



FIFTH ITEM ON THE AGENDA

Improvements in the standards-related activities of the ILO: A progress report (November 2005-March 2006)**Introduction**

1. At its 294th Session (November 2005) the Governing Body had before it a document relating to the outlines of a future strategic orientation for standards and for implementing standards-related policies and procedures.¹ This strategy consists of four interrelated components. The first component would be directed towards a better promotion and application of the existing corpus of up to date ILO standards, the second towards the strengthening of the supervisory system, the third towards the importance of achieving greater visibility of ILO standards and the fourth would be technical assistance, technical cooperation and capacity building. Several proposals were submitted in the Office document² and other suggestions were put forward³ for the implementation of this strategy. The Governing Body approved the Office's proposals in view of comments made during the discussion and invited it to carry out consultations with the tripartite constituents by March 2006 in the light of the discussion. It also asked the Office to prepare a progress report for the period from November 2005 to March 2006.⁴
2. Given the short period of time between the two sessions, and a particularly heavy agenda for both the constituents and the Office, it has not yet been possible to begin these tripartite consultations. The first consultations are scheduled to be held during the current session of the Governing Body and they will relate to improvements in the functioning of the Conference Committee on the Application of Standards and its strengthening. The Office nevertheless considered it useful to provide information on the most important recent activities and developments in relation to the new standards-related strategy as well as empirical data concerning both the change in the number of reports on the application of

¹ GB.294/LILS/4.

² *idem*, para. 22.

³ GB.294/9.

⁴ *idem*, para. 90.

Conventions received in the last ten years and the major trends in respect of ratification during the last 20 years. Some of this information could also be useful in the framework of future consultations.

Improvement and strengthening of the supervisory system

Working methods of the Committee of Experts on the Application of Conventions and Recommendations

3. The Committee of Experts on the Application of Conventions and Recommendations held its 76th Session from 21 November to 9 December 2005. In addition to elaborating its annual report, the Committee adopted a General Survey on Labour Inspection, which examines the application of a number of instruments, including two priority Conventions,⁵ in this important subject area. The Committee also held further discussions as part of the ongoing review of its working methods. In this context, it articulated criteria for identifying and distinguishing cases of progress, i.e. cases of satisfaction and cases of interest, as well as for the footnotes concerning specific countries and Conventions included in its report. The following paragraphs provide information on these criteria.
4. *Criteria for cases of progress.* The experts noted first that an expression of progress can refer to many kinds of measures; in the final instance, the Committee would exercise its discretion, having regard in particular to the nature of the Convention, as well as to the specific circumstances of the country. The experts considered that for the most part “cases of satisfaction” refer to “compliance”, while “cases of interest” refer to “movement”, meaning that measures are sufficiently advanced to justify an expectation of further progress with dialogue to continue on those issues. Cases of satisfaction would involve primarily new or amended legislation, as well as significant changes in national policy or practice. Criteria retained for cases of interest include: draft legislation before parliament, consultations within the government and with the social partners; high-level judicial decisions giving effect to compliance; the progress of a state or territory within a federal system; new policies; the results from technical cooperation activities; and innovative social measures, not necessarily requested by the Committee. The experts agreed that judicial decisions, according to the level of the court, the subject matter, and the force of judicial decision in a particular legal system, would normally be considered as cases of interest unless there were compelling reasons to consider them as cases of satisfaction.⁶
5. *Criteria for footnotes.* The experts agreed on the following criteria with the understanding that they were indicative, and that in exercising its discretion in their application, the Committee may also take into account the specific circumstances of the country and the length of the reporting cycle. These criteria are applicable: (i) when an early report is requested; and (ii) when the government is requested to provide detailed information to the Conference. The difference between these categories is of degree: the latter reflects the Committee’s concern that the seriousness of the situation requires this action. There was agreement that whenever possible the criteria for the attribution of footnotes should be qualitative rather than quantitative, taking into account the seriousness of the problem, its persistence, the urgency of the situation, any recent discussion in the Conference

⁵ The Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

⁶ See paras. 42-46 of the Report of the Committee of Experts, ILC, 95th Session, 2006.

Committee, and the quality and scope of the Government's response (absence of response, wilful/repeated refusal to comply). In determining the seriousness of non-compliance with the obligations of a particular Convention, the Committee would take into account matters involving fundamental rights, workers' health, safety and well-being as well as any adverse impact, including at the international level, on workers and other categories of protected persons.⁷ This would likewise include considerations as to the international impact of the problem(s). Once the aforementioned criteria were assessed, a further step in determining whether to attribute a footnote would be the length of the report cycle until the next review, and the need for the Committee to examine a report before that date. The experts agreed that the mechanism of attributing footnotes would be a two-stage process: initially the expert responsible for a Convention would recommend a footnote. When the Committee had reviewed all the reports and the proposed footnotes, a final collegial decision would then be taken by the Committee as to whether or not a footnote should be attributed. This process was used at the last meeting; 13 footnotes were retained.

Other issues regarding the Committee of Experts

6. The discussion among the experts regarding the responsibilities inherent in the international supervision of Conventions involved a critical, functional and systemic examination of the adequacy of the Committee's working methods in relation to both the ILO's mission and the Committee's ability to deal with an ever increasing workload in terms of the number of ratifications resulting in more reports to be examined (see below), and the continued occurrence of late reports, which oblige the Committee to deal with both current and late reports at the same time.

Article 22 reports requested and received since 1996

Year	Reports requested	Reports received on time for the session of the Conference
1996	1 806	1 413
1997	1 927	1 438
1998	2 036	1 455
1999	2 288	1 641
2000	2 550	1 952
2001	2 313	1 672
2002	2 368	1 701
2003	2 344	1 701
2004	2 569	1 852
2005	2 638	1 820*

* On time for the Committee of Experts.

7. At its last session, the Committee of Experts in fact examined 2,160 reports reflecting reports received on time as well as deferred reports, but it had to defer 659 reports for treatment to its next session in addition to reports due for examination. The situation at present indicates that if the ILO is to continue to supervise effectively the application of standards, it may need to review its approach to supervision in order to determine how best to structure its procedures to provide optimal service in the face of this increasing workload and limited resources.

⁷ See para. 37 of the Report of the Committee of Experts, ILC, 95th Session, 2006.

Conference Committee on the Application of Standards

8. The first consultations to be held in principle in March will relate to improvements in the functioning of the Conference Committee and its strengthening. One essential element is the development of methods allowing the Committee to base its work on a tripartite consensus. In this context, the clarity provided by the criteria established by the Committee of Experts should prove helpful for the work of the Conference Committee.

Committee on Freedom of Association

9. It may be recalled that the Committee on Freedom of Association has reviewed its procedures on a number of occasions and taken decisions that were subsequently reflected in its reports and compiled most recently in "Procedures of the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association for the examination of complaints alleging violations of freedom of association." In 2002, the Committee made a preliminary examination of the effectiveness of its procedure and took a number of decisions, some on a trial basis, which are reflected in its 327th Report (March 2002). The Committee is having ongoing discussions in respect of these procedures and will report back to the Governing Body on any new decisions taken for approval. As regards its caseload, the Committee has regularly informed the Governing Body of the considerable increase in new complaints of alleged violations of freedom of association. New cases filed before the Committee range from a low in the 1996-97 biennium of 85 complaints to a high in the 2004-05 biennium of 147. In addition to the increase in new complaints, the number of cases examined that remain pending in the follow-up stage is also steadily rising, bringing to 382 the overall number (that is to say, those where the recommendations have not yet been fully implemented) of cases before the Committee in 2005 (134 in March, 120 in May/June and 128 in November).

Standards-related technical assistance

10. As a follow-up to the conclusions of the Conference Committee, and among the 19 cases in which the Committee referred to technical assistance to be conducted by the Office, ten missions have been completed⁸ or are envisaged⁹ before the June 2006 Conference. A number of other missions supporting the promotion and application of standards were carried out as well.¹⁰ In particular in the field of social security, missions were undertaken in conjunction with the Council of Europe.¹¹ The missions' objectives included follow-up to the comments of the Committee of Experts, assistance for the preparation of reports on the application of both ILO Conventions and the European Code of Social Security, and promotion of the ratification and the application of Convention No. 102 and the Code.

⁸ Argentina (Convention No. 87); Belarus (Convention No. 87); Colombia (Convention No. 87); Niger (Convention No. 182); Panama (Convention No. 87); Qatar (Convention No. 182); Bolivarian Republic of Venezuela (Convention No. 87).

⁹ Islamic Republic of Iran (Convention No. 95); Mauritania (Convention No. 29); Swaziland (Convention No. 87).

¹⁰ For instance, in Brazil, Russian Federation and Uruguay.

¹¹ Estonia, Romania and Slovenia.

Update on standard-setting activities

11. In February 2006, at its 94th (Maritime) Session, the International Labour Conference adopted the Maritime Labour Convention, 2006.¹² This major framework Convention consolidates and updates 68 existing ILO maritime Conventions and Recommendations. It codifies an agreement between shipowners, seafarers and governments on all of the elements necessary to achieve “decent work” for seafarers, specifically introducing a system under which flag States certify that seafarers’ working conditions on a particular ship meet the “decent work” standards of the Convention. Implementation of these standards will be supported by a “Maritime Labour Certificate” and a “Declaration of Maritime Labour Compliance”. These documents will facilitate the inspection of labour standards on merchant marine vessels by port States. The new Convention will enter into force 12 months after ratification by 30 Members representing at least 33 per cent of world gross tonnage.
12. In addition to the new form of the Convention, its style is new for the ILO. It is drafted in “plain language” with a new structure: articles, regulations and a code with two parts. Each regulation is normally followed by a mandatory “standard”, with a non-mandatory “guideline” indicating the way in which the standard should be implemented. The innovative features of the Convention include an accelerated amendment procedure to enable the updating of technical provisions. One of the main aims of this instrument is to ensure a level playing field for labour standards in the maritime sector worldwide. Particular emphasis is placed on the monitoring of compliance with its substantive provisions, including requirements relating to the maintenance of records in this respect. The International Maritime Organization (IMO) has agreed to cooperate with the ILO in the promotion of the new Convention as part of the international regulatory regime relating to safety at sea, protection of the marine environment and the training of seafarers.

Promoting international labour standards

Ratification patterns since 1985

13. The development of an effective strategy for the promotion of international labour standards requires a certain amount of research and analysis. In this regard, at the request of the Worker members at the previous session of the LILS Committee, the Office undertook some statistical analysis of ratification patterns of ILO Conventions over the past 20 years. The corresponding charts are attached as an appendix to the present document. Series A shows ratification rates of selected groups of Conventions (percentage of ratifications out of all possible ratifications) in the period 1985-2005. Chart A1 shows the ratification rates for the eight fundamental Conventions. There is a noticeable increase in ratifications after the launch of the 1995 campaign for the ratification of the fundamental Conventions, and after the adoption of the 1998 ILO Declaration on Fundamental Principles and Rights at Work. For Africa, the Americas and Europe, ratification rates are over 90 per cent. The figures in series A are sensitive to new member States joining the ILO. The noticeable decrease in the ratification percentage in Europe after 1991, for example, is due to new Members joining after the dissolution of the Soviet Socialist Republics.¹³ To a lesser degree, this series is also sensitive to the adoption of new

¹² See GB.295/4.

¹³ Countries joining the ILO since 1985 (29 in total): *Asia and Pacific*: Republic of Korea (1991), Viet Nam (1992), Kiribati (2000), Democratic Republic of Timor-Leste (2003), Vanuatu (2003),

instruments (as seen, for example, in chart A1 in the temporary decrease after the adoption of Convention No. 182).¹⁴

14. Chart A2 shows the same for the four priority Conventions.¹⁵ This series also indicates a slight upward trend, although ratification rates, with the exception of Europe, are under 60 per cent. If the statistics exclude Convention No. 129, which has attracted far fewer ratifications than the other priority Conventions, the ratification rate for priority Conventions is somewhat higher, as is shown in chart A3.¹⁶ Chart A4 shows the ratification rates of all Conventions other than the fundamental and priority Conventions, excluding those that have been shelved or withdrawn. Chart A5 shows the ratification rates of only up to date Conventions other than the fundamental and priority Conventions. There is little discernable movement in these ratification rates, although it must be noted that 26 new Conventions were adopted and 29 new Members joined the ILO from 1985-2005, so the total number of ratifications actually increased.
15. Series B focuses on seven technical subject areas (maternity protection, migrant workers, occupational safety and health, social security, vocational guidance and training, wages and working time). Chart B1 shows the ratification rates for all Conventions in these subject areas, excluding those that were shelved or withdrawn. Chart B2 shows the same for only Conventions that are up to date. These series show a relatively flat rate of ratification. In some areas with few relevant Conventions, such as wages and maternity protection, the adoption of new Conventions which attracted slow ratification rates (in these cases of Conventions Nos. 173 and 183) caused significant drops. In occupational

Samoa (2005); *Africa*: Eritrea (1993), South Africa (1994), Gambia (1995); *Arab States*: Oman (1994); *Americas*: Saint Vincent and the Grenadines (1995), Saint Kitts and Nevis (1996); *Europe*: Albania (1991), Armenia (1992), Azerbaijan (1992), Croatia (1992), Kyrgyzstan (1992), Moldova (1992), Slovenia (1992), Uzbekistan (1992), Bosnia and Herzegovina (1993), Czech Republic (1993), the former Yugoslav Republic of Macedonia (1993), Georgia (1993), Kazakhstan (1993), Slovakia (1993), Tajikistan (1993), Turkmenistan (1993), Serbia and Montenegro (2000).

¹⁴ Conventions adopted in the period 1985-2005 (26 in total): Labour Statistics Convention, 1985 (No. 160); Occupational Health Services Convention, 1985 (No. 161); Asbestos Convention, 1986 (No. 162); Seafarers' Welfare Convention, 1987 (No. 163); Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164); Social Security (Seafarers) Convention (Revised), 1987 (No. 165); Repatriation of Seafarers Convention (Revised), 1987 (No. 166); Safety and Health in Construction Convention, 1988 (No. 167); Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168); Indigenous and Tribal Peoples Convention, 1989 (No. 169); Chemicals Convention, 1990 (No. 170); Night Work Convention, 1990 (No. 171); Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172); Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173); Prevention of Major Industrial Accidents Convention, 1993 (No. 174); Part-Time Work Convention, 1994 (No. 175); Safety and Health in Mines Convention, 1995 (No. 176); Home Work Convention, 1996 (No. 177); Labour Inspection (Seafarers) Convention, 1996 (No. 178); Recruitment and Placement of Seafarers Convention, 1996 (No. 179); Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180); Private Employment Agencies Convention, 1997 (No. 181); Worst Forms of Child Labour Convention, 1999 (No. 182); Maternity Protection Convention, 2000 (No. 183); Safety and Health in Agriculture Convention, 2001 (No. 184); Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).

¹⁵ The Employment Policy Convention, 1964 (No. 122), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

¹⁶ In its General Survey on Labour Inspection, the Committee of Experts called for a promotional campaign for the ratification of Conventions Nos. 81 and 129 and noted that such a campaign could stress the essential contribution of a labour inspection system, operating in accordance with Convention No. 129, to the promotion of decent work in agriculture (para. 367).

safety and health, the greater number of instruments in this subject area lessens the impact of the adoption of new Conventions on the ratification rate. Ratification rates for technical Conventions remain under 40 per cent. Nonetheless, it should be noted that, as a general pattern, different countries ratify different Conventions; as a result, in many subject areas, most member States are covered by at least one instrument. The charts appear to show that fundamental Conventions have benefited from the focused ratification campaign and universal recognition under the ILO Declaration. Priority Conventions also enjoy moderate ratification rates and appear to be increasing, albeit at a slower rate. The ratification of up to date technical standards, in contrast, appears to have little momentum.

Research on the economic impact of international labour standards

16. As was noted in the paper presented by the Office at the last session of the LILS Committee, the promotion of international labour standards also requires an understanding of their impact on economic development. While the protection of the rights embodied in international labour standards remains central to the ILO's concerns, the efficacy of these standards also depends on their potential contribution to economic and social development, including productive employment. A growing body of research both within and outside the ILO has begun to address this question, yet few of these studies have focused on the specific requirements of ILO standards. Moreover, some of these studies have limited their analysis of the impact of standards on the economy to fixed, static factors such as growth, GDP and employment levels, without taking into account dynamic effects such as increased workers' productivity and skills development.
17. There is therefore a need to analyse the specific economic dynamics of ILO standards, with a view to developing a wider approach to understanding how standards play a role in economic development. At the last session of the LILS Committee, the Employer members invited the Office to provide information in this respect. With funding from the Government of the Netherlands and in coordination with the Employment Sector and other units, including ACT/EMP and ACTRAV, the International Labour Standards Department will prepare a research paper setting out a conceptual framework for the analysis of the possible costs and benefits of standards in a selected number of subject areas. Based on a review of current research in the field, the paper will try to establish possible explicit and implicit costs of applying selected Conventions so as to arrive at a greater understanding of the investments necessary for implementing particular standards. At the same time, the paper will establish the possible benefits and returns that might result from investing in the application of standards as well as the costs of non-application. In this regard, the analysis will seek to move beyond a classical approach to cost and benefit analysis and will try to bring in a wider perspective which takes into account the role of standards in the formation of human and social capital, their impact on productivity, innovation and wage development, as well as their effects in relation to trade competitiveness, the rule of law, demand stimulation, public image and social stability.
18. This project will result in a review of the current status of research on the economic impact of standards and an analytical framework for conducting future empirical research in this regard. A draft of the paper will be presented at a workshop to be organized by the donor at the end of the year. A revised version of the draft will subsequently be available for the March 2007 session of the Governing Body, with a view to publishing a final draft in June. It is hoped that the result will be useful for constituents in their analysis of the impact of standards.

Information and communication

19. New publications relating to standards have been issued. The *Handbook on Procedures* has been revised and will be sent to governments in March with the request for reports. Copies will be available for delegates during the LILS meeting. The *Guide to International Labour Standards* has been updated and is available¹⁷ with a CD. A *Practical Guide to Child Labour Reporting* has been prepared to assist government officials drafting first and subsequent reports under the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182). The guidelines are not meant to provide an interpretation of the Conventions or to suggest methods of interpretation. They are an additional tool (which builds upon the existing report forms) to help government officials include all necessary information for a balanced and comprehensive evaluation of the implementation of the Conventions at the national level. The guidelines include a checklist of questions and suggestions to facilitate full and comprehensive reporting under each Article.

Conclusion

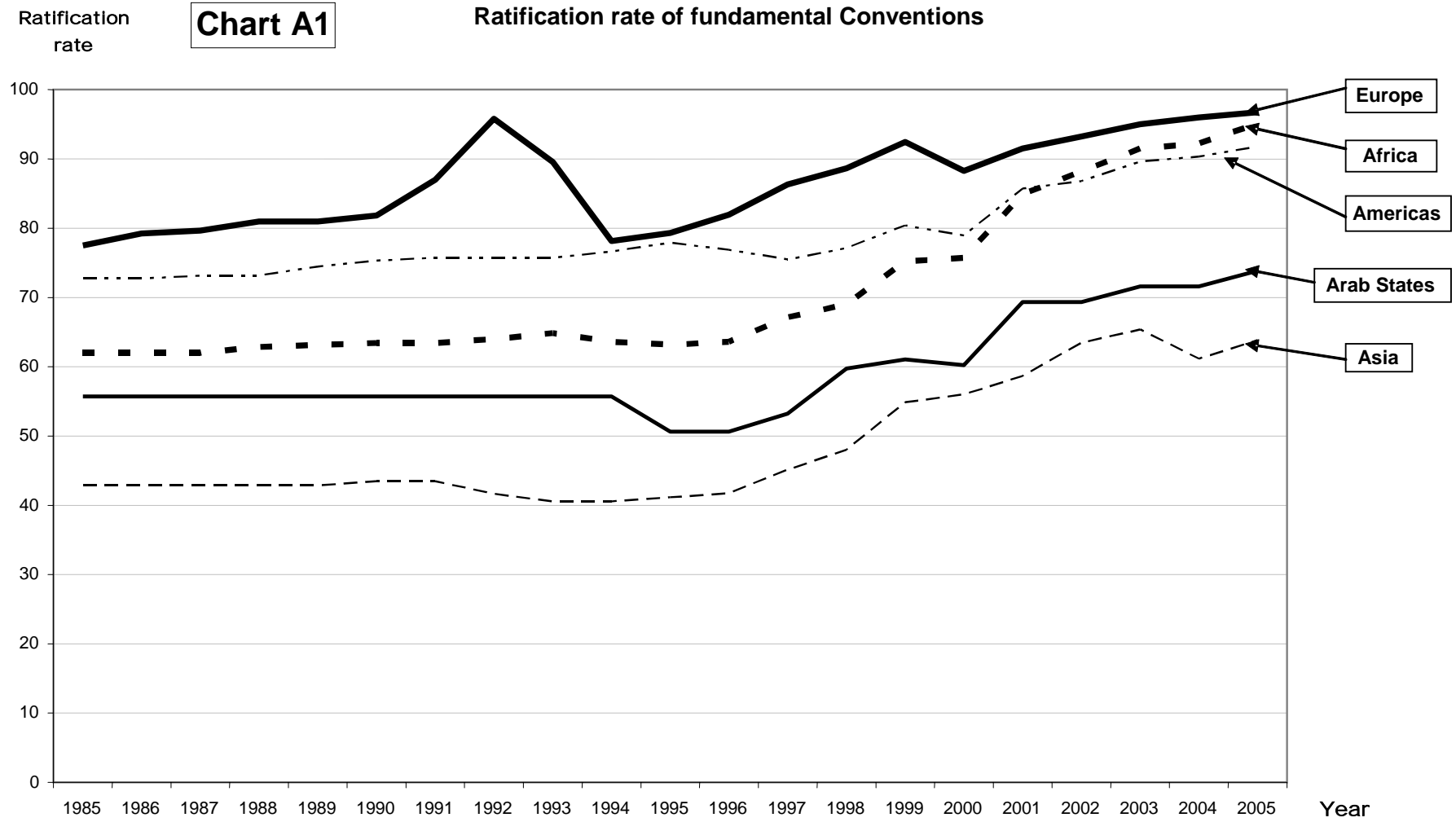
20. As indicated above, the Office intends to commence consultations on all the issues contained in the document submitted to the 294th Session of the Governing Body concerning the strengthening of the supervisory system. On the basis of these consultations, it will submit a further document to the Governing Body at its 297th Session (November 2006).
21. *The Committee on Legal Issues and International Labour Standards may wish to:*
- (a) *take note of the information contained in the present document and provide the Office with guidance it may consider useful in the light of its discussion;*
 - (b) *invite the Office to submit a further document at its 297th Session (November 2006) on the basis of the consultations;*
 - (c) *make appropriate recommendations to the Governing Body concerning the above.*

Geneva, 10 March 2006.

Point for decision: Paragraph 21.

¹⁷ Only in French for the moment. English and Spanish versions will be available soon.

Appendix



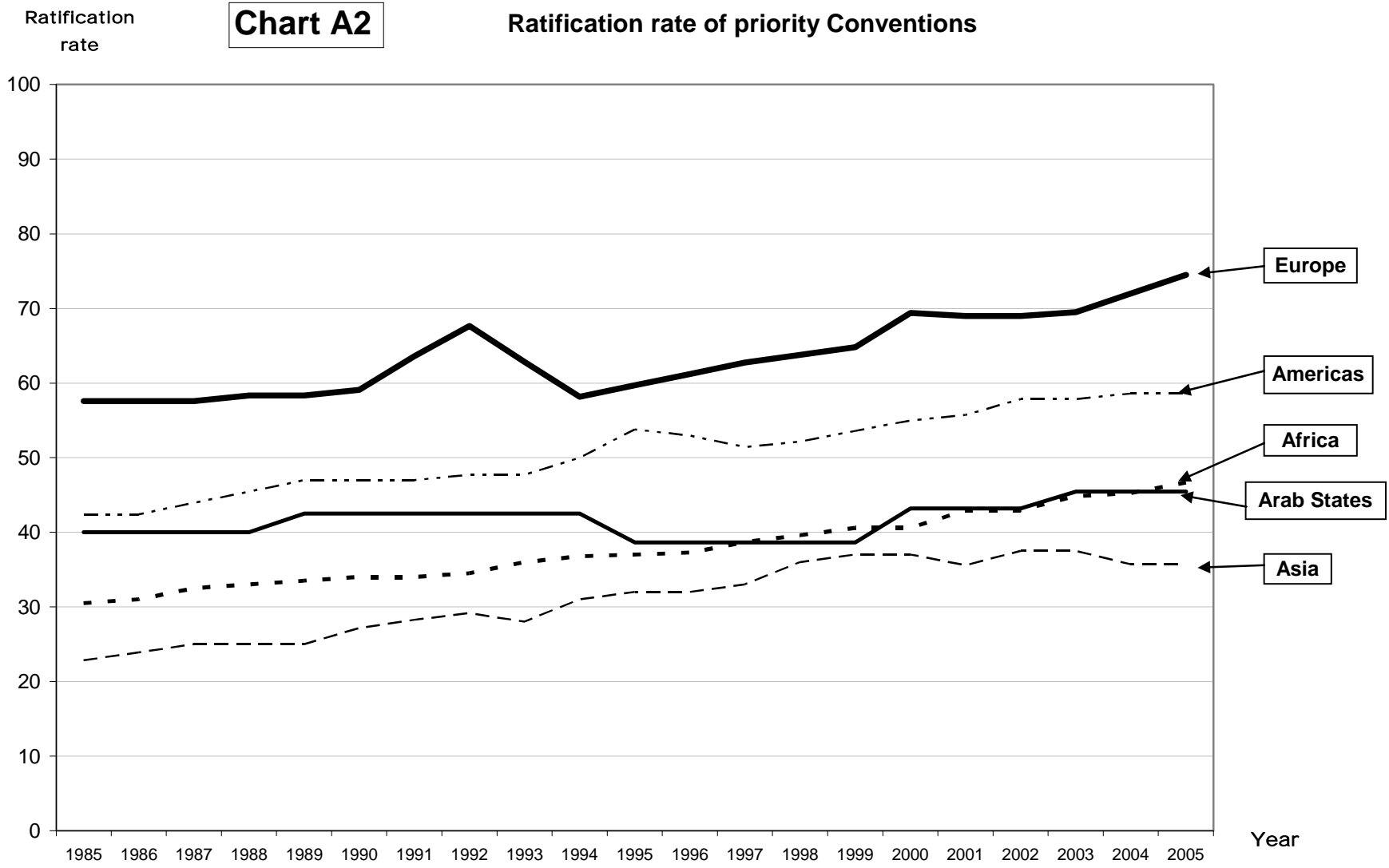
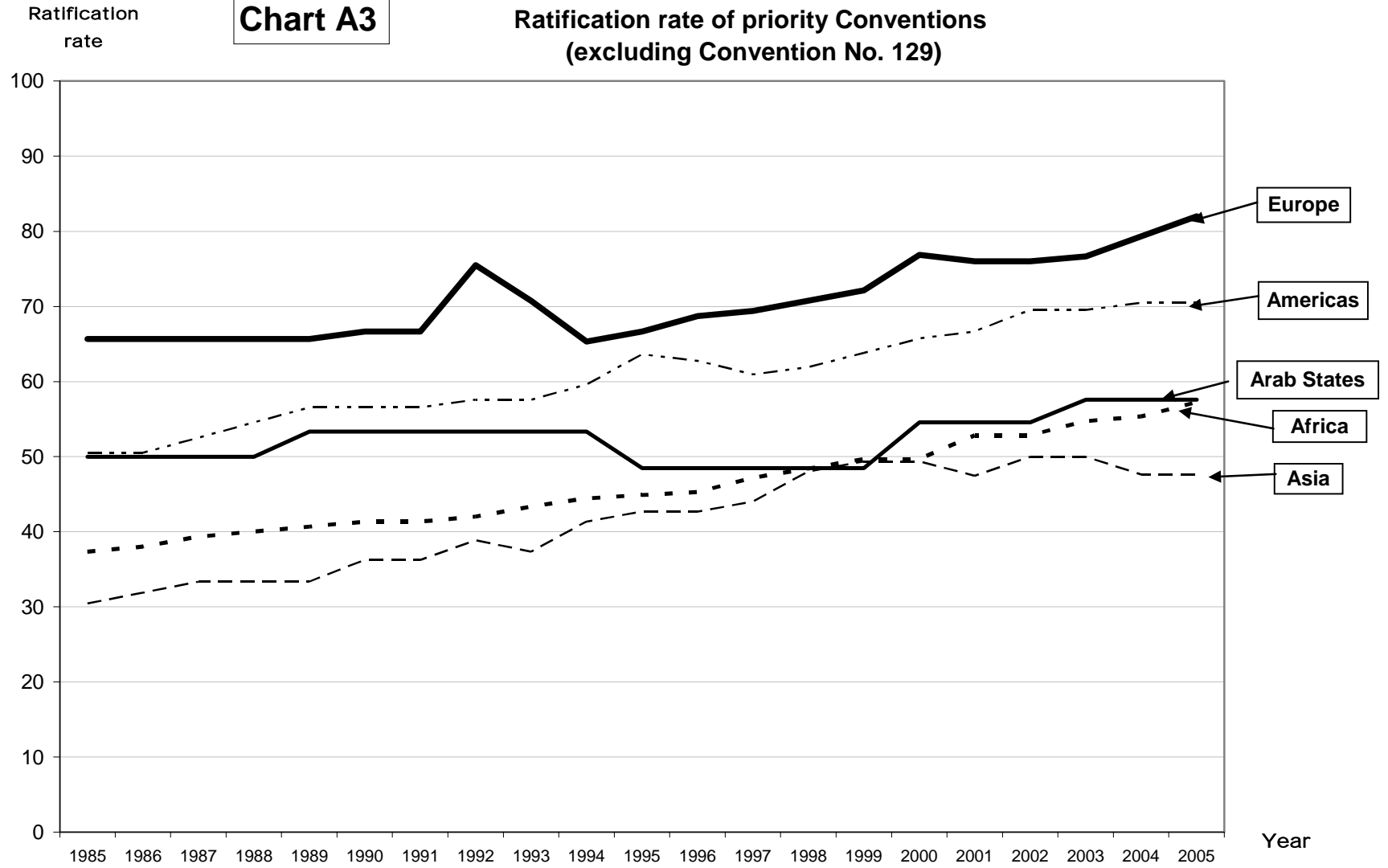


Chart A3

**Ratification rate of priority Conventions
(excluding Convention No. 129)**



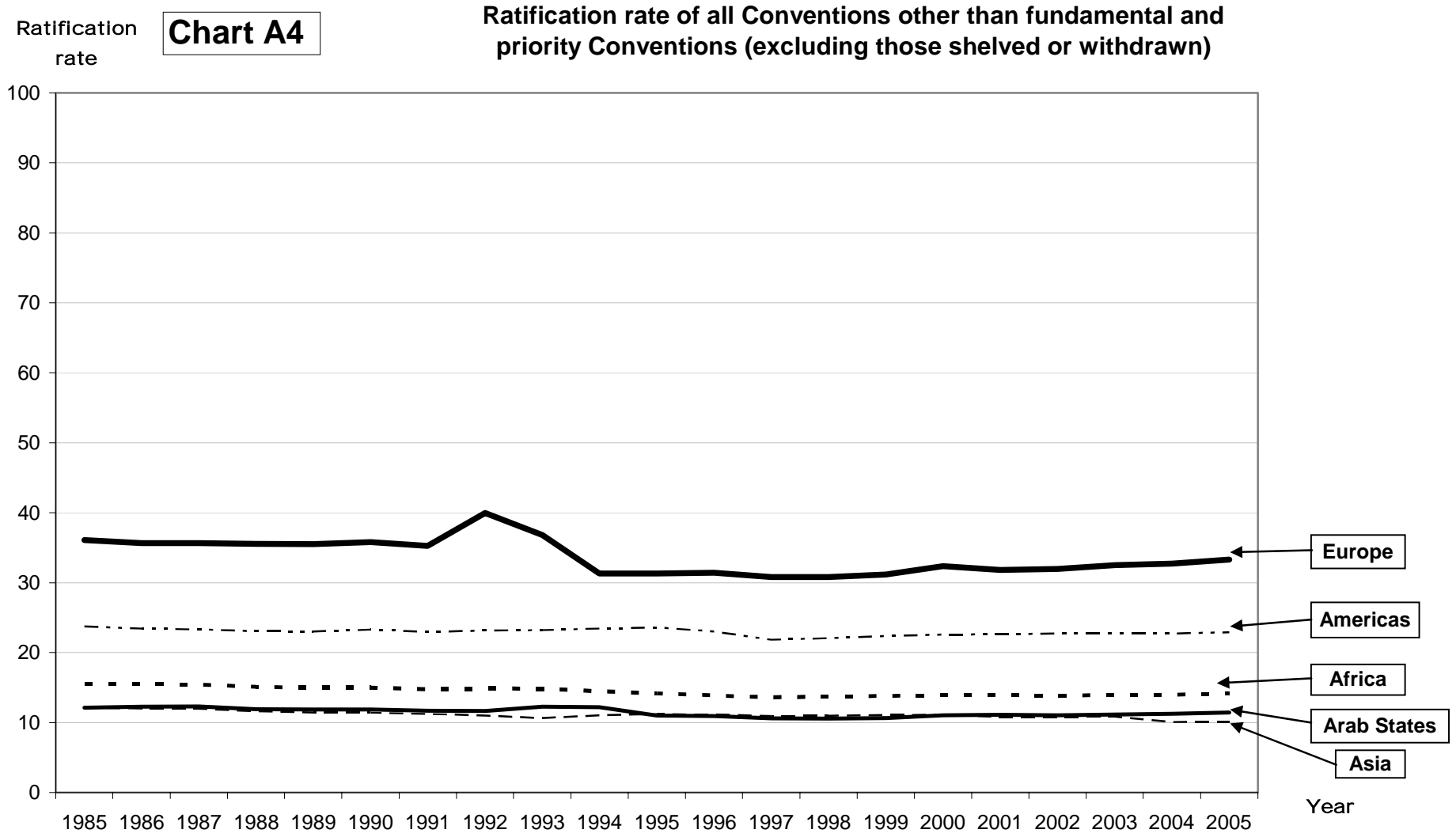


Chart A5

**Ratification rate of all up to date Conventions
(excluding fundamental and priority Conventions)**

