetrators and victims: the technology of war is changing; and that internal migration flows increase. None of these instruments appear to be a relevant response to current needs.

- 101.** At the same time, since 1944 the ILO has adopted several other ILO instruments including instruments concerning training and employment promotion, labour market reform, enterprise promotion, labour-based infrastructure development, local economic development, strengthening of social security systems and social safety nets, promotion of safe work principles, institutional reform, labour legislation and strengthening of tripartism and social dialogue. Although these instruments are not specifically targeted at conflict-affected countries, they have proven to be particularly relevant in these contexts. Furthermore, when these instruments are used alongside and in harmony with the work of other national and international actors, their impact is further enhanced.
- 102.** Current relevant Recommendations do not adequately address the new features of conflicts outlined above nor provide governments, employers and workers with the kind of comprehensive guidance that they may need in addressing the problems of conflict-affected countries. There is thus a need to formulate a contemporary policy or standard for the promotion of decent work concerns in post-conflict reconstruction and the path to peace and development. The lack of such a framework limits the ILO's capacity at the national level and constitutes an impediment for the ILO to play an effective role within the United Nations system in this field.

Relation to previously adopted instruments

- 103.** As noted above, the subject matter of the two remaining Recommendations adopted in 1944 are relevant to consider in this context. The Governing Body has examined these instruments in the light of recommendations from the Working Party on Policy regarding Revision of Standards 1995-2002. Against that background the Governing Body decided that Recommendations Nos. 72 and 73 had lost their purpose "in furtherance of the objectives of the Organization" and on that ground the International Labour Conference withdrew them at its 90th Session (2002). As regards Recommendation No. 68 the Working Party noted that its objective still seemed to be relevant although the context was no longer the same. With reference to the proposal to place an item on this subject matter on the agenda of the Conference, the Working Party remarked that it would be interesting to take up the question of this Recommendation within the context of a discussion on the fight against social exclusion and poverty.⁴² The Governing Body decided on the maintenance of the status quo with respect to this instrument. As regards Recommendation No. 71 the Working Party noted that while it had long been considered to be of no further interest, the present proposal seemed to indicate that there was renewed interest in the issues it covered.⁴³ Pending any decision to place this subject matter on the agenda of the Conference, the Governing Body decided to invite member States to communicate to the Office any additional information on the possible need to replace this Recommendation.⁴⁴
- 104.** In addition to the fundamental and priority instruments as well as the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which are relevant for all countries in all circumstances, a number of other international labour standards are

⁴² GB.277/LILS/WP/PRS/4, p. 16.

⁴³ GB.274/LILS/WP/PRS/3, p. 8.

⁴⁴ The Office has not yet undertaken any specific follow-up action with respect to this decision.

particularly relevant in this context. They include the Labour Administration Convention (No. 150) and Recommendation (No. 158), 1978; the Human Resources Development Convention, 1975 (No. 142) (including Recommendation No. 150), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Maintenance of Social Security Rights Convention, 1982 (No. 157). Two relatively recent, very important and relevant Conventions are the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The former has immediate relevance for indigenous and tribal populations who today are often the victims in armed conflicts and need support to ensure that their rights are recognized and that they have a voice in post-conflict reconstruction. The latter provides a clear instrument and a mandate for action on the issue of child soldiers who are increasingly being used in conflicts.

Proposed solution

- 105.** The role of the Organization and of its constituents has evolved over time in response to the challenge of meeting the needs and aspirations of people in countries affected by conflict. There is a need to take stock of the work being done in this field, to firm up a comprehensive and visible policy framework, and to develop a revitalized standard to guide the work of the Organization and its constituents in conflict-affected countries. The constituents have already expressed, during a tripartite seminar on the subject in November 1997, and at several annual consultative meetings (such as in June 1999, 2000, 2001 and 2002), the need for a framework to guide their actions in tackling crises, including armed conflicts.
- 106.** ILO efforts in this area have been spearheaded since 1996 by the ILO Action Programme on Skills and Entrepreneurship Training for Countries Emerging from Armed Conflict, and currently form part of the activities of the InFocus Programme on Crisis Response and Reconstruction set up in late 1999 to deal with armed conflicts, natural disasters, financial and economic crises and abrupt social and political transitions. Furthermore, experience has been gained through technical assistance activities carried out by the ILO in a number of conflict-affected member States and has promoted knowledge and tools development, advocacy and capacity building of ILO staff and constituents. The considerable experience gained by the ILO in recent years in tackling the problems of conflict-affected countries now makes it possible to identify strengths, determine good practices, and build upon the lessons learned.
- 107.** Developing such a framework would provide an opportunity to identify what principles embodied in Recommendation No. 71 remain relevant, what may need to be re-examined, and what new considerations are relevant and need to be considered. Such a framework would also address how best to use the ILO's areas of competence for promoting the Organization's institutional and rapid-response capacity to the employment and related social and economic needs of conflict-affected countries. The framework should also spell out operational support modalities and provide guidance on strategic partnerships of the ILO with its constituents, with agencies and organizations within the United Nations system and with NGOs and civil society. [The issues to address include reconstruction in the context of decent work, poverty reduction and employment promotion, social and economic reintegration, relief and reconstruction, social protection, social dialogue for peace and reconciliation, and the development of early warning systems.] Specific issues to be addressed include:
 - social and economic reintegration of refugees/returnees, internally displaced persons, demobilized soldiers and young combatants, the disabled and female heads of households;

- employment-friendly physical reconstruction;
- poverty reduction and employment promotion;
- social dialogue and reconciliation;
- social protection and safety nets; and
- rebuilding of national institutions.

Progress made in research and preparatory work

- 108.** Under the Special Allocation for Peace and Democracy in Central America, 1993, authorized by the Governing Body, the ILO participated directly in the Guatemalan peace negotiations at the request of the United Nations Secretary-General. ILO was the only United Nations specialized agency to play a key role in the final agreement, which included several labour standards and provided the principal elements of the country's final peace settlement signed in December 1996. Of the various bodies promoted under different peace agreements, those supported by the ILO have been the most effective, in Panama, El Salvador and Guatemala.
- 109.** The ILO has gained insights from the research activities and seminars carried out under the ILO Action Programme on Skills and Entrepreneurship Training from Countries Emerging from Armed Conflict (1996-97), its earlier work on ex-combatants and its attempts to develop rapid and comprehensive responses to conflict situations in Kosovo, Liberia, Democratic Republic of Congo and Guinea-Bissau. It has continued this work, under the InFocus Programme, in East Timor, South Lebanon, Palestine, Somalia, South Serbia, Sierra Leone and the Solomon Islands.
- 110.** The ILO has also implemented technical assistance activities in several conflict-affected countries. It contributed to the PRODERE programme (one of the largest post-conflict programmes in Central America), and actively participated in the UNOPS-managed trust fund created by the UNDP during the World Summit for Social Development. This fund was utilized to assist more than 20 countries afflicted by conflicts and natural disasters. Local economic development has been promoted as a process to promote peace and reconciliation through economic recovery in Albania, Angola, Bosnia and Herzegovina, Cambodia, Croatia, El Salvador, Guatemala, Haiti, Mozambique, Nicaragua, Somalia, Tajikistan, etc.
- 111.** The InFocus Programme on Crisis Response and Reconstruction (IFP/CRISIS) has built upon the achievements of earlier programmes and activities in developing the capacity of the Organization and the constituents to tackle conflict-related situations. Technical cooperation programmes and projects, including several on reintegrating vulnerable conflict-affected groups, have been developed and are being implemented. IFP/CRISIS has not only focused on the development of rapid-response capacity, but, equally importantly, on strengthening the knowledge base, tools development, capacity building and advocacy within and outside the Organization on crisis issues. A major feature has been to promote crisis sensitivity within the Organization and among the constituents, that tackling crises is not "business as usual," that gender issues are particularly important in crisis situations, and that there is an opportunity to provide countries in crisis with the best that the ILO can offer in terms of products and services.
- 112.** Since the creation of IFP/CRISIS, this effort has continued with the launching of technical assistance programmes and projects relating to such areas of ILO expertise as vocational training, economic and social reintegration, employment promotion and employment-

intensive reconstruction in a number of countries and territories, including East Timor, Somalia, Democratic Republic of the Congo, Solomon Islands, Sierra Leone, Afghanistan and Sri Lanka.

- 113.** A paper was presented to the Governing Body Employment and Social Policy Committee in March 2000 on “ILO strategy and activities on employment and social concerns in crisis situations”.⁴⁵ The ensuing discussion provided support and guidance for the work of the Programme.
- 114.** IFP/CRISIS has held a research consultation on crises, set up a network of external researchers, conducted training and capacity-building programmes, and produced several research studies and manuals on crises, which cover armed conflict. An annual meeting with ILO constituents has been started and these meetings have proved very useful in terms of exchange of information and sharing of ideas. The Programme has also been actively participating in key United Nations and non-United Nations meetings and other networks on conflict issues. During the 2002-03 biennium, further strengthening of the knowledge base, development and revision of tools, capacity building and training and advocacy within and beyond the Organization are envisaged.

Conclusion

- 115.** The ILO has a mission to prevent social conflict which contributes to preventing war, to support the process of reintegration and reconstruction, and to build sustainable peace. The ILO lacks a current and appropriate policy framework including up-to-date instruments to respond not only to immediate but also longer term needs of conflict-affected countries and the roles of the constituents in this sphere. Many constituents have expressed views on the urgent need for intensified ILO action in this area. Through its InFocus Programme on Crisis Response and Reconstruction, the ILO has gained valuable experience on how to develop an appropriate response to the issues that may occur in the context of the most prevalent types of conflict. It is thus proposed to place the item of “Promoting decent work in the reconstruction of conflict-affected countries” on the agenda of the International Labour Conference in 2005 with a view to developing an ILO instrument, which could be in the form of a Recommendation, to serve as a policy framework for ILO and constituents’ activities in this area.

⁴⁵ GB.277/ESP/2.

Gender

7. *Gender equality in the world of work (general discussion based on an integrated approach)*⁴⁶

Summary

It is timely to review the progress made in promoting gender equality through decent work in the context of a general discussion based on the integrated approach to ILO means of action. In 2005, it will be 20 years since the International Labour Conference undertook a comprehensive review of gender equality issues in the world of work. In 1985, a general discussion was held at the International Labour Conference on equal opportunities and equal treatment for men and women in employment. Since then significant yet important gender equality issues have been addressed by the ILC, including through standard setting such as, for example, the adoption of the Maternity Protection Convention, 2000 (No. 183). It will also take place ten years after the Social Summit and the Fourth World Conference on Women.

Over the last two decades, the increasing participation of women in paid work has been driving employment trends, the gender gaps in labour force participation rates have been shrinking and women's entrepreneurship development has been impressive. But significant obstacles and challenges remain to utilize fully the human potential of both women and men and to promote decent employment for all and reduce poverty. The feminization of poverty, growing unemployment and underemployment, the burgeoning informal economy, the HIV/AIDS epidemic, practices such as child labour, sexual harassment and trafficking for prostitution, the persistent gender pay gap, occupational segregation, the gender division of paid and unpaid labour, and the considerably weaker position of women in decision-making in the public and private spheres, threaten to erode gains made towards gender equality.

The Conference may wish to focus a discussion on the following issues: (1) the Decent Work Agenda in relation to employment promotion, poverty reduction, rights, social protection and representation for women and men on equal terms; (2) taking stock of ILO action to respond to these issues and to promote gender equality; (3) identification of priority areas on which to focus the work and contribution of the ILO to gender equality; and (4) adoption of recommendations and a plan of action to address these issues and provide for an integrated approach to ILO policy and programmes to promote gender equality in the world of work.

Introduction

116. During its 71st Session (1985), the International Labour Conference examined the question of equal opportunities and equal treatment for men and women in employment in the context of a general discussion. This was the most recent occasion for a comprehensive ILO review of progress on gender equality in the world of work and ILO action in the context of global economic and labour market trends. During the considerable period of time that has elapsed since then, tremendous changes have taken place in the global labour market with uneven progress in achieving gender equality, different forms of gender inequality developing and new challenges emerging with the rapid expansion of the global economy.⁴⁷ These challenges include growing

⁴⁶ Reproduced from GB.285/2, paras. 92-112.

⁴⁷ The Beijing Platform for Action and the Copenhagen Programme of Action addressed some of the problems of globalization; "however, the solutions proposed for women in these documents were largely microeconomic, with a particular focus on enabling poor women to obtain access to credit ... if a wider range of women are to gain, globalization must be reshaped so that it is people-centered instead of profit-centered and made more accountable to women ... there are new opportunities for women to intervene and renegotiate globalization in order to enable information and communication technology to be used in equitable ways and markets to be used to serve human ends", United Nations Development Fund for Women: Progress of the World's Women 2000, UNIFEM Biennial Report, New York, 2000, p. 130.

unemployment and poverty,⁴⁸ the feminization of international migration, trafficking for prostitution and forced labour,⁴⁹ and the emerging gender digital divide as new information and communication technologies shape the world of work.⁵⁰

- 117.** Over the past two decades, significant policy development initiatives have been taken at the global level, such as the Beijing Platform for Action. The ILO has contributed to these initiatives. It also has taken action through programme, policy and normative developments and technical assistance to mainstream gender concerns and promote decent and productive work for women and men in conditions of freedom, equity, security and human dignity. A decade after Beijing and Copenhagen and taking into account the Millennium Development Goals, a comprehensive review would be timely and relevant and enable the ILO to chart a strategic course for its future work.
- 118.** The ILO needs to take stock of global developments, in order to update ILO policy and to determine priority areas for its work in promoting gender equality goals. A Conference discussion on these issues would provide the ILO and its constituents with an opportunity to conduct a comprehensive up-to-date review of progress on gender equality in the world of work and ILO action in light of the social dimensions of globalization and changing labour markets. Against this background and the experiences and possibilities of the ILO in standard setting, research, technical assistance and advocacy, the Conference could provide guidance on how better to integrate all the ILO means of action, the promotion of the Decent Work Agenda and the strengthening of the gender mainstreaming strategy to enhance the ILO's efforts and impact on eliminating gender discrimination.

Background: Progress and gaps

- 119.** Since the Fourth World Conference on Women in Beijing in 1995, the United Nations has noted the gain in the economic autonomy of women as a consequence of their increased participation in the labour market. Measures have also been introduced by governments to address women's economic and social rights. International labour Conventions have been ratified as well as legislation enacted or strengthened to make it compatible with these Conventions.⁵¹
- 120.** At the same time, however, the United Nations has recognized that significant obstacles impede the achievement of gender equality in employment:

The importance of a gender perspective in the development of macroeconomic policy is still not widely recognized. Many women still work in rural areas and the informal economy

⁴⁸ Some 1 billion workers or one-third of the world's labour force are either unemployed or underemployed. The global economy has been creating about 40 million jobs a year compared to about 48 million new jobseekers. Of the 40 million new jobs, as many as 10 million are in the ranks of the working poor or otherwise underemployed. The widely quoted estimate is that women constitute 70 per cent of the world's 1.3 billion poor living on less than US\$1 per day.

⁴⁹ "In the past decade, the international trade in human beings, particularly women and children, has reached epidemic proportions ... Each year, an estimated 700,000 to 1 million women and children are shipped across national boundaries and sold into modern-day slavery. The trade in human beings is a worldwide scourge", in the *International Herald Tribune*, 1 June 2000.

⁵⁰ ILO: *World Employment Report 2001*, p. 319.

⁵¹ United Nations, resolution adopted by the General Assembly, "Further actions and initiatives to implement the Beijing Declaration and Platform for Action", Twenty-third Special Session, 2000, A/RES/S-23/3, para. 20.

as subsistence producers, and in the service sector with low levels of income and little job and social security. Many women with comparable skills and experience are confronted with a gender wage gap and lag behind men in income and career mobility in the formal sector. Equal pay for women and men for equal work, or work of equal value, has not yet been fully realized. Gender discrimination in hiring and promotion related to pregnancy (including through pregnancy testing) and sexual harassment in the workplace persist. In some countries, women's full and equal rights to own land and other property, including through the right to inheritance, is not recognized yet in national legislation. Progression in the professions, in most cases, is still more difficult for women, due to the lack of structures and measures that take into account maternity and family responsibilities.⁵²

- 121.** The causal links between gender discrimination and poverty throughout the life cycle have become increasingly evident. Globalization is exacerbating the plight of the working poor in the informal economy, in particular agricultural workers, domestic helpers, street vendors and home workers, the majority of whom are often women. Addressing gender issues in the context of the HIV/AIDS epidemic is a key concern. Sexual harassment and trafficking for prostitution are increasingly subjects for legislation and campaigns. The persistent lack of adequate representation of women and their concerns in business, and in political and labour institutions, continues to hamper genuine progress in achieving gender equality in the world of work. For both men and women, ensuring a balance between work and family responsibilities and between paid and unpaid work remains a critical challenge. Assisting men and boys to play a positive role in changing gender relations within the home and in the labour market is a new and crucial avenue for advancing gender equality.
- 122.** Some figures derived from existing ILO statistics illustrate persistent gender disparities: there are only 54 per cent of working-age women in the labour force as compared to over 80 per cent male participation. Worldwide, women hold only 1 per cent of chief executive positions. About half the world's labour remains in gender-stereotyped occupations, with women dominating in clerical and secretarial jobs and low-end service occupations. Despite the increasing adoption of equal pay legislation, women continue to earn 20-30 per cent less than men. In paid employment, men are normally in core or regular and better remunerated positions, while women are in peripheral, insecure, less valued jobs, often as homeworkers, casual workers and temporary workers. Close to two-thirds of all part-time workers are female and part-time work for women is increasingly involuntary. In self-employment, men are much more likely to be employers and women to be own-account workers and in the informal economy, in the category of unpaid family work, women predominate.⁵³ Where data are available, it indicates that in practically all Asian and African countries, the urban informal economy is a larger source of employment for women than for men.⁵⁴ Open unemployment rates are almost always higher for women than for men. Young women in particular have the greatest difficulty entering the labour

⁵² *ibid.*, para. 21.

⁵³ Contributing family workers among economically active women are over 77 per cent in Bangladesh, 54 per cent in Pakistan, 44 per cent in Indonesia and Thailand, 65 per cent in Ethiopia and 54 per cent in Uganda.

⁵⁴ In India and Indonesia, the informal economy accounts for nine out of every ten working outside agriculture, while in Benin, Chad and Mali more than 95 per cent of the female non-agricultural labour force is in the informal economy. Even then, there is likely to be underestimation of the gender bias, since women are more likely to be in those informal economy activities that are invisible or undercounted.

market and retaining their jobs in periods of economic downturn.⁵⁵ Women are also much more likely than men to be underemployed or unemployed.⁵⁶ Women spend less time on paid work but considerably more time on unpaid work than men.⁵⁷

- 123.** A critical input for assessing progress in gender equality, both quantitatively and qualitatively, is up-to-date and reliable data and analyses of labour market trends disaggregated by sex. However, the nature of women's and men's jobs and occupations is not adequately captured by conventional statistics. For example, they are deficient in analysing the roles of women and men in both the informal economy and the unpaid care economy. A combination of data on sex and on other factors such as race and age could enhance the identification of specific vulnerable groups. A more comprehensive measurement of all forms of "work" including unpaid care work is also needed. Improved data collection could provide a better delineation of different types of labour market work and a detailed description of the characteristics of such work (including in the informal economy) and other relevant information such as family composition, and the division of labour and decision-making within households (which would be helpful for identifying factors behind gender inequalities in the labour market).
- 124.** Beijing+5 also identified new areas which have gained importance since 1995, among them the persistent and increasing burden of poverty on women, the vulnerability of migrant women to exploitation and trafficking, the formulation of strategies to enable women and men to reconcile and share equally work and family responsibilities, and the HIV/AIDS pandemic. Many of the actions identified specific groups of women as their primary target, including older women, young women, migrant women, entrepreneurs/self-employed women, rural women and female household heads.

ILO action to date

- 125.** The 71st Session (1985) of the International Labour Conference adopted a resolution on equal opportunities and equal treatment for men and women in employment. The resolution provided for national action in the areas of equal access to employment and training, equality of remuneration, working conditions, maternity protection, workers with family responsibilities, social security, participation, administrative arrangements to promote equality of opportunity and treatment, and improving the database. The resolution also provided for action by the ILO concerning standard setting, including a review of protective measures, cooperation with the United Nations system, inclusion of equal opportunity and treatment for men and women on the agendas of ILO meetings, research on the situation of women, data collection, dissemination of information, technical cooperation, strengthening of institutional arrangements, provision of childcare to enable more women to attend ILO meetings and promotion of the use of non-sexist language.

⁵⁵ Youth unemployment rates for both sexes are more than twice the corresponding rates for the economically active adult population in all regions of the world and among youth the rate is considerably higher for females.

⁵⁶ The proportion of the female labour force underemployed was at least treble the proportion of the male labour force in Belgium, Denmark, France, Germany, Israel, Italy, Norway, Spain and Sweden.

⁵⁷ Recent time-use surveys show that women's total time worked daily exceeded men's by two hours or more in Australia, France, Japan, Latvia and the Republic of Korea, and that women spend 50 to 70 per cent of the time men spend on paid work, but almost twice as much or more time as men on unpaid work.

- 126.** Since 1985, a number of standard-setting and other measures particularly relevant to gender equality and women's employment have been on the Conference agenda. These include the adoption of the Night Work Convention, 1990 (No. 171),⁵⁸ the Part-Time Work Convention, 1994 (No. 175),⁵⁹ the Home Work Convention 1996 (No. 177)⁶⁰ and the Maternity Protection Convention, 2000 (No. 183).⁶¹ A General Survey on the night work of women in industry was submitted to the 89th Session of the International Labour Conference in 2001.⁶² One of the challenges, however, is how to promote the ratification and implementation of some of these Conventions, which have attracted few ratifications over the last decade. On the other hand, the adoption by the Conference of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998 provides added impetus for the promotion of gender equality, with inclusion of the principle of the elimination of discrimination in the Declaration. Within the context of the campaign to promote ratification of the fundamental Conventions, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951, (No. 100), have received a large number of new ratifications and now figure as two of the most highly ratified international conventions. Numerous advisory and technical cooperation projects have been undertaken to promote and secure gender equality through improved application of these two fundamental Conventions.
- 127.** In 1991, the International Labour Conference adopted a resolution concerning ILO action for women workers. It reaffirmed the provisions of the 1985 resolution, many of which remained valid but unimplemented. It called on the ILO constituents and the Office to undertake a range of measures to promote equality for women, including the ratification and implementation of standards, improving the participation of women in the International Labour Conference and ILO meetings, and attention to issues such as methods of job evaluation free of sex bias and sexual harassment. Furthermore, ministerial meetings were held on "More and better jobs for women" at the International Labour Conference in 1998 and on "Let's make gender equality at work a reality" at the International Labour Conference in 1999.
- 128.** In addition, a number of tripartite meetings have been held on gender equality issues, as for example in the areas of protective measures for women, equal opportunity and treatment for men and women in social security and women in management positions. The Governing Body has addressed gender equality issues on a number of occasions and, in particular, held a one-day symposium in March 2000 on decent work for women as a contribution to the Beijing+5 Special Session of the United Nations General Assembly held in June 2000.
- 129.** A number of technical cooperation projects have addressed gender equality in various fields. They have promoted women workers' rights and supported income generation and empowerment for women through awareness raising, skills training, entrepreneurship development, social finance and organization of women, particularly in the informal economy. Other projects have addressed the growing problem of trafficking in women and children and the situation of homeworkers. Practical tools, such as an equal employment

⁵⁸ Six ratifications.

⁵⁹ Eight ratifications.

⁶⁰ Two ratifications.

⁶¹ Three ratifications.

⁶² ILO: *Night work of women in industry*, Report III (Part 1B), ILC, 89th Session, Geneva, 2001.

opportunities information base and a resource kit for trade unions on promoting gender equality, have been very useful for awareness raising and training. The programme on gender, poverty and employment aims to build capacity of the constituents to fully integrate employment and gender concerns in the formulation and implementation of poverty reduction strategies.

130. Through these actions over the last two decades, the ILO has increasingly focused on promoting equality between men and women. It has emphasized a rights-based development approach in its employment generation work and consistently linked economic progress with social justice. The promotion of the economic and social rights of women on an equal footing with men is an essential building block of this approach. A significant shift also has been made away from a protectionist approach only towards women workers just because they are women, although protection of maternity remains essential to promoting equal opportunities. Furthermore, the need for the protection of the rights of vulnerable categories of workers, a great proportion of whom are women, has been affirmed in the adoption of Conventions, such as those on part-time work and homework. Furthermore, since 1995, increasing attention has been given to mainstreaming gender concerns in ILO programmes and building the capacity of the Office and the constituents to ensure that gender is integrated into mainstream activities. This strategy was formally adopted by the Member States at the Fourth United Nations Conference on Women in Beijing in 1995, and has been endorsed as the most effective way to address the persistence of gender inequalities throughout the world. However, the ILO has yet to formally adopt the gender mainstreaming strategy as an integral part of its own gender equality policy.

131. The ILO's first strategic programme and budget adopted for 2000-01 and the strategic policy framework established gender as a cross-cutting concern in all the activities of the ILO. The goal is to ensure that work on gender equality does not remain on the margins, but becomes a key objective systematically included in all areas of ILO action. In March 2000, the Office's Action Plan on Gender Equality and Mainstreaming was submitted to the Governing Body. The aim of this Office Plan is to ensure that gender concerns are integrated into all ILO programmes. As part of the implementation of this Plan, the Office conducted its first Office-wide gender audit of programmes to assess the extent to which institutional mechanisms have been established and are operational to ensure that gender is systematically addressed through all ILO activities. The report to this Governing Body⁶³ on the gender audit highlights best practices; indicators and tools used by the ILO for gender mainstreaming; and identifies ways to improve the ILO's performance on promoting gender equality in the world of work. During 2002-03, the Office is implementing a Netherlands-funded project on capacity building on gender mainstreaming for constituents in China, Nepal, United Republic of Tanzania and Uganda. Further funds from the 2000-01 surplus will strengthen this effort to assist constituents in the development and implementation of their gender strategy and enhance their capacity to provide support to women entrepreneurs and workers in the informal economy.

ILO future policy development

132. In light of the above, it would be appropriate and extremely useful that, in 2005, the International Labour Conference undertake a global review of gender equality in the world of work. Such a discussion could provide a critical space for ILO policy development in relation to these issues. It would also be timely, as it will be ten years after the Fourth World Conference on Women held in Beijing in 1995.

⁶³ See GB.285/ESP/7/1.

- 133.** An item on the International Labour Conference agenda in 2005 would provide an important opportunity to analyse and take stock of the labour market and global economic trends and the consequences for gender equality in the world of work, as well as to assess the changing status of different categories of men and women workers in the labour force in both the formal and informal sectors. Perhaps the most basic challenge is to *ensure not only that productive employment is placed at the centre stage of macroeconomic and social policies but also that these policies are “engendered”*. In this regard, the Conference may wish to focus on how the ILO’s Global Employment Agenda is helping to promote productive, inclusive and equitable change so that women’s work as well as men’s is fully acknowledged and rewarded, and economic efficiency is balanced with gender justice. Furthermore, the identification of priority gender issues for the ILO and discussion of new areas of work such as the care economy, HIV/AIDS, the life cycle approach, work and family issues, the changing role of men in the labour market could also be addressed.
- 134.** In addition to ensuring a gender perspective in the ILO’s Global Employment Agenda, the other strategic and interrelated objectives of the Decent Work Agenda are also critical. The Conference might also wish to discuss the following points:
- (a) Translating the greater political will and commitment into more effective and sustainable *promotion and realization of the human rights of women and girls* as an integral part of basic human rights. There has certainly been an increase in signatures and ratifications of the human rights instruments since 1995 but implementation in terms of effective policies and programmes is still a challenge.
 - (b) Ensuring *secure and safe work for both women and men*. Even in the formal economy, women’s lower earnings and irregular employment patterns undermine their capacity to participate in and benefit from contributory social insurance schemes. For the vast majority of women in the informal economy, innovative schemes for shared support services and safety nets would improve their protection.
 - (c) *Strengthening the representation and voice of women in social dialogue structures*. There cannot be gender equality at work without freedom of association and it is only through freedom of association that advocacy, voice and partnerships can promote gender equality. The Conference may wish to review especially the experiences of the social partners in reaching out to unorganized women and improving the representation of women at all levels of decision-making, also on how they have been forging alliances and partnerships with new social actors – importantly, women’s organizations – in the common cause of promoting gender equality.
- 135.** A Conference discussion report to the International Labour Conference could take stock of ILO action to respond to these issues and to promote gender equality, in particular in the context of the ILO’s Decent Work Agenda. It would provide for an opportunity to examine the extent to which ILO standards – specific to gender equality – as well as specific provisions on equality in other standards are translated into the range of ILO means of action, identifying gaps and obstacles, as well as highlighting best practices in this regard. An assessment of possible means of strengthening the knowledge base of the ILO on gender equality issues could contribute to improved data collection. This in turn could support and stimulate the advocacy and awareness-raising work of the ILO, the promotion of standards and the implementation of technical cooperation.
- 136.** An item on gender equality for women and men in the world of work on the agenda of the Conference in 2005 would thus represent a significant opportunity to update the overall policy of the ILO as an Organization on gender equality and gender mainstreaming in relation to the Platform for Action adopted in Beijing, the Social Summit commitments

included in the Copenhagen Declaration of 1995, and ECOSOC's adoption in 1997 of a gender mainstreaming strategy. Moreover, a global discussion on gender equality at the 2005 International Labour Conference would provide an important impetus for sustained follow-up and linkages to the outcomes of the 2002 general discussion on the informal economy, the 2003 discussion on the integrated approach to occupational safety and health, as well as of the discussion of the Global Report on discrimination under the Declaration at the 2003 International Labour Conference. It would also reaffirm the ILO's commitment to the promotion of gender equality as being at the core of the Decent Work Agenda. An item on the 2005 International Labour Conference agenda would give constituents the opportunity to identify the way forward based on an assessment of the results of the Office's strategy to mainstream gender in all its activities: standard setting, research, technical cooperation, advocacy and advisory services.

Technical cooperation

8. *The role of the ILO in technical cooperation* (general discussion)⁶⁴

Summary

Following a resolution adopted at the 73rd Session (1987) of the Conference to review the technical cooperation programme regularly, at least every five years, the subject was an agenda item in 1993 when the Conference undertook a comprehensive review of the programme, and again in 1999. In the course of the March 2002 Governing Body discussion on the date, place and agenda of future sessions of the International Labour Conference (see GB./283/2/1), the Employers' group, with the support of the Workers' group, proposed for consideration by the Conference in 2005, a general discussion of ILO technical cooperation activities.

The conclusions concerning the role of the ILO in technical cooperation, adopted by the International Labour Conference at its 87th Session in 1999, set out a broad framework for the ILO's work in technical cooperation, including the future orientation of ILO technical cooperation policy.

Since then, significant changes have taken place and are in progress within the ILO in the approach and modalities for development and implementation of ILO programmes and activities including renewed efforts to increase the synergy between technical cooperation and international labour standards. External developments in the world of development cooperation, such as the United Nations Development Group, Millennium Development Goals and sustainable development and globalization, have had their influence in bringing about some of these changes and calls for continued dynamism.

June 2005 would be an opportune time to have a Conference general discussion on the subject, review the programme, assess how it has responded to the changing environment to make it more relevant in today's world of development cooperation, and seek guidance from the Conference on the way forward.

Background

- 137.** A resolution adopted at the 73rd Session (1987) of the Conference concluded that it would be desirable for the International Labour Conference to review the technical cooperation programme regularly, at least every five years. The Conference reiterated its stance again in 1993 when it undertook a comprehensive review of the programme. The last discussion at the International Labour Conference took place in 1999.
- 138.** It will be recalled that in the course of the March 2002 Governing Body discussion on the date, place and agenda of future sessions of the International Labour Conference (see GB/283/2/1), the Employers' group, with the support of the Workers' group, proposed for

⁶⁴ Reproduced from GB.285/2, paras. 113-124.

consideration by the Conference in 2005, a general discussion of ILO technical cooperation activities.

A new setting for technical cooperation

- 139.** Since 1999, significant changes have taken place and are in progress in the approach and modalities for development and implementation of ILO programmes and activities; a fresh examination of the future role of technical cooperation is warranted.

Within the Organization

- 140.** Significant organizational and structural changes have been put in place since 1999. The adoption of a strategic programme and budget, later supplemented by a strategic policy framework, internal reorganization of headquarters' units with establishment of International Focus (InFocus) Programmes led to consolidation. This consolidation was reinforced by two developments that have progressed during this time period: first, the integration of the regular programme and budget with planning and designing of programmes financed by extra-budgetary resources; and, second, the strengthening of the partnership arrangements with some members of the donor community, which is based on a programme (or thematic) approach as opposed to an ad hoc project-by-project approach.
- 141.** The overall guidance for technical cooperation has been prompted by the development of the Decent Work Agenda, the strategic programme and budget as well as the discussions and conclusions of the four Regional Meetings that have been held since June 1999. New areas of development action have also come to the fore in the ILO in recent years: HIV/AIDS, crisis response and reconstruction, and the follow-up to the Declaration on Fundamental Principles and Rights at Work. In addition, the "integrated approach" to ILO standards-related activities, i.e. developing plans of action to guide all ILO means of action including technical cooperation in a particular area of ILO activities in the context of general discussions at the Conference – adopted by the Governing Body in November 2000 – is a further element to take into account in developing thematic, structured approaches to technical cooperation. Such structured, thematic approaches appear as key in the efforts to increase the synergy between international labour standards and technical cooperation.
- 142.** Coordination and collaboration between headquarters and the field in the area of technical cooperation were strengthened, and regular and systematic joint programming exercises between headquarters technical units and field offices have become routine. In the regions, steps have been taken to streamline management structures and reporting lines and to delineate more clearly the roles and responsibilities of the different components of the field structure.

External developments

- 143.** The recent past has witnessed the emergence of new frameworks on the global scene: the Millennium Summit, the follow-up conferences held in 2000 to the World Social Summit and the Beijing Conference, the establishment of the Global Compact, the World Conference on the Least Development Countries held in Brussels, the New Partnership for Africa's Development, the Third Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the launching of the African Union, as well as the continued reforms within the United Nations system, including the increased use of the United Nations Development Assistance Framework (UNDAF), and the recent development of the poverty reduction strategy papers (PRSPs). There has been setting of Millennium Development Goals and targets. As an active partner in the world of development cooperation, the ILO has had to reorient its work to cater to such new

developments and frameworks, with significant implications for planning and programming of its activities.

- 144.** It should be stressed that many of these developments, both internal and external to the ILO, are quite recent. Their impact on the design of technical cooperation programmes and modalities for implementation has yet to be fully felt. The period that remains until the next International Labour Conference discussion on technical cooperation will undoubtedly witness considerable further adjustments in the ILO's programme, including technical cooperation.

Issues for discussion: The report to the Conference

- 145.** The conclusions concerning the role of the ILO in technical cooperation, ⁶⁵ adopted by the International Labour Conference at its 87th Session in 1999, set out a broad framework for the ILO's work in technical cooperation, including the future orientation of ILO technical cooperation policy and a programme of action with specific directives. The report to the Conference that will serve as the basis for discussions will deal primarily with developments and activities undertaken during the period since the last discussion.

- 146.** The focus will be on:

- enhancing the relevance and effectiveness of the ILO's technical cooperation;
- improving the quality, visibility, effectiveness and impact of ILO technical cooperation; and
- strengthening partnerships.

- 147.** The analyses will be in the context of key internal changes, directly linked to the conclusions adopted by the International Labour Conference in 1999 that have affected the technical cooperation programme. It will also consider technical cooperation in the context of external changes and developments that would have taken place in the realm of development cooperation, like the United Nations Development Group, Millennium Development Goals, poverty, governance, sustainable development and globalization.

Summing up

- 148.** In view of the developments touched upon above, all of which have profound effects on the ILO's technical cooperation programme, June 2005 would be an opportune time to have a Conference general discussion on the subject, review the programme, assess how it has responded to the changing environment to make it relevant in today's world of development cooperation, and seek guidance from the Conference on the way forward.

Geneva, 13 October 2003.

Point for decision: Paragraph 8.

⁶⁵ International Labour Conference: *Provisional Record* No. 22, 87th Session, Geneva, 1999.