International Labour Conference

Provisional Record

Eighty-ninth Session, Geneva, 2001

15

FIRST PART

Fourth item on the agenda: Safety and health in agriculture
(second discussion)

Report of the Committee on Safety and Health in Agriculture

1. The Committee on Safety and Health in Agriculture was set up by the International Labour Conference at its first sitting on 5 June 2001. The Committee was originally composed of 196 members (92 Government members, 49 Employer members and 55 Worker members). To achieve equality of voting strength each Government member having the right to vote was allotted 2,695 votes, each Employer member 4,785 votes, and each Worker member 4,263 votes. The composition of the Committee was modified several times during the session and the number of votes attributed to each member was adjusted accordingly. [1]

[1] The modifications were as follows:

(a) 6 June: 191 members (87 Governments entitled to vote with 2,695 votes each, 49 Employer members with 4,785 votes each and 55 Worker members with 4,263 votes each);

(b) 7 June: 174 members (91 Governments entitled to vote with 1,710 votes each, 38 Employer members with 4,095 votes each and 45 Worker members with 3,458 votes each);

(c) 8 June: 175 members (93 Governments entitled to vote with 836 votes each, 38 Employer members with 2,046 votes each and 44 Worker members with 1,767 votes each);

(d) 9 June: 172 members (94 Governments entitled to vote with 1,517 votes each, 37 Employer members with 3,854 votes each and 41 Worker members with 3,478 votes each);

(e) 11 June: 173 members (94 Governments entitled to vote with 777 votes each, 37 Employer members with 1,974 votes each and 42 Worker members with 1,739 votes each);

(f) 12 June: 165 members (95 Governments entitled to vote with 7 votes each, 35 Employer members with 19 votes each and 35 Worker members with 19 votes each);

(g) 13 June: 156 members (96 Governments entitled to vote with 899 votes each, 31 Employer members with 2,784 votes each and 29 Worker members with 2,976 votes each)

(h) 14 June: 158 members (99 Governments entitled to vote with 868 votes each, 31 Employer members with 2,772 votes each and 28 Worker members with 3,069 votes each);

(i) 15 June: 154 members (99 Governments entitled to vote with 248 votes each, 31 Employer members with 792 votes each and 24 Worker members with 1,023 votes each);

(j) 18 June: 150 members (100 Governments entitled to vote with 609 votes each, 29 Employer members with 2,100 votes each and 21 Worker members with 2,900 votes each).

2. The Committee elected its Officers as follows:

Chairperson: Mr. C.H.G. Schlettwein (Government member, Namibia).

Vice-Chairpersons: Mr. T. Makeka (Employer member, Lesotho) and Mr. L. Trotman (Worker member, Barbados).

Reporter: Mr. A.B. Che Man (Government member, Malaysia).

3. At its sixth and seventh sittings, the Committee appointed a Drafting Committee composed of the following members: Ms. J. Stearns (Employer member, United States), Mr. L. Trotman (Worker member, Barbados), Mr. C.H.G. Schlettwein, (Government member, Namibia), Mr. P. Dedinger (Government member, France) and the Reporter of the Committee, Mr. A.B. Che Man (Government member, Malaysia).

4. The Committee had before it Reports IV(1), IV(2A) and IV(2B), prepared by the Office on the fourth item of the agenda of the Conference: "Safety and health in agriculture", (second discussion).

5. The Committee held 19 sittings.

Introduction

6. The representative of the Secretary-General presented Reports IV(1), IV(2A) and IV(2B), which had been prepared by the Office to serve as a basis for the Committee's second discussion on safety and health in agriculture. The first discussion, which had taken place in June 2000, had led to the adoption of conclusions. On the basis of these, and in accordance with article 39 of the Standing Orders of the Conference, the International Labour Office had prepared and transmitted to the governments of member States, and through them to national organizations of employers and workers, Report IV(1) which contained a draft Convention and a draft Recommendation concerning safety and health in agriculture. Comments were received from 50 member States in time to be included in Report IV(2A). Many of these included responses from employers' and workers' organizations. The texts of the proposed Convention and proposed Recommendation were published in a separate volume, Report IV(2B).

7. Pointing out that safety and health in agriculture had been a major concern of the ILO since its foundation, the representative of the Secretary-General then outlined recent preventive and promotional activities. These included: publication of a guide on safety and health in the use of agrochemicals, the issuing (in 12 languages) of International Chemical Safety Cards for many toxic substances, including agrochemicals, the recent agreement on the Globally Harmonized System for Classification and Labelling of Chemicals, and the fourth edition of the *Encyclopaedia on Occupational Health and Safety*, with substantial information on agriculture and related topics.

8. The Office had continued its promotional activities aimed at ratification of the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Health Services Convention, 1985 (No. 161), the Chemicals Convention, 1990 (No. 170), the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129). The Committee of Experts on the Application of Conventions and Recommendations had continued to seek to ensure the application of relevant instruments, such as the Guarding of Machinery Convention, 1963 (No. 119). Outlining other recent activities by the Office in the field, the representative of the Secretary-General

mentioned in particular the preparation of a report on Recording and Notification of Occupational Accidents and Diseases and measures for an "integrated approach" to ratification and application of ILO instruments and codes, linking standards to all other measures available to improve safety and health at work.

9. Recalling that it had taken four years of hard work to arrive at a stage where a Convention and Recommendation on safety and health in agriculture could finally be envisaged, the representative of the Secretary-General stated that this was probably the last of the sectoral standards, as in future the ILO was likely to favour an approach where standards and other means of action were integrated.

10. Presenting the two reports prepared by the Office, he reviewed some of the problems that made the preparations of standards dealing with agriculture more problematic than those dealing with other sectors. These included the fact that the technology of agriculture varied widely, from full mechanization to methods relying entirely on physical labour. Much of agriculture was still in the informal sector, with only an estimated 5 per cent of agricultural workers worldwide subject to supervision by labour inspectorates and having some legal protection. It was estimated that about half of the world's 1.2 million occupational fatalities occurred in agriculture. Exposure to toxic chemicals (in pesticides, for example) and accidents with machinery were the two primary causes of injuries and diseases in the sector.

11. The scope of the proposed Convention would encompass four main areas: crop production; animal and insect breeding (the latter to include bee-keeping and the like, and the breeding of insects for the purpose of pest control); primary processing of agricultural and animal products; use of appliances, tools, machinery, etc. It would exclude subsistence farming; agro-industries and related services; the forest industry; and certain undertakings and categories of workers, to be determined after tripartite consultation.

12. As a result of comments received in accordance with article 39, paragraph 6, of the Standing Orders of the Conference, some changes in the proposed Convention were foreseen relative to the text adopted the previous year, in order to provide for greater flexibility. These concerned: reference to the competent authority in Articles 4(3), 6, 9, 10, 13 and 19; suspension or restriction only of those activities which posed an imminent risk in Article 4(3); size of the undertaking and nature of its activities (Articles 7 and 8); transfer of most provisions dealing with the self-employed to the proposed Recommendation; agricultural installations (Article 15), machinery and equipment (Article 10); protection of women workers before and after childbirth (Article 18); and deletion of reference to compulsory insurance from Article 20. The definition of self-employment would occur at the national level.

13. Other suggested changes in the proposed Convention sought to provide for greater consistency as regards: access to information by workers and participation by workers in the application of occupational safety and health measures (Articles 7, 8 and 9); chemical waste and obsolete chemicals (Article 13); and protection against biological risks (Article 14).

14. Suggested changes in the proposed Recommendation also sought to achieve greater consistency and concerned the following topics: prevention of endemic diseases (Paragraph 3(1)(b)(iii)); compilation of statistics (Paragraph 3(2)(b)); chemical waste (Paragraph 4(2)(a)); aged workers (Paragraph 4(3)); local conditions in importing countries as regards machine safety and ergonomics (Paragraph 6); personal protective equipment in the use of chemicals (Paragraph 7(2)); and protection against biological risks (Paragraph 8). Other changes in the Recommendation were suggested in order to provide

for greater flexibility in provisions dealing with welfare and accommodation (Paragraph 10); the occupational safety and health of women workers before and after childbirth (Paragraph 11); and the inclusion of a new section on the self-employed (Paragraphs 12-15, incorporating former Articles 3, 4, 11 and 19).

15. The representative of the Secretary-General then outlined the main issues, as he saw them, to be discussed by the Committee. As regards the Convention these were: its flexibility; self-employed farmers; the use of the phrase "so far as is reasonably practicable"; imminent and serious risk; information to workers on hazards; roving occupational safety and health representatives; the language in which information is provided; machinery and equipment; obsolete chemicals; biological risks; and insurance against injuries and diseases. As regards the Recommendation, the main topics for discussion would be: prevention of endemic diseases; risk assessment; welfare facilities at no cost to the worker; and separate sanitary facilities for men and women.

General discussion

16. The Employer Vice-Chairperson congratulated the Chairperson and the Worker Vice-Chairperson on their election and welcomed the members of the Committee. It was his belief that everyone was willing to work in a way that would ensure the success of the Committee's deliberations. He thanked the representative of the Secretary-General for his introductory address, which was very useful in highlighting the areas where attention needed to be focused.

17. The Employers' group still felt, as it had done the previous year, that a Convention and Recommendation on this question were not needed, and that a protocol or even a general discussion on the matter would have sufficed. In general the Employers' group did not like attempts to impose excessive obligations on employers and over-regulation of the industry. Employers were opposed to the conclusion of sector-specific ILO instruments as a matter of principle. However, employers were willing to accommodate the Governments' and Workers' wishes for adoption of a Convention and a Recommendation on the matter, provided that they reflected the Employers' concerns and interests and were sufficiently flexible to allow for a wide ratification by member States. The Convention would not be widely ratifiable if it did not take account of the Employers' concerns.

18. The texts of the instruments proposed by the Office still posed certain problems for the Employers' group. These mainly concerned procedural questions as to why, for example, some amendments supported by only one country had been included whilst others which had enjoyed wider support had been left out. The Employers could be expected to raise objections to some of those amendments. On the other hand, the texts had been improved in some respects. For example, the references to "self-employed farmers" had been transferred to the Recommendation, although the Employers would have preferred them to be removed from the Recommendation as well. The Employers were still concerned about the mention of self-employed farmers in the Convention even though it was only in relation to cooperation and collaboration with employers and workers.

19. The Employers regarded as particularly serious the failure to include the proviso "so far as is reasonably practicable" or variations thereof. They remained unconvinced by the arguments put forward by the Office for not including that phrase, and would certainly be returning to the question.

20. The Employers were also concerned by the inclusion of certain new issues, including references to biological risks, accident insurance schemes and the "sound management of

chemicals". While the Employers were willing to accommodate the concerns of others with a view to producing a Convention and Recommendation that would be acceptable to all, the introduction of provisions which had elicited serious reservations – for example, provisions to protect pregnant workers – would be counter-productive.

21. In conclusion, the Employer Vice-Chairperson appealed to all the partners to endeavour to accommodate one another's interests and to work together to resolve areas of dispute, preferably without a record vote. The Employers were concerned to protect the safety and health of their workers, and to seek the survival of the agricultural industry.

22. The Worker Vice-Chairperson congratulated the Chairperson and the Employer Vice-Chairperson on their election, thanked the representative of the Secretary-General for his introductory address and pledged the support and cooperation of the Workers' group for the task ahead.

23. With regard to the decision by the Office not to include the phrase "as far as is reasonably practicable" or variants thereof, he reiterated the Workers' view that it was neither necessary nor appropriate to add this phrase to the proposed texts.

24. He thanked the Office for its work in producing the new proposed texts, as well as the Governments and Employers, and welcomed the spirit of goodwill that appeared to prevail. He noted the Employers' willingness to accept sectoral standards provided they were sufficiently flexible. The Workers continued to have faith in the value of open dialogue between the partners based on mutual respect, as a means of producing a ratifiable instrument.

25. The new standards, if adopted, would embody the principle that all persons were created equal, even if their particular circumstances were not. It followed from that principle that all persons should enjoy the same fundamental conditions, and no one should be disenfranchised or treated as a "second-class" person. It was important that the ILO should not lose sight of that principle for, more than any other organization, the ILO bore a great responsibility for making that principle of equality a reality, and the Committee in its work had a great opportunity to demonstrate its commitment to the ILO's Decent Work ethic. The Office was to be congratulated on its perseverance in bringing to fruition the project concerning the proposed instruments.

26. Like the Employers, the Workers still had some concerns. In general, they had attempted not to set their sights too high, and any proposals they might have for amendments would be a "distillation" that would take into account the concerns expressed by the other groups. While recognizing that some of those concerns were very strong, such as those concerning "shared amenities", it was important this year to adopt a rational approach. In the interests of producing a ratifiable instrument, the Workers were prepared to accept certain changes to the proposed instruments, such as the transfer of references to self-employed farmers from the proposed Convention to the proposed Recommendation. They hoped that others would understand their concerns, even if they did not always agree with them, and they in turn were willing to work speedily and to discuss any issue. The ILO had a great responsibility in matters of safety and health and should not renege on them.

27. The Government member of Brazil reported that his country had acted on its previously stated intentions to introduce new legislation on safety and health in agriculture inspired by the Office's texts. It had also set up a tripartite committee on agriculture which aimed to promote consensus between employers and workers. These measures would, it was hoped, lead to improvements in conditions for Brazilian agricultural workers by the end of 2001. Brazil would also implement the instruments adopted by the Conference.

28. The Government member of Japan said that agriculture was a basic industry in many countries, and covered many workers. Many of them faced safety and health problems arising from a harsh environment, or from exposure to chemicals and machinery, and it was vital to protect their interests. It was very important to take into account the different conditions prevailing in different countries and thus to focus on truly fundamental issues, to ensure a final instrument acceptable to as many countries as possible.

29. The Government member of Australia emphasized that Australia recognized the importance of the issue of safety and health in agriculture, but reiterated his Government's view that a Convention would be premature and inappropriate at this point in time, given the likelihood that it would have to be reviewed in 2003 under the proposed new "integrated approach" to standard setting. Some attention needed to be given to such issues as flexibility and areas of overlap with other instruments. However, if the other members were not willing to defer adoption of an instrument, special care would be needed with regard to its form. In his view, it should take the form of a Recommendation referring to Convention No. 155 but in no way duplicating its provisions; such a Recommendation should focus on how to apply Convention No. 155 in the agricultural sector, where appropriate. If the new instrument were, despite these reservations, to take the form of a Convention, it should take account of different national conditions and not be too prescriptive as to details, which were best left to national law and practice. Failure to adopt such an approach might well result in a Convention which few countries felt able to ratify, as had been the case with some of the construction and mining sector Conventions.

30. The Government member of Côte d'Ivoire said that agriculture was of vital importance in countries like his own, where many agricultural workers in both the formal and informal sectors worked in very difficult conditions. He therefore welcomed the opportunity to adopt a Convention and Recommendation in this area, which was as important to development as it was to safety and health, and considered that the proposed texts provided a sound basis for discussion.

31. The Government member of Barbados, speaking on behalf of her Government and of the other Caribbean member States, said that she supported the adoption of the Convention as part of a commitment to the principles embodied in the ILO's 1998 Declaration on Fundamental Principles and Rights at Work, provided that it could be made flexible enough to allow wide ratification. The cost implications of the time frame adopted for ratification also needed to be borne in mind.

32. The Government member of Algeria welcomed the inclusion of safety and health in agriculture on the International Labour Conference's agenda, since it was vitally important to countries such as his own. Safety and health in agriculture covered environmental issues, such as drought, which affected some countries and not others. Other issues which needed to be taken into account included those arising from market reforms and privatization programmes which had been adopted by some countries. Algeria, for example, had recently changed its previously centralized and universal social protection scheme, so that self-employed workers now had their own scheme. Developments in biotechnology and the issue of self-sufficiency also came into play, as did variations in conditions and agricultural methods employed by different countries. An intersectoral approach to the matter of standards was necessary in this area, to take account of environmental and climate-related issues. He also drew attention to the problems caused in developing countries by defective or poorly maintained agricultural machinery. There was often no inspection of such equipment, or awareness of its hazards. Such accidents were as important as chemical poisoning in the costs that they entailed. He called for the creation of an international system of inspection and certification of agricultural equipment. A

related useful initiative would be the creation of interregional and international databases on injuries and diseases in agriculture, to help countries identify their particular problems.

33. The Government member of Zambia welcomed the proposed Convention, in particular Article 18, which had been introduced to safeguard the interests of women agricultural workers. She looked forward to a successful conclusion of the Committee's discussions.

34. The Government member of Egypt welcomed the ILO's efforts to guarantee safety and health in agriculture and was in favour of the adoption of a Convention and a Recommendation. Since 1966 his Government had developed rules concerning the use of chemicals, the application of preventive measures as well as social protection, including pension funds, for agricultural workers. Recognizing the special need to protect children and minors, it had recently established a minimum working age of 14 years in the agricultural sector.

35. The Government member of the Syrian Arab Republic stated that his country's Law No. 134 had established safeguards for the safety and health of workers in agriculture. To ensure the application of those provisions, supervisory committees, which included trade unions, had been established. Young people under 15 were not permitted to work in agriculture and women working in the sector were granted 115 days of maternity leave. The Syrian Arab Republic had ratified Conventions Nos. 155 and 129, which also covered agricultural workers, but considered they needed to be updated. The Government of the Syrian Arab Republic welcomed the adoption of both a Convention and a Recommendation.

36. The Government member of Lebanon pointed out that agriculture employed the largest part of his country's labour force, and made an important contribution to the national economy. Recognizing that this sector presented risks to safety and health, the Government wished to improve the country's legislation in this area. In 2000, the Government had submitted to the ILO observations concerning the proposed Convention and Recommendation, and noted with satisfaction that these had been taken into consideration by the Office.

37. The Government member of the Russian Federation expressed his Government's full support for the efforts of the ILO to develop international labour standards. The recent presentation of five Conventions for ratification by the Duma was proof of its interest in this matter. It also considered the adoption of new standards on safety and health in agriculture an important step forward. In connection with the proposed texts, he drew attention to a divergence in different language versions.

38. The Government member of South Africa thanked the ILO for its commitment to the protection of agricultural workers. She felt that it was time to move beyond talks about human rights and start translating human rights principles into practical action. Respect for human dignity clearly required action to ensure the safety and health of agricultural workers. These concerns could provide a framework for new relationships between employers and workers and could help overcome historical animosities. South Africa was recovering from a difficult past and was eager to promote respect for the human rights of its agricultural workers.

39. The Government member of India noted that agriculture was the principal occupation in India, with 135 million identified workers in the sector. Any protection of this large segment of the population would be welcome. It should be understood, however, that India's federal system meant that the implementation of a nationwide policy on safety and

health in agriculture would take time. It should also be understood that the proposed Convention would need to be flexible, with emphasis on its implementability.

40. The Government member of Nigeria called attention to the poverty and youth of many people working in agriculture in her country. She asked the Committee to be flexible with regard to the minimum age stipulated in Article 16 of the proposed Convention, since there were many 12-14 year-olds active in Nigerian agriculture. Furthermore, it would not be productive to require that people use protective clothing that they could not afford. Article 20, on insurance, was another potential source of difficulty. Flexibility would be an absolute requirement for ratifiability.

41. The Chairperson acknowledged the delegate's concerns, but pointed out that flexibility on the issue of minimum age was limited by the existing Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).

42. The Government member of Papua New Guinea emphasized the importance of agriculture in his country, where 80 per cent of the population relied on agriculture. For that reason, it was important that any Convention adopted by the Committee be flexible enough to be ratified.

43. The Government member of Malawi stated that agriculture employed more than 80 per cent of his country's population. Agricultural workers were exposed to risks that were not faced by people in other sectors. He noted that Convention No. 155 had had little influence on safety and health in agriculture in spite of its theoretical applicability to that activity, so a separate Convention dealing with the sector-specific problems would be most welcome. The question of ratifiability was essential, but it was also true that too much flexibility could be detrimental to the purpose of the instrument. In any case, his Government fully supported the adoption of a Convention supplemented by a Recommendation.

44. The Government member of Kenya remarked on the particularly important place of agriculture in developing countries such as his own. His Government saw health and safety in agriculture as crucial for development, because of the importance of the sector. He had every expectation that a Convention and Recommendation would be adopted.

45. The Government member of Namibia reminded the Committee that agriculture created jobs, especially in rural areas. She also underlined the importance of protecting women and children in the sector.

46. The representative of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers (IUF) noted that agriculture ranked with mining and construction in its shamefully high rates of death and injury. He recalled that last year's Committee had brought forth a strong Convention and a strong Recommendation, and declared his confidence that this year's deliberations would be equally successful. He called on the ILO to expand its commitment to the world's largest sector. Among agriculture's many risks, pesticides were of particular concern. They were often produced under stringent conditions but used without any control whatsoever. It also happened that products banned in industrialized countries continued to be applied in the developing world. The speaker expected rapid and extensive ratification of the Convention that would result from the Committee's work, and called on the ILO to help member States implement its provisions. His organization and its affiliates supported the Worker members' desire that the Convention provide for regional representation schemes; he asserted that the Employer members would find such schemes cost-effective. The IUF welcomed the ILO's new Code of Practice on HIV/AIDS in the workplace, because HIV infection was

widespread in many countries with a predominantly agricultural workforce, and the workplace was a good place for the dissemination of information on the disease and its prevention. He invited the Committee to consider links between the instruments under consideration and the Code of Practice.

47. The representative of the International Movement of Catholic Agricultural and Rural Youth also spoke in the name of the World Movement of Christian Workers, the International Federation of Rural Adult Catholic Movements and the International Young Christian Workers. These four organizations, which together represented more than 10 million workers in 75 countries, welcomed the efforts of the ILO to develop a Convention and a Recommendation on safety and health in the agriculture sector. She was somewhat surprised to see that the largest and most vulnerable group of agricultural workers, namely family subsistence farmers, were excluded from the scope of the Convention. Their self-employed status would not permit them to benefit from the progress embodied in the Convention while obliging them to meet the security and health standards. The Convention should therefore include the requirement that workers be provided with the means to meet its standards. To determine the most effective means of protection for these workers, cooperation with workers' organizations should be strengthened. To ensure safety in the use of chemicals, it was vital for an impartial team to study real situations and warn authorities of potential problems; international standards for the use of chemical products should be established; instructions should be translated into local languages and appropriate training should be provided. Whereas the emphasis on young workers was welcome, there was also a need to consider the question of older workers, who constituted a particularly vulnerable group. The poor working conditions and lack of protection of seasonal workers should also be addressed. Finally, although the Convention and the Recommendation gave equal place to men and women, it was a fact that women were more likely than men to lack access to information and training, and thus to suffer more from poor and unsafe working conditions.

Consideration of the proposed texts contained in Report IV (2B)

A. Proposed Convention concerning safety and health in agriculture

Preamble

48. The Preamble was adopted without amendment.

I. SCOPE

Article 1

49. The Government member of Austria, speaking on behalf of 12 Government members (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain and the United Kingdom), submitted an amendment adding the words "and forestry" after the word "agricultural" in the first line. Speaking on behalf of the same Government members, he immediately submitted a subamendment to the amendment, adding the same words after the word "agricultural" in the second line. The intention was to make express mention of forestry in the proposed Convention, given that its inclusion was implied in the list of activities carried out by agricultural undertakings, which came immediately afterwards in Article 1. The Workers and the Employers both opposed the amendment and subamendment. The Workers preferred their own amendment to Article 1,

which had been elaborated after significant consultations since the first discussion. The Employers opposed the amendment and subamendment because the result would be the inclusion of "forestry undertakings" in the Convention. Opposition was also expressed by the Government member of the United States, who considered that forestry should be the subject of a separate standard; and by the Government member of Finland, who pointed out that in his country considerable progress had been achieved on safety and health in forestry, through the certification process and codes of practice, and that including forestry in this Convention would jeopardize a fuller debate and separate Convention on forestry. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee (Algeria, Angola, Botswana, Congo, Côte d'Ivoire, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, South Africa, United Republic of Tanzania and Zambia), expressed support for the amendment and subamendment, on the grounds that there was an overlap between agricultural activities and forestry activities.

50. The Workers submitted an amendment, to the effect that the words "forestry activities" be inserted after the words "crop production" in the second line. The Employers expressed their support for the Workers' amendment.

51. There was considerable further discussion on the question of whether and how to include forestry or forestry activities in the Convention. The Workers' group sought to ensure that workers involved in forestry activities akin to agricultural activities, such as tree planting and nurturing, should be covered by the Convention. They considered such workers to be agricultural workers, not industrial workers in the forestry industry. While not wishing to deny workers protection, the Employers' group did consider that the forestry industry was different from agriculture and therefore should not be included in the proposed instrument, although they agreed that some forestry activities carried out by workers in agricultural undertakings, such as tree planting and nurturing, should be covered by the Convention. The Government member of Austria, on behalf of 12 Government members (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain and the United Kingdom) welcomed the clear statement by the Employers that tree planting and nurturing should be covered by the Convention, and said it was also their intention to include workers in such forestry activities in the Convention. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, expressed agreement with the Workers' intentions and their support for an inclusive approach on this issue.

52. Following consultations, the Workers' group submitted a subamendment to their amendment, changing the part of Article 1 between the words "agriculture" in the first line and "animal husbandry" in the second line, to read as follows: "... covers agricultural and forestry activities carried out in agricultural undertakings, including crop production, forestry activities ...". The amendment submitted by the Government member of Austria, on behalf of the Government members of the Committee Member States of the European Union, was withdrawn, as was the subamendment submitted simultaneously.

53. An amendment submitted by the Government member of Argentina, on behalf of the Government members of Brazil, Chile, Paraguay and Uruguay, and proposing the addition of the words "forestry and the exploitation of forests" after the word "activities", was withdrawn.

54. The amendment submitted by the Workers' group was adopted, as subamended.

55. The Government member of Uruguay presented an amendment submitted by the Government members of Argentina, Brazil, Chile, Paraguay and Uruguay, which applied

to the Spanish version of the proposed Convention only. This sought to substitute the words "*cría de animales*" for the word "*ganadería*", thereby broadening the Spanish version to include sheep and goats as well as cattle. The amendment was adopted.

56. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom), submitted an amendment in three parts which proposed:

1. inserting the words "or on behalf of" after the words "animal products by" in the third and fourth lines;

2. inserting the words "and maintenance" after the word "use" in the fourth line;

3. deleting the words "and the services directly related to these activities" at the end.

The intention was to ensure that maintenance, a normal part of everyday work practices in agriculture, was included in the scope of the proposed Convention.

57. The Chairperson proposed that the first two parts of the amendment be considered together, and the third part separately. This was acceptable to the proposers, but was opposed by the Employer Vice-Chairperson, who explained the Employers considered the amendment to be a single package, which they could support if it were considered as such. Were it to be adopted, they would withdraw the amendment they were proposing to submit on the same part of the Article. If the third part of the amendment was dropped, the Employers would support only parts 1 and 2, and would then maintain their own amendment. The Workers' group expressed strong support for the first two parts of the amendment submitted, as it strengthened the proposed Convention, but they also opposed the third part. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, was also in favour of adopting parts 1 and 2, but not part 3.

58. Parts 1 and 2 of the amendment were adopted.

59. Discussion moved to part 3 of the amendment, and the Employer Vice-Chairperson restated his group's opposition to part 3, which it judged to be redundant and likely to lead to confusion. The Employers would only support part 3 of this amendment if their own amendment were also adopted. The Worker Vice-Chairperson considered it useful to enumerate the various services related to agricultural activities, but anticipated problems in interpretation if the list proved not to be exhaustive. For this reason, the Workers preferred a more general statement, such as the one that part 3 of the amendment proposed to delete.

60. The Employers submitted their amendment, which proposed replacing the words "and the services directly related to these activities" by the words "and any process, storage, operation or transportation, in an agricultural undertaking, which are directly related to agricultural production". The intention was to ensure clarity and precision in the proposed Convention; if the text were too general, its interpretation would be left to others. The Employers wished to reintroduce the wording agreed after much discussion during the first discussion.

61. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, proposed a subamendment to the amendment submitted by the Employers, changing the introductory word "and" to "including", and withdrew their own amendment. The Worker Vice-Chairperson indicated his group's readiness to support the amendment of the

Employers' group if subamended as proposed. The Employers' amendment was adopted, as subamended.

62. Article 1 was adopted as amended.

Article 2

63. The Employer members, for their part, and the Government members of Argentina, Brazil, Chile, Paraguay and Uruguay, for theirs, submitted amendments to delete "the industrial exploitation of forests" from Article 2's enumeration of activities not covered by the term "agriculture" in the proposed Convention. The Employer members declared that their amendment had been motivated by the absence of forestry in the preceding text. Now that it was clear that some forestry activities were covered, it seemed appropriate to withdraw the amendment. However, the Employer members preferred the formulation adopted by the Committee during the first discussion of the proposed Convention, and sought a way to subamend their amendment to restore that phraseology. The Deputy Legal Adviser pointed out that the only two courses now available to them were to withdraw their amendment, leaving the Office text, or to subamend their proposal for only a partial deletion. If their amendment to delete were adopted it would eliminate the text and would not leave text which could be subamended. A purported subamendment to reintroduce the last year's formulation would amount to a new amendment and would not be admissible. She confirmed that the record of the meeting would show the Employer members' preference for last year's formulation, should interpretation of the Convention be necessary in the future. On this understanding, the Employer members withdrew their amendment, and recommended that the Government members withdraw theirs. This sentiment was echoed by the Worker Vice-Chairperson, and the Government members of the five States withdrew their amendment.

64. Article 2 was adopted without amendment.

Article 3

65. The Government members of Argentina, Brazil, Chile, Paraguay and Uruguay submitted an amendment to insert the words "and forestry" after the word "agricultural" in subparagraph (a), which entitled the competent authority to exclude "certain agricultural undertakings" from the application of the Convention. The Government member of Uruguay explained that this would render the subparagraph consistent with the foregoing text, which now made explicit reference to forestry. The Worker Vice-Chairperson observed that the Committee had agreed that agriculture and forestry activities might be covered, but not undertakings, and opposed the amendment. The Employer Vice-Chairperson expressed doubt about the appropriateness of the amendment in light of the discussion on Articles 1 and 2, and the amendment was withdrawn for lack of support.

66. The Government member of Japan submitted an amendment to add the words "where applicable" to subparagraph (b), which obliged the competent authority, "in the case of such exclusions" as authorized in subparagraph (a), to plan the progressive extension of the coverage of the Convention "to all undertakings and all categories of workers". He felt that the change was justified because it was inconceivable that all the instrument's provisions should be applied to all agricultural undertakings and all categories of workers. The Worker Vice-Chairperson agreed with the concern which had led to the proposed amendment, but he asserted that the words "in the case of" already present in the text were a sufficient qualification, and opposed the amendment. The Employer Vice-Chairperson supported the proposed amendment. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee (Algeria, Angola, Botswana,

Burkina Faso, Congo, Côte d'Ivoire, Guinea, Kenya, Lesotho, Liberia, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, South Africa, United Republic of Tanzania, Zambia and Zimbabwe), opposed the amendment as being superfluous and unnecessary. The Government member of Sweden, speaking on behalf of the Government members of the Committee Member States of the European Union, concurred. The Government member of Japan withdrew the amendment, in view of the fact that the record would show that the words "in the case of such exclusions" were considered to provide the necessary flexibility.

67. The Worker Vice-Chairperson introduced an amendment to add a new paragraph 3 to Article 3, as follows: "Where the national law provides higher standards for workers, then national law and practice shall apply.". The proposal had been prompted by the attempts made by certain governments to water down their national laws where the provisions of a Convention were less stringent than those of existing national legislation, which had caused workers in some cases to lose acquired benefits. Such moves were not in keeping with the unambiguous provisions of Article 19(8) of the ILO Constitution, which stated quite clearly that: "In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom, or agreement which ensures more favourable conditions to the workers concerned than those provided by the Convention or Recommendation". However, on that clear understanding, the Worker members felt able to withdraw the proposed amendment.

68. Article 3 was adopted without amendment.

II. GENERAL PROVISIONS

Article 4

69. The Employer Vice-Chairperson introduced an amendment to insert the words "so far as is reasonably practicable" after the word "controlling" in the sentence that stated the aim of national policy to prevent accidents and injury "by eliminating, minimizing or controlling hazards in the agricultural working environment". He emphasized that the amendment in question had been the subject of much discussion, and Conference records showed that many governments supported the inclusion of the proposed wording as it reflected terms already used in their national legislations. The absence of the proposed qualification would imply an absolute liability which was quite inappropriate. Another argument in favour of the amendment was the fact that the wording in question had been used in other instruments, and was not by any means outmoded; not including it in the Convention might entail the risk of entering uncharted waters, and careful thought needed to be given to the practical implications. The arguments put forward by the representative of the Deputy Legal Adviser for not including the phrase were not, in the view of the Employer members, very convincing. The proposed amendment was essential if the instrument was to have the flexibility of which there had been so much talk, and its importance to the employers – who had already shown that they were not unwilling to compromise where they were able to do so – could not be exaggerated; indeed, without it, they would have great difficulty in supporting the Convention and its ratification. Those who opposed inclusion of the phrase therefore needed to ask themselves whether they would really lose anything if it were included. That seemed unlikely, as its inclusion in other instruments had apparently not been considered to imply any loss before. Without it, the instrument would be deprived of the flexibility it needed to be assured of ratification by a large number of countries. He therefore appealed to all those who might oppose the amendment to reconsider their position.

70. The Worker Vice-Chairperson agreed that the Employers' group had shown much good faith during discussions thus far and the spirit of cooperation was very encouraging. It was, however, disappointing that they should appear to threaten to oppose ratification if they could not persuade the Committee to adopt their proposed amendment. According to the Office commentary on Article 4 contained in Report IV(2A), "After much deliberation and Office legal advice, it was found neither necessary nor appropriate to add this phrase or variations of it". The comments made by the representative of the Secretary-General during last year's meeting of the Committee (paragraph 15 of Provisional Record 24) had taken a similar line, and the Government member of Zimbabwe had on that occasion drawn attention to the fact that since the time when the qualification in question had routinely been used, the "priority prevention principle" had become established (paragraph 72 of Provisional Record 24). According to that principle, the ideal was to eliminate a hazard, but if that were not possible, it should be minimized or controlled, in that order of priority. That principle was considered to conflict with the principle implied by the phrase "so far as is reasonably practicable". Since the ILO's legal advice was authoritative, and since the Workers' group set great store by adherence to legal principle, they were insistent in their wish not to include the phrase in question.

71. The Government members of Australia, India, Ireland, Sri Lanka, United States and Venezuela supported the proposed amendment on the grounds that it introduced the necessary flexibility. The Government member of Bahrain, speaking on behalf of the Government members of Kuwait, Oman, Saudi Arabia and the United Arab Emirates, also supported the amendment.

72. The Government member of China supported the proposed amendment on the grounds of flexibility. It was vital to protect the safety and health of agricultural workers, and for that, it would have to be possible to ratify and apply the Convention in practice.

73. The Government member of Chile, speaking on behalf of the Government members of Argentina, Brazil and Uruguay, opposed the amendment on the grounds that the necessary flexibility in such an instrument was traditionally, and more appropriately, introduced with a reference to "national laws and practice".

74. The Government member of Barbados considered that the existing text, in particular the introductory sentence, already provided the necessary flexibility and therefore opposed the amendment as being unnecessary.

75. The Government member of Sweden, speaking on behalf of 12 Government members of the Committee Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Portugal, Spain and Sweden), opposed the amendment on the grounds that the wording of Article 4.1 already provided the necessary flexibility and thus met the concerns expressed by the Employer members.

76. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, said that while he understood the Employer members' concerns, the ILO's own legal advice was against inclusion of the phrase in question, and his group therefore opposed it.

77. The Government member of the United Kingdom supported the amendment on the grounds that it was important for the Convention to be as inclusive as possible.

78. The Government member of Hungary opposed the amendment.

79. The Employer Vice-Chairperson expressed appreciation for the support that certain governments had given to the proposed amendment. In the Employers' view, the Office's commentary in Report IV(2A) showed that the issue was not a simple one. Indeed, for employers operating in countries with a "common law", rather than a codified, legal system, it was of vital importance. It would be extremely difficult for the Employers to drop the proposal to reintroduce the words in question, which the Office had originally included in the text in an effort to accommodate the Employers' concerns. Deleting those words had resulted in considerable difficulties; on the other hand, including the words would not create difficulties for those who had objected to them.

80. It was for the Committee to decide, and in doing so it would obviously have to take into consideration the Office's legal advice as well as other legitimate considerations. It might well be felt desirable in future to avoid such difficulties. The intention had been to create greater clarity and greater compatibility with common law systems. As it had not proved possible to arrive at a consensus on this question, he suggested the Committee should either adopt the Employers' amendment or proceed to a vote by show of hands.

81. The Worker Vice-Chairperson considered that, far from creating greater clarity, the words proposed under the amendment in fact tended to obfuscate the issue. Whilst understanding the intentions behind the Employers' amendment, the Workers continued to have serious difficulties in accepting the proposed addition, and did not fully understand the excessive concern expressed by some Governments with regard to "flexibility". Indeed, that appeared to have deflected from the fundamental goal of the Article, namely, that of establishing a policy which "shall have the aim of preventing accidents and injury". In the Workers' view, the Committee should focus on that goal and should be guided by the advice already given by the Office, to the effect that the words proposed were unnecessary and inappropriate.

82. Put to a vote by a show of hands, the amendment was rejected by 91,586 votes in favour, 125,400 votes against, with 4,554 abstentions.

83. Article 4.1 was adopted without amendment.

84. The Government member of Japan submitted an amendment to introduce the words ", if necessary," after the word "establish", and explained that the intention was to reflect the fact that, as conditions varied from one country to another, it might not be appropriate everywhere to establish intersectoral coordination mechanisms. The Employers supported the amendment. The Workers opposed it, on the grounds that the proposed words seemed out of place. The Government member of Hungary, supported by the Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, and by the Government member of Zimbabwe, speaking on behalf of 22 African Government members of the Committee (Algeria, Angola, Botswana, Burkina Faso, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Senegal, South Africa, Zambia and Zimbabwe), also opposed the amendment, because the text of the paragraph as it stood already provided for different national conditions and practice to be taken into account. The Government member of Japan withdrew the amendment.

85. The Government member of Brazil submitted an amendment to add a new subparagraph 2(d) stating: "(d) establish mechanisms that guarantee the implementation of the principles of safety and health in agriculture with the participation of employers' and workers' representatives.". In his view, safety and health policies could only work effectively when both employers and workers had been involved in formulating them.

86. The Worker Vice-Chairperson expressed his group's support for the amendment, which was forward-looking and practical, and to some extent reflected the Workers' own, different proposal for a new subparagraph. The Employer Vice-Chairperson opposed the amendment, arguing that it was not possible to guarantee implementation, and that the meaning of the word "guarantee" was not clear. The proposed Convention already contained provisions to ensure participation by workers' and employers' organizations, so this amendment was superfluous.

87. The Government member of Zimbabwe considered that the thrust of Article 4.2 was precisely to establish a means of ensuring implementation in practice, so the proposed amendment was unnecessary. The Government member of Hungary, while agreeing with the intention behind the amendment, thought the attempt to compress the Convention's goals into three lines was overambitious and likely to cause difficulties of interpretation; he therefore opposed it. The Government member of Pakistan also thought the amendment added nothing of substance and was unnecessary. The Government member of Brazil withdrew his amendment.

88. An amendment was submitted by the Worker Vice-Chairperson, to insert a new subparagraph 2(d), as follows: "(d) introduce legislation and develop operational arrangements, including training, to allow a scheme of worker regional safety representatives to function in small undertakings.". He explained that the amendment introduced a specific concept which was very necessary in certain situations. The same amendment had been introduced the previous year, when it had not received sufficient support. Since then, the Workers' group had been very active promoting the idea of using regional safety representatives for the protection of workers in small agricultural undertakings, and he hoped there would be enough support in the Committee to have the amendment adopted.

89. The Employer Vice-Chairperson stated that the Employers still did not favour this amendment; they were completely opposed to having regional safety representatives, i.e. non-employees, present on work premises, particularly if this was prescribed by legislation. Introducing such specific legislative provisions would actually impinge on national sovereignty. Article 8 provided for the right of workers to select safety and health representatives and the ILO already had an instrument dealing with worker representatives which covered the matter adequately, whether in agriculture or any other sector.

90. The Government member of Denmark stated that his country recognized the problem of small undertakings, and was basically in favour of the amendment. In order to make it more flexible, he submitted a subamendment, introducing the words "or any similar scheme" before the words "to function" in the amendment. A further subamendment was introduced by the Government member of Brazil, adding the words "and health" after "safety". The amendment, as subamended, would thus read as follows: "(d) introduce legislation and develop operational arrangements, including training, to allow a scheme of worker regional safety and health representatives or any similar scheme to function in small undertakings.".

91. In the ensuing discussion, opposition to the amendment as subamended was expressed by a number of Government members. The Government members of Austria, Germany, Greece and Spain opposed it, on the grounds that it conflicted with the systems in place in their countries. The Government member of India considered the amendment as subamended was imprecise and added nothing to the proposed text; furthermore the introduction of legislation was a federal issue in his country. The Government member of Bangladesh considered there was a lack of clarity about the concept of regional representatives. The Government member of the United States also considered the proposed changes brought

nothing new. The Government member of Pakistan recalled that the overall purpose of the Convention was to ensure the safety and health of workers in all agricultural undertakings, regardless of size. The Government member of Australia considered that employers and workers should work jointly on such issues, not through third parties, as proposed.

92. The Government member of Zimbabwe, speaking on behalf of the aforementioned African Government members of the Committee, spoke in favour of the amendment as subamended. He submitted a further subamendment, changing the introductory words "introduce legislation and develop" to "provide for developing".

93. The Government member of Bahrain, speaking on behalf of the Government members of Bahrain, Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates, also opposed the amendment as such amended, on the grounds that it would introduce overly specific provision into the proposed instrument. The Government member of Norway expressed the opinion that it was premature to introduce such a provision, given the present diversity of systems by which agricultural workers were represented. The Government member of Barbados likewise opposed the amendment as subamended, on the grounds that workers in small undertakings would be adequately protected under the provisions of other Articles, and reported that the States of Belize, Guyana, Jamaica and Trinidad and Tobago, not members of the Committee, shared this position.

94. The Government member of Sweden opposed the amendment as subamended, and proposed an extensive rewording of the amendment in the hope of reconciling the opposing views on the text before the Committee, but the Employer Vice-Chairperson objected that this constituted a new amendment, not a subamendment, and was thus not receivable.

95. The Worker Vice-Chairperson remarked that the attempts made by so many Government members to find an acceptable wording showed their commitment to the idea that the Worker members had tried to put forward with the present amendment. He thanked them for their efforts and apologized for now withdrawing the amendment in the interest of maintaining the good relationships among all the social partners that would be necessary for ratification of the expected Convention.

96. The Employer members introduced an amendment to paragraph 4.3 to delete "suspension" from the corrective measures that the competent authority was empowered to take when agricultural activities posed an imminent risk to the safety and health of workers. The Employer Vice-Chairperson asserted that the officials represented by the words "competent authority" would in reality be bureaucrats far from agricultural workplaces, and would thus be in no position to judge the risks that workers faced. The proper response to imminent risk was for the worker to withdraw himself or herself from the dangerous situation, which protection was already guaranteed by other Articles of the proposed Convention. Empowering distant officials to suspend agricultural operations could do serious damage to enterprises.

97. The Worker Vice-Chairperson countered that the officials empowered to impose corrective measures could reasonably be expected to have assessed the risks of a situation in person. Furthermore, the idea that a worker would be adequately protected by leaving his or her post was not tenable in such common cases as careless spraying of pesticides, where the imminent risk could threaten workers' homes and families as well as the worker in the field.

98. The Government member of Hungary also opposed the amendment. He called the Committee's attention to the fact that suspension was simply the ultimate degree of

restriction of agricultural activities, and that the proposed amendment left restriction as a corrective measure. He also felt it was important to remember that the record of the discussion of the Chemicals Convention, 1990 (No. 170), would show that risk could be imminent even if its consequences were delayed.

99. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, opposed the amendment, as did the Government member of Zimbabwe, who observed that competent authorities could be expected to have the knowledge and means to assess hazards, whereas workers might not recognize the risks they faced and so could not be counted on to absent themselves from dangerous situations. The Government member of Bahrain, speaking on behalf of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates, as well as the Government members of Norway and Switzerland, opposed the amendment on the grounds that suspension was an important sanction in their inspection systems.

100. The Employer Vice-Chairperson withdrew the amendment.

101. Article 4 was adopted without amendment.

Article 5

102. An amendment to Article 5, paragraph 1 was submitted by the Employer members, to replace "workplaces" with "undertakings". The aim was to ensure consistency with the term "agricultural undertakings" used in Article 1. The Worker Vice-Chairperson, though initially inclined to agree, nevertheless requested clarification by the Office of the respective meanings of "workplace" and "undertaking". The representative of the Secretary-General explained that an undertaking was usually larger than a workplace, and could encompass several workplaces, for example, a construction company (the undertaking) might cover several construction sites (workplaces). In the light of this explanation, the Worker Vice-Chairperson preferred to retain the original wording, "workplace", for fear that a labour inspection could take place just at an undertaking's headquarters, and not extend to all the workplaces concerned.

103. The Chairperson suggested a form of words modifying the text to refer to "workplaces in agricultural undertakings", and this was supported by the Worker Vice-Chairperson.

104. The Government member of Hungary preferred the original text, as "undertaking" was a more abstract concept, and in any case labour inspection was usually carried out – as in his country – in workplaces. The Government member of Romania took the same position. The Government member of Switzerland supported the amendment as subamended, on the grounds that the term undertaking was more comprehensive. The Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, said he preferred the original text, as he considered that this amendment narrowed the concept. Noting the apparent wide support for the existing wording, and in the interests of time, the Employer Vice-Chairperson withdrew the amendment.

105. The Government member of Switzerland submitted a two-part amendment to Article 5, paragraph 2, proposed by his Government and the Government of Norway, to replace the introductory words "If necessary" with the words "In accordance with national legislation"; and to insert after the word "public" the words or private". He immediately submitted a subamendment to the second part, according to which the final part of the paragraph would refer to "public or private institutions under governmental control". That

proposal had been motivated by a desire for greater flexibility and for a provision that would reflect Switzerland's own experience of labour inspection in agriculture, which had been carried out for 40 years by a private body under state control and had successfully ensured a high level of safety and health protection to agricultural workers. Adoption of the amendment with the new subamendment would help Switzerland in the matter of ratification.

106. The Worker Vice-Chairperson considered that the first part of the subamended amendment introduced greater flexibility, hence he favoured it; but he wished to know more about the reasoning behind the proposal of the second part before indicating the Worker members' reaction. Experience in other sectors suggested that problems tended to arise when governments privatized functions which appeared to be the natural domain of public monitoring institutions.

107. The Employer Vice-Chairperson supported the full amendment as subamended.

108. The Government member of Switzerland, replying to the concerns expressed by the Worker Vice-Chairperson, said that it was understood that while the day-to-day work of inspection, advisory services and the like could be left to private bodies, any formal legal decision that might be required as a consequence of such activities should be the responsibility of a public body. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, said that he supported the amendment with the subamendment, since it allowed for differences in national policies. In the light of the remarks by previous speakers, the Worker Vice-Chairperson expressed his group's support for the whole amendment, as subamended.

109. The Government member of Argentina said that the amendment referring to the possible use of "private institutions" presented certain problems when considered in the light of the provisions of Article 8.1 of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), according to which, "The labour inspection staff in agriculture shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences." The use of private institutions did not appear to be compatible with the need to ensure the stability of employment and independence to which that Article referred. The Chairperson indicated that the inclusion of the phrase "under governmental control" would cover that concern.

110. The Worker Vice-Chairperson referred the Government member of Argentina to paragraph 2 of Article 8 of the Convention mentioned, which specified that any persons other than public inspection staff who might be used in inspection activities should be assured stability of tenure and thus independent of improper external influences.

111. The amendment was adopted, as subamended.

112. Article 5 was adopted, as amended.

III. PREVENTIVE AND PROTECTIVE MEASURES

General

Article 6

113. The Government member of the United Kingdom introduced an amendment submitted by the Government members of Finland, Ireland, and the United Kingdom, to insert the words

"as far as is reasonably practicable" after the word "ensure" in the first line of paragraph 1. He recalled that a similar amendment had been proposed for Article 4. It was of fundamental importance to certain countries, including the United Kingdom, because under their legal systems, the Article without the proposed qualifying phrase would impose an unacceptable absolute obligation. The qualifying phrase was not open-ended but merely sought to allow a balance between unacceptable risks, on the one hand, and excessive costs of mitigating relatively insignificant risks, on the other. Although the Office had advised against the inclusion of the phrase in question, legal advice in the United Kingdom had been that without it, it would be extremely difficult for the Government, which entirely supported the aims of the proposed Convention, to ratify it. The existence of a precedent for the inclusion of such a qualifying phrase, in the form of the Occupational Safety and Health Convention, 1981 (No. 155), lent further support for including it in the proposed instrument. The ILO would therefore do better to act in accordance with the implications of its new "integrated approach" to standard setting, which might entail a further review of the instrument in 2003, and adopt the amendment. That would greatly assist those countries for which the imposition of an absolute obligation would pose serious difficulties.

114. The Employer Vice-Chairperson endorsed the remarks made by the previous speaker, and urged the Committee members to take note of his own previous arguments in favour of a similar amendment to Article 4.1. The amendment was of vital importance to employers, because of the absolute liability its absence would imply. It was essential to take account of the differences that existed between national legal systems; the "priority prevention principle" was not included in the proposed Article, hence the need to include the phrase proposed in the amendment. The amendment would not cause problems for countries with a codified civilian legal system but its absence would cause serious difficulties to countries whose legal systems were based on common law. He therefore urged the Committee to adopt the amendment in order to make the wording acceptable to all.

115. The Worker Vice-Chairperson expressed disappointment that it now appeared necessary to go back over ground on which vigorous battles had already been fought. He could not agree with the arguments he had heard for the amendment, notably from the Government member of the United Kingdom, to the effect that failure to introduce the qualifying phrase in question would result in an absolute obligation to eliminate, minimize or control hazards, regardless of the cost that might be involved. The possibility that a Convention, if adopted, might be reviewed in 2003 did not in his view diminish the need to protect the safety and health of agricultural workers in the mean time, and any future review might provide the opportunity to assess the impact of the Convention in practice. Furthermore, many of the Committee's members had considerable experience of work in agriculture and were convinced that the existing wording was appropriate and necessary.

116. The Government member of the United States associated himself with the remarks made by the Government member of the United Kingdom, and supported the proposed amendment as a means of ensuring greater flexibility and increasing the number of ratifications.

117. The Government member of Brazil said that, while the concerns expressed by the sponsors of the amendment were understandable, he was opposed to it.

118. The Government member of Australia associated himself with the remarks made by the Government member of the United States regarding greater flexibility and expressed his support for the amendment.

119. Replying to a request from the Government member of Hungary for clarification as to whether the phrase "reasonably practicable" covered financial as well as technical feasibility, the Government member of the United Kingdom said that it covered all aspects of the efforts and resources that might be needed, included financial resources, and reiterated that the intention was to strike a balance between risk and the cost of eliminating it.

120. The Government members of Belgium, Canada, Denmark, France, Germany, Italy, Spain, Sweden and Switzerland opposed the amendment. The Government members of China, Czech Republic and Malaysia supported the amendment.

121. At the suggestion of the Chairperson, an indicative show of hands was carried out, which showed that a majority of Governments opposed the amendment. The sitting was adjourned to allow further discussion.

122. After an adjournment for consultations within the Committee, the Employer Vice-Chairperson announced a compromise by which the "reasonably practicable" amendment would be withdrawn in favour of another amendment submitted by the Government members of Ireland and the United Kingdom. Paragraph 6.1 would then read "in so far as is compatible with national laws and regulations, the employer shall have a duty to ensure the safety and health of workers in every aspect related to the work".

123. The Worker Vice-Chairperson acknowledged his acceptance of this formulation, feeling that it addressed the issues of national sovereignty raised by the Government members while meeting the concerns of the Worker members.

124. The Government member of Hungary sought reassurance that the Committee realized that, whereas the Office text put an obligation on ratifying member States to formulate policy that would apply to employers, the new formulation put the obligation directly on employers and not on the Governments of ratifying member States. The Chairperson observed that the Committee members seemed to understand that there had indeed been a significant change in the Article. The Worker Vice-Chairperson added that Article 4 provided a precedent for placing responsibilities directly on the employer.

125. The Government member of the United Kingdom confirmed the withdrawal of the amendments that had been rendered redundant by the latest proposal. The Employer Vice-Chairperson withdrew an amendment that his group had planned to submit to the same effect, and the formulation of paragraph 6.1 quoted above was adopted.

126. The Government member of Australia submitted an amendment to delete paragraph 6.2, which enjoined cooperation between two or more employers or self-employed persons who undertook activities simultaneously in an agricultural workplace. He held that the paragraph was simply a refinement of the general obligation of the employer to ensure safe and healthy conditions, stated in Article 6.1, and that if such details had to be set out at all, they should appear in a Recommendation.

127. The Worker Vice-Chairperson did not agree that the provisions were better placed in a Recommendation, and asked the Committee to recall the first discussion of this issue. Whereas paragraph 6.1 spoke of the obligations of employers, paragraph 6.2 dealt with the relations between employers.

128. The Employer Vice-Chairperson supported the amendment, citing the problems posed by the reference to self-employed persons in the Office text.

129. The Government member of South Africa expressed a preference for the Office text, saying that it was consistent with other Conventions such as the Safety and Health in Mines Convention, 1995 (No. 176). It was a fact that failure of two employers in one workplace to cooperate had been responsible for many serious accidents in the past.

130. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, opposed the amendment, declaring paragraph 6.2 to be an important provision of the proposed Convention. He was joined by the Government members of Canada and Norway.

131. The Government member of Australia withdrew the amendment.

132. The Government member of Canada submitted an amendment to replace the words "two or more" with "several", and to qualify the word "cooperate" with "with the competent authority". The object was to ensure that employers cooperated in the first instance with the competent authority, which would then specify the nature of their mutual cooperation.

133. The Worker Vice-Chairperson objected that this would leave the case of only two or three employers in a workplace undefined. The Employer Vice-Chairperson agreed that "several" was unclear, and added that the proposal ignored the fact that agricultural undertakings routinely cooperated with no prompting from authorities; this was particularly true in the case of small undertakings. The Government member of Barbados opposed the amendment, and it was withdrawn.

134. The Worker Vice-Chairperson submitted an amendment to delete the word "simultaneously" on the grounds that the relationship of two or more employers was often a sequence of interdependent activities that did not occur literally at the same moment.

135. The Employer Vice-Chairperson opposed the amendment, saying that it was not clear how two parties could cooperate if it were not at the same time. The Government member of Romania agreed, citing the fact that many accidents were due to the simultaneous presence of two or more employers in a workplace. She asserted that the paragraph would not be necessary at all if the word "simultaneously" were omitted.

136. The Government members of Sweden (on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union), Switzerland and the United States supported the amendment, citing examples of sequential intervention of different employers where coordination was necessary.

137. The Employer Vice-Chairperson acknowledged the clarifications and withdrew his opposition to the amendment, which was adopted.

138. He then submitted an amendment to delete the words "or self-employed persons" from the same paragraph. He held that the text referred to employer-employee relationships, which by definition did not exist in the case of the self-employed. To deal with situations where self-employed persons were present in addition to employers and their employees, he submitted a subamendment to change "or self-employed persons" to "and self-employed persons".

139. The Worker Vice-Chairperson recalled that the formulation in the Office text had been accepted by the Worker members in a compromise to avoid moving all mention of self-employed persons to the proposed Recommendation. He asserted that every participant in agriculture had the duty to cooperate, citing the example of a single person raising crops next door to a commercial farm. He thus preferred the Office text.

140. The Government member of Zimbabwe opposed the amendment as subamended, pointing out that changing "or" to "and" would mean that a self-employed person would have to be present for the paragraph to apply. The Government members of Barbados, Guatemala, India, Norway and Switzerland agreed in opposing the amendment.

141. The Employer Vice-Chairperson responded by subsubamending the proposed amendment to read "... whenever two or more employers, or an employer and a self-employed person or persons, undertake activities in an agricultural workplace ...". This was supported by the Government member of the United States.

142. The Worker Vice-Chairperson opposed the subsubamendment, saying that it was taking the sense of the text far from its original meaning. The Employer Vice-Chairperson replied that the paragraph was supposed to protect workers, and that the self-employed were not workers, by definition. The Worker Vice-Chairperson observed that the text was also about responsibilities, and that the self-employed certainly had a responsibility not to endanger those around them.

143. The Government member of Norway supported the subsubamendment, while the Government members of Brazil, Hungary, South Africa and Sweden (on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union) opposed it.

144. Following consultations, the Employer Vice-Chairperson then submitted a new subamendment dealing with the issue of the self-employed in conformity with the sense of Office Report IV(2A), page 30. The proposed reformulation was a compromise he hoped would be acceptable to all parties. If this form of words were adopted, Article 6.2 would read:

> National laws and regulations or the competent authority shall provide that, whenever, in an agricultural workplace, two or more employers undertake activities, or whenever one or more employers and one or more self-employed persons undertake activities, they shall cooperate in applying the safety and health requirements. Where appropriate, the competent authority shall prescribe general procedures for collaboration.

145. The Government members of Finland, Hungary, Lebanon, Portugal, Spain, Switzerland and Zimbabwe (on behalf of the African Government members of the Committee) all supported the amendment as subsubamended. The Government member of the United Kingdom also supported it, while making clear his preference for the Office text.

146. The Worker Vice-Chairperson said that despite the Workers' preference for the Office text, in the interests of compromise his group could accept the Employers' subsubamendment to the Workers' amendment, on condition that in the third line, after "one or more employers" the words "and/or" be inserted in the place of "and"; that part of the sentence would thus read: "... or whenever one or more employers and/or one or more self-employed persons undertake activities ...".

147. In the ensuing discussion, it became clear that both the Chairperson of the Committee and the Employer Vice-Chairperson considered this a drafting issue, with "and" being thought to subsume "and/or". Finally, both the Employer Vice-Chairperson and the Worker Vice-Chairperson agreed that "and" be retained in the amendment and that the issue be referred to the Drafting Committee. The Employer members withdrew their earlier amendment. The Chairperson read out the Workers' amendment as subsubamended, and this consensus text was adopted.

148. Article 6 was adopted as amended.

Article 7

149. The Government member of Sweden, speaking on behalf of the Government members of the Committee Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom), submitted a two-part amendment to Article 7: first, to delete the words "the size of the undertaking" in the third line of the paragraph; and second, to insert ", considering the size of the undertaking," after the words "health and" in the second line of subparagraph (b). He explained that the provisions of Article 7 in general should not depend on the size of the undertaking. Size only mattered in the provisions of subparagraph 7(b), which is why the Government members submitting the amendment wished to transfer reference to size of the undertaking to subparagraph (b).

150. The Worker Vice-Chairperson supported the amendment, submitting a small subamendment: deletion of the "and" after "undertaking". This was judged by the Chairperson to be a drafting matter.

151. The Employer Vice-Chairperson preferred the Office text, and referred back to the debate on this issue during the first discussion. The question of size of undertaking was of consequence for the whole of Article 7.

152. The Government member of Hungary also submitted a subamendment involving a small drafting change: changing "its" following the words "nature of" to "the". Without this change the implication was that the activity was that of the competent authority. On the substance of the issue, he said that his Government was prepared to accept the Office text or the amendment submitted by the Government member of Sweden. However, in his opinion, the words "appropriate risk assessment" in subparagraph 7(a) took care of the issue of risk assessment according to the needs of the situation (including size of undertaking).

153. The Government members of the United States and Zimbabwe (speaking on behalf of the African Government members of the Committee), both opposed the amendment.

154. The Worker Vice-Chairperson stated that he had been convinced by the argument put forward by the Government member of Hungary, and now opposed the amendment. The Government member of Sweden consequently withdrew the amendment.

155. An amendment was submitted by the Government member of Japan to delete "appropriate" after the words "carry out" and add the words "as appropriate" after "assessments", in subparagraph 7(a). He explained that the wording he proposed laid greater emphasis on risk assessment than did the Office text. As risk assessment was an essential part of risk control, it should be indicated in an appropriate manner, while taking into consideration that methods of risk assessment were still under study in many fields.

156. The Employer Vice-Chairperson and the Worker Vice-Chairperson both indicated their preference for the Office text, as did the Government member of Zimbabwe, on behalf of the African Government members of the Committee. The Government member of Japan thereupon withdrew the amendment.

157. The Employer Vice-Chairperson introduced an amendment to insert, after the word "ensure" the words ", as far as is reasonably practicable," in the third line of Article 7(a). Referring to the by-now well-rehearsed argument regarding the inclusion (or not) in the

proposed instrument of this phrase, and in view of the happy compromise agreed earlier on Article 6.1, he submitted a subamendment changing the wording of the Employers' amendment to "in so far as is compatible with national laws and regulations". He also submitted a further subamendment, replacing the word "ensure" with the word "provide".

158. The Worker Vice-Chairperson was opposed to the amendment, whether or not subamended. He saw it as an attempt by the Employer members to hijack the meaning of the Article. The words proposed were superfluous, as "national laws and regulations" were already referred to in the main body of Article 7.

159. The Employer Vice-Chairperson replied he was prepared to withdraw most of the amendment, with the exception of the replacement of "ensure" with "provide".

160. The Worker Vice-Chairperson stated he was unsure of the meaning of "provide" in this context, and awaited comments from Government members with experience of the application of laws in this respect.

161. The Government member of the United States supported the amendment as subamended with the word "provide" instead of "ensure".

162. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, stated he preferred the word "ensure" and thus opposed the amendment. The Government member of Sweden (speaking on behalf of the 14 aforementioned Government members of the Committee Member States of the European Union), the Government member of Bahrain (speaking on behalf of the Government members of Kuwait, Oman, Tunisia, the United Arab Emirates and Saudi Arabia), as well as the Government members of Brazil and Israel (the former speaking also on behalf of the Government member of Argentina) all preferred the Office text, and so opposed the amendment.

163. The Government member of Hungary said that he too preferred the Office text with the word "ensure". With regard to the Employer members' concern that the term "ensure" might be construed as imposing an absolute obligation, he drew the Committee's attention to the Office commentary on page 27 of the English version of Report IV(2A), in particular the sentence "In other legal systems, provisions expressed in absolute terms are interpreted as implying an obligation of means, not of results, and thus already imply a condition of what is 'reasonable' and 'practicable'". He urged the Committee to adopt that interpretation with regard to the use of the word "ensure", which would then not imply any absolute requirement, even without the qualifying condition.

164. The Employer Vice-Chairperson stated that the Employer members would accept the term "ensure" and withdraw both their proposed subamendments, provided that it was clearly understood that the provision was to be interpreted in accordance with the part of the Office commentary quoted by the Government member of Hungary. He expressed reservations regarding the inclusion of the entire Office commentary relating to the provision (on pages 27-28 of Report IV(2A)), since it included a reference to a legal opinion given in 1988 on a similar point that had arisen in discussions on a different instrument. On the basis of that legal opinion, the Office had decided not to include the qualifying provision "so far as is reasonably practicable", since it was felt that the qualification was already implied by the wording of the instrument in question; the argument applied then did not necessarily apply to the instrument under discussion by this Committee. It was also necessary, in interpreting the Article, to take into account the preparatory documents. For the Employer members, the essential point was made in the sentence in the Office commentary according to which "In other legal systems, provisions

expressed in absolute terms are interpreted as implying an obligation of means, not of results, and thus already imply a condition of what is 'reasonable' and 'practicable'."

165. The Worker Vice-Chairperson took the view that all the relevant paragraphs of the Office commentary should be reproduced in the record of the sitting, not just a selected passage.

166. It was agreed after some discussion that the paragraphs of the Office commentary relating originally to Article 4 should be included in the record of the sitting, with the interpretation to be applied to the present provision underlined for emphasis:

> The comments received reveal the same difference of views as those expressed in the course of the first discussion. Extensive discussions took place during the sitting of the Committee on Safety and Health in Agriculture surrounding the phrase 'so far as is reasonably practicable'. After much deliberation and Office legal advice, it was found neither necessary nor appropriate to add this phrase or variations of it. The issue was raised again in the replies, and the Office therefore considered it necessary to provide clarification. The meaning of the phrase 'so far as is reasonably practicable' has been discussed on several occasions by technical Conference committees, particularly in relation to texts using absolute terms, such as wording to the effect that 'safe means of transport to places of work shall be provided'. It should be noted that in the present case the proposed Convention has not been worded in absolute terms.
>
> In certain legal systems, a requirement formulated in such terms would, in the absence of any qualifying condition such as 'so far as is reasonably practicable', be interpreted as an absolute requirement. *In other legal systems, provisions expressed in absolute terms are interpreted as implying an obligation of means, not of results, and thus already imply a condition of what is 'reasonable' and 'practicable'.*
>
> In 1988, in a legal opinion on this point given at the request of a Conference technical committee, it was noted that introducing such a clause into the French language text of the Convention might entail a reduction in the level of protection provided. In order to circumvent the differences in approach between national legal systems in the interpretation of the French and English texts, which are both equally authoritative, the Conference Committee decided on that occasion not to include the phrase 'so far as is reasonably practicable' as being neither necessary nor appropriate, given that the principle which that phrase expresses would already be an integral element of the provisions of the instrument, as is the case with the present proposed text.

167. Subject to the interpretation indicated above, the Employer members withdrew the amendment.

168. The Government member of Malaysia submitted an amendment to insert the words "including system of work" after the word "activities" in the subparagraph on risk assessment (subparagraph (a)), on the basis that how work was done was as important as the nature of the tasks themselves. The Employer Vice-Chairperson and the Government member of Hungary expressed uncertainty about the interpretation of the proposed insertion. In response, the Government member of Malaysia subamended his amendment to insert "operating procedure" instead of "system of work", pointing out that the work environment could be safe, the equipment used could be safe but unsafe working methods could still put workers at risk. The Employer and Worker Vice-Chairpersons both held that "procedures" were already covered by the word "processes" in the Office text, and the amendment was withdrawn.

169. The Government member of Zimbabwe submitted an amendment on behalf of the African Government members of the Committee (Algeria, Angola, Botswana, Congo, Côte d'Ivoire, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, South Africa, United Republic of Tanzania, Zambia and Zimbabwe), to insert the word "chemicals" after the word "equipment" in subparagraph (a), immediately subamending the proposal to insert "chemicals" after "tools" instead. The addition of "chemicals" was felt to be justified by the importance of chemical products in agriculture, and particularly their importance for risk assessment.

170. The Worker members agreed to the amendment as subamended, but the Employer Vice-Chairperson opposed it, asserting that issues of chemical safety were already the object of Article 12 of the present proposed Convention. Furthermore, there was already a whole Convention devoted to the safe use of chemicals (Chemicals Convention, 1990 (No. 170)), so going into detail in the present instrument would only lead to confusion.

171. The Government member of Zimbabwe pointed out that Article 9 of the present draft instrument dealt with machinery, but not in the context of risk assessment; by the Employer members' argument, the word "machinery" should also be struck from the subparagraph under discussion, which no one had proposed. The Worker Vice-Chairperson agreed that Articles 9 and 12 had different purposes than the present Article on risk assessment.

172. The Government members of Bahrain (speaking also on behalf of the Government members of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates), Brazil (speaking also for Argentina), the Russian Federation and the United States supported the proposed amendment as subamended.

173. The Government member of Hungary thought that the wording which would result from the amendment could imply an obligation of the employer to ensure that any chemicals used under his responsibility were safe; this would be impossible. If the real concern were over the handling, storage and use of chemicals, those were already covered by the word "processes" in the Office text.

174. The Employer Vice-Chairperson submitted a subamendment to replace "chemicals" by "use of chemicals", after which the Government member of Zimbabwe subsubamended the proposed text to replace "the use of chemicals" by "use, storage and handling of chemicals".

175. The Worker Vice-Chairperson defended the original amendment, asserting that the phrase "under all conditions of their intended use" prevented the subparagraph from implying that all chemicals would be safe in some absolute sense.

176. After a period of consultation, the subamendment and subsubamendment were withdrawn in favour of a compromise subamendment put forth by the Employer Vice-Chairperson:

> (a) carry out appropriate risk assessment in relation to the safety and health of workers and, on the basis of these results, ensure that, under all conditions of their intended use, agricultural activities, workplaces, machinery, equipment, chemicals, tools and processes under the control of the employer are safe and comply with prescribed safety and health standards; and

177. This amended version of subparagraph (a) was adopted.

178. The Employer Vice-Chairperson requested legal advice from the Office on two questions: (1) in the case of an amendment proposing to delete a passage in a provision, could the amendment be subamended; and (2) if an amendment proposing to transfer text from a Convention to a Recommendation were adopted, what were the arrangements for the deadlines governing receipt of amendments to that amendment?

179. The Deputy Legal Adviser of the Conference provided the following reply:

At the outset, it is important to state that the rules and procedures provided for in the Conference Standing Orders are there to assist the work of the Committee and not to hamper it. The Committee decides how these rules are to be applied. In order to ensure consistency in the application of the rules, the Office provides guidance and legal advice.

The question raised by the Employers' group concerns the procedure for dealing with amendments to delete and the procedure to be followed in the event an amendment adopted would have the effect of transferring a provision from the Convention to the Recommendation.

An amendment to delete a provision

Such an amendment has usually been considered to be the most radical of amendments and is therefore acted on first. The reason for taking such an amendment first is essentially practical and it is therefore not an absolute rule. Where however, it is decided to take such an amendment first, it is important for the Committee to understand the implications of this course of action.

If the amendment for deletion of a provision is adopted, the text to which it relates is deleted. Any other amendments which were also submitted to the provision in question would now be without object as the text to which the amendments related no longer exists. The remaining amendments could no longer be considered. Where an amendment to delete a provision is not adopted and therefore fails, the text to which the amendment referred remains unchanged. Under this scenario where a decision has been taken, it is no longer possible to amend the original text as this would amount to a new amendment and as such would not be in compliance with Article 63, paragraph 4. Only the other amendments submitted to the text could be discussed and subamended.

However, an amendment to delete a provision could be subamended to delete only part of a subsection instead of all of it, if there are no other amendments and before a decision is taken on the amendment to delete. This would normally only occur if there are no other amendments proposed (for example suggesting alternative language). Where there are other amendments tabled, allowing an amendment to delete to be subamended would be a misuse of the rules and practice governing amendments, since the amendment to delete was given priority over the other amendments because it was the most radical. The amendment to delete could only be allowed to be subamended if the order of priority for taking the amendments tabled was reviewed. The subamendment would be given another priority, the last that would be reasonable given the point addressed. It may well be difficult to apply this in practice.

An amendment to transfer a provision from the Convention to the Recommendation

Where an amendment is submitted to transfer a provision from the Convention to the Recommendation, such an amendment is also considered to be a radical one, but less radical than an amendment to delete a provision. If such an amendment is taken first, as is the usual practice, and if it is adopted, the consequence is that the text in the Convention no longer exists in the

Convention and is now transferred to the Recommendation to be appropriately placed. The question arises as to the status of the other amendments which have been duly submitted to the same text. Unlike the case of an amendment to delete, the text still exists, but it has been placed elsewhere. In the circumstances, the other amendments in question since they have already been formally submitted in accordance with the rules, can either be withdrawn by the authors if they so desired or transferred for consideration at the appropriate time in the context of the transferred provision. The important issue is to avoid a double discussion rather than to frustrate the submission of amendments.

Since the text is now transferred to the Recommendation as a new provision in that instrument, where the time-limit for submitting amendments would have expired, it would be appropriate for the Committee to allow for a new time-limit for submitting amendments to that specific provision. This is because the nature of the amendments which could be submitted in the context of a Convention – which is intended to create binding obligations – and in the context of a Recommendation could be different.

180. The Government member of Australia submitted a two-part amendment to Article 7(b), to replace "ensure that" by "provide" in the first line; and to delete the words "including information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language". He argued that "ensure" was too prescriptive a term, and that "provide" would render the instrument more flexible. As to the second part of his amendment, he considered this would be more suitable under a Recommendation.

181. In his response, the Worker Vice-Chairperson referred to the agreement reached that morning on the interpretation of the word "ensure", which rendered this proposal in the amendment superfluous.

182. The Employer Vice-Chairperson supported both parts of the amendment.

183. The Government members of India, Norway, Switzerland and Zimbabwe (the latter speaking on behalf of the African Government members of the Committee), all opposed the amendment, which the Government member of Australia then withdrew.

184. The Government member of Brazil presented an amendment submitted also by the Government members of Argentina, Paraguay and Uruguay, to replace "and appropriate" by ", appropriate and continuing" in the reference to training, in the first line of Article 7(b), on the grounds that the training process should be a continuous one.

185. The amendment was supported by the Government member of Zimbabwe, speaking also on behalf of the African Government members of the Committee, on the grounds that it was essential that training be continuous.

186. The amendment was opposed by the Employer members on the grounds that it was superfluous and likely to lead to confusion, and by the Government members of Lebanon, Norway, Russian Federation and the United States, who preferred the Office text.

187. The Worker Vice-Chairperson also preferred the Office text, arguing that "adequate and appropriate" included the concept of continuity. He wished it recorded that training included repeat training.

188. The Government member of Brazil withdrew the amendment.

189. The Worker Vice-Chairperson submitted an amendment to add a new subparagraph (c) which would state: "(c) take immediate steps to stop any operation where there is an imminent danger to safety or health, and evacuate workers as appropriate." He recalled, on page 32 of the English version of Report IV(2A), the Office commentary's mention of the desirability of referring to the employers' role in the shared responsibility for measures to be taken in case of imminent danger.

190. The Employer Vice-Chairperson opposed the amendment, recalling the earlier debate on the suspension of operations, and the Employer members' concern about farmers' profitability if operations were to stop: here the text was calling on employers to stop. The Employer members felt that the provisions of Article 8.1(c) would adequately cover this point. The Government member of Australia agreed with the Employers on the latter point, and opposed the amendment.

191. In the opinion of the Government member of Zimbabwe (speaking also for the African Government members of the Committee), it was consistent with national law and practice for the responsible person in an organization to stop any machine when its operation posed an imminent danger. Any responsible employer seeing imminent danger would stop the operation of the machinery in question, not waiting for the responsible authority to tell him to do so. Hence he opposed the amendment.

192. The Government member of Switzerland considered that good sense as well as current law in his country dictated his support for the amendment.

193. The Government member of Denmark proposed a subamendment adding the word "serious" after "imminent", stating that he could support the amendment if subamended thus.

194. The Government members of Austria, Barbados, India and the Syrian Arab Republic also supported the amendment as subamended.

195. Explaining that while no reasonable employer would require a worker to work when conditions were hazardous, the Employer Vice-Chairperson stated that he withdrew his opposition to the amendment and did not object to the subamendment.

196. The Government member of France drew attention to a drafting error in the French version (the word "danger" was preferable to the word "*risque*"), which was referred to the Drafting Committee.

197. The amendment was adopted as subamended.

198. Article 7 was adopted as amended.

Article 8

199. The Employer Vice-Chairperson introduced an amendment to insert after the word "agriculture" in Article 8.1 the word "undertakings", in order to make the text consistent with earlier decisions.

200. The Government members of Lebanon, Syrian Arab Republic and Sweden (on behalf of the aforementioned 14 Governments of the Committee Member States of the European Union) opposed the amendment, preferring the Office text.

201. The Worker Vice-Chairperson recalled earlier discussions on the word "undertakings" in relation to workplaces, which was not the case here. Unless the Employer members had strong arguments in favour of "undertakings", the Worker members preferred the Office text.

202. The Employer Vice-Chairperson, recalling that where workers had rights employers had the relevant obligations, withdrew the amendment.

203. The Government member of Côte d'Ivoire submitted an amendment which related only to the French version of Article 8.1(a), replacing the words "*y compris quant aux*" by "*ainsi que sur les*", and referred it to the Drafting Committee.

204. An amendment was submitted by the Government member of Denmark, also on behalf of the Government member of Spain, and immediately subamended, to replace Article 8.1(b) to read as follows: "(b) to participate in the application of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in health and safety committees; and". He explained that the intention was to introduce an element of flexibility regarding the right to select safety and health representatives and at the same time to make sure that employers and workers in small enterprises collaborate on safety and health matters.

205. The Worker Vice-Chairperson recalled that Worker members were concerned to cover the worst situations which agricultural workers might face, and stated that, on that proviso, they were prepared to support the amendment as subamended.

206. The Employer Vice-Chairperson stated he preferred the Office text, as he was not sure of the purport of the proposed change.

207. The following Government members supported the amendment as subamended: Austria, Barbados, Germany, Norway, Portugal, United States, United Kingdom and Sweden (on behalf of the Governments of the Committee Member States of the European Union which had not yet indicated their support). In a spirit of compromise and in order to expedite matters, the Employer Vice-Chairperson accepted the amendment as subamended.

208. The amendment was adopted as subamended.

209. The Government member of Malaysia introduced an amendment to Article 8.1(b), to insert "and review" after "application". His intention was to enable workers to participate in periodic reviews of safety and health legislation.

210. The Employer Vice-Chairperson opposed the amendment, considering it superfluous on the grounds that the periodical revision of legislation was an obvious necessity.

211. The Government member of Pakistan considered the amendment would add value to the existing text, and so supported it.

212. The Government member of Guatemala was prepared to support the amendment if in the Spanish text the words "*y examen*" were replaced by "*revisar*". She was supported by the Government member of Argentina.

213. The Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, stated he preferred the Office text. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, supported the amendment on the grounds that

reviews of legislation by safety and health representatives would serve to improve standards all round.

214. The Employer Vice-Chairperson was opposed to the introduction of the word "review" which did not appear anywhere else in the proposed instrument. The Worker Vice-Chairperson replied that at the core of the subparagraph was the promotion of participation by workers in the establishment of appropriate measures and in the selection of appropriate representatives; participation was a dynamic, ongoing process, not a static one.

215. The Government member of South Africa recalled that the reassessment of an existing situation was normal business practice. The Government member of Zimbabwe pointed out that Article 4 contained a reference to periodical review.

216. The Employer Vice-Chairperson, while reiterating his belief that this amendment was superfluous, considering that application and review were essentially the same in this context, stated his readiness to accept the amendment.

217. The Chairperson pointed out that as the original text had been modified by the adoption of the previous amendment, the amendment now under discussion served as a subsubamendment by the Government member of Malaysia to that amendment, as already subamended by the Government member of Denmark, which would consequently read as follows: "(b) to participate in the application and review of safety and health measures and, in accordance with national law and practice, to select safety and health representatives and representatives in health and safety committees; and".

218. The amendment was adopted as subamended and subsubamended.

219. The Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, submitted an amendment to subparagraph (c) to replace the words "be penalized" in the English text by "be placed at any disadvantage". The new text would include the concept of penalization, without being limited to it.

220. The Employer members assented to the proposed amendment. The Worker Vice-Chairperson, on being assured by the Deputy Legal Adviser that the revised English text was more inclusive, and was more consistent with the French version of the subparagraph, likewise agreed and the amendment was adopted.

221. The Worker members then submitted an amendment to add a new subparagraph to Article 8 that gave workers in agriculture the right "to consult and be visited by regional safety representatives when the undertaking is small and is therefore excluded from the national law and regulations allowing for selection of safety representatives and/or health and safety committee members.". Their Vice-Chairperson hoped that this formulation responded to the reservations that the Employer and Government members had expressed earlier about regional representatives. However, the Employer Vice-Chairperson declared the amendment unacceptable. The Government members of Australia, Hungary, Ireland, Syrian Arab Republic (on behalf of Lebanon) and the United States also opposed the amendment, on the grounds that it was incompatible with their national systems. The Government member of Brazil supported the amendment, and after the Government member of France proposed a subamendment to delete "and be visited by" the resulting text was supported by Algeria, Chile, India, Pakistan, Switzerland and Zimbabwe as well. The Government member of Zimbabwe remarked that regional safety representatives were a cost-effective solution to the problem of providing advice to small undertakings, but that

only inspectors or other regulatory authorities should have the power to visit such workplaces.

222. The Worker Vice-Chairperson acknowledged the support accorded by a number of Government members, and rejected the position of others that Governments were entitled to restrict workers' access to representation. He nonetheless sensed that it would be more productive to return to the issue during discussion of the proposed Recommendation, and withdrew the amendment.

223. The Employer members submitted an amendment to insert the word "undertakings" in paragraph 2 of Article 8; the duties enumerated therein would then apply only to "workers in agricultural undertakings" rather than "workers in agriculture". The Worker Vice-Chairperson objected to this formulation and the amendment was withdrawn.

224. The Government member of Uruguay, speaking also on behalf of the Government members of Argentina, Brazil and Paraguay, introduced an amendment to replace the words "*ajustarse* a" by the word "*cumplir*" in the Spanish version of the paragraph, to provide better concordance with the terminology used in their national regulations. The Committee agreed to forward the recommended change to the Drafting Committee.

225. The Government member of Malaysia submitted an amendment to replace the words "permit them" in paragraph 2 by the words "in order for the employer", as "them" could be interpreted as referring either to workers or employers, and the word "permit" might imply that some sort of formal permit was necessary. The Employer and Worker Vice-Chairpersons agreed, and the amendment was adopted.

226. The Worker members submitted an amendment to add new sentences at the end of paragraph 3 of Article 8. The Office text of the paragraph stated that the rights and duties of workers in agriculture should be established "by national laws and regulations, the competent authority, collective agreements or other appropriate means". To this the Worker members wished to add "In the case of appropriate means, there shall be full consultation with representatives of workers' organizations." and "In exercising any of the rights in Article 8, workers shall not be penalized or discriminated against.". Their Vice-Chairperson explained that it was preferable to be more specific about the "other appropriate means". In the original version of the amendment the Worker members had actually proposed that Employers' organizations be included as well, so he submitted a subamendment adding the words "and employers'" after the word "workers'" in the first sentence. He also said that his group was prepared to withdraw the second sentence.

227. The Government members of Norway and of Sweden (speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union) supported the amendment as subamended. The amendment was opposed by Lebanon, Pakistan and the Syrian Arab Republic on the grounds that the reference to collective bargaining already implied consultation; the Government member of Lebanon added that Article 3 taken together with Article 8 in its original form provided adequate protection. The Government member of the United States also opposed the amendment.

228. The Government member of Hungary asked what the difference between "consultation" and "full consultation" was. The Worker Vice-Chairperson replied that the word "full" was intended to ensure that agreements arrived at on a personal basis by highly placed representatives of the social partners were not passed off as "consultation". He added that "collective bargaining", too, was a term with a very specific meaning in labour relations, and could not be taken as synonymous with "full consultation".

229. After a brief adjournment for intergroup discussions, the Worker Vice-Chairperson subsubamended his sentence to be a new paragraph 4, rather than an extension of paragraph 3, with the wording: "Where the provisions of this convention are implemented as provided for by paragraph 3, there shall be prior consultations with the most representative organizations of employers and workers.". This was accepted by the Employer and Government members.

230. Article 8 was adopted as amended.

Machinery safety and ergonomics

Article 9

231. An amendment to paragraph 1 was introduced by the Government member of Brazil to remove the words "national or other" in the paragraph, which would become a new subparagraph (a) following the introductory phrase "national laws and regulations or the competent authority shall prescribe that"; and to introduce a new subparagraph (b) as follows: "(b) measures to ensure the selection and adaptation of technology, machinery and equipment, including personal protective equipment, take into consideration local conditions in importing countries, ergonomic consequences and the effects of climatic conditions.". He noted that during the previous year's discussions, the same proposal had met with two major obstacles to adoption which he hoped could now be overcome. The first had related to the question of who should be responsible for implementing the provision, especially with regard to "ergonomic" aspects; that was in his view taken care of with the reference to "National laws and regulations or the competent authority". The second had concerned the inclusion of a reference to "ergonomic consequences" and the basic difficulty of defining and applying the concept. He observed that the relevance of ergonomics was shown by the effect of the seats in the Committee's meeting room on their performance, and urged the Committee to give full consideration to the amendment.

232. The Employer Vice-Chairperson indicated that the Employer members would have serious difficulties with the proposed amendment. In his introduction, the Government member of Brazil had not adequately explained the reasoning behind the change to subparagraph (a) (formerly paragraph 1), which differed from the Office text only in the removal of the words "national or other". He wished to know the reasoning behind the change, since in the Employers' view, it was of vital importance that the provision should refer clearly to national safety and health standards. Similarly, the reasoning behind the new subparagraph (b) had not been adequately explained. The provision as amended was too detailed and prescriptive for a Convention, although it might be considered for the Recommendation. Yet another difficulty arose from the reference to the requirement to take into consideration "local conditions in importing countries", as well as "ergonomic consequences" and "the effects of climatic conditions"; it was not clear how or why an exporting country could or should specify the norms to which an importing country should adhere, and the formulation therefore appeared strange.

233. The Government member of Argentina explained that he shared the concerns of the Government member of Brazil expressed in this amendment. The Office text did not address ergonomic aspects of agriculture in sufficient detail and, in his view, was tautological in mentioning national laws and regulations at the start of the Article and then repeating national or other recognized safety and health standards subsequently. The amendment avoided this tautology and made reference in subparagraph (a) to the materials needing to be governed by the recognized standards, both national and international; and in subparagraph (b) to detailed measures which, in his view and contrary to that of the

Employer members, had their place in the proposed Convention, not the proposed Recommendation, from which the text had been taken.

234. The Government member of Zimbabwe, speaking on behalf of 23 African Government members of the Committee (Algeria, Angola, Botswana, Burkina Faso, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Senegal, South Africa, Zambia and Zimbabwe) considered that subparagraph (a) of the amendment was a repetition of the Office text and that subparagraph (b) was already catered for in the proposed Recommendation where he thought it belonged; he opposed the amendment. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, opposed the amendment for the same reasons. The Government member of Lebanon, who also spoke for the Syrian Arab Republic, thought the Office text more flexible on the points covered in part (a) of the amendment, and considered that part (b) should be in the Recommendation.

235. The Worker Vice-Chairperson supported the amendment, arguing that there had been much recent academic research on the ergonomic aspects of farm work, notably on the possibility of carrying out farm work more safely, efficiently and economically, and that the Worker members were concerned to reduce the strain of agricultural work in every way possible. Noting the preference of several Government members for part (b) of the amendment to feature in the proposed Recommendation, he stated that the Workers consequently expected a commitment to its inclusion in the proposed Recommendation; ergonomics was not a luxury, it resulted in improved health and safer working conditions.

236. Regretting that an Article whose title mentioned ergonomics failed then to define the scope of the word, the Government member of Brazil withdrew the amendment.

237. An amendment to Article 9.1 was submitted by the Government member of Côte d'Ivoire, to delete "maintained and", and to add after "safeguarded" the words "and continuously maintained and checked". The intention was to ensure that the text was logical and made mention of the need for regular checks that machinery worked properly and safely.

238. The Employer members preferred the Office text which adequately addressed the issue with the words "be appropriately installed"; the amendment was superfluous and likely to create confusion.

239. The Worker members considered the amendment did no violence to the text, and so they supported it.

240. The Government member of Pakistan submitted a subamendment, to include the word "regularly" before "maintained", and supported the amendment as subamended.

241. The Government member of the United States opined that maintenance by definition implied regular maintenance, and opposed the amendment and subamendment, as did the Government member of Sweden, speaking on behalf of the aforementioned 14 Governments of the Committee Member States of the European Union, considering that the intention of the amendment was already covered by the Office text.

242. The Worker Vice-Chairperson stated the Workers now preferred the Office text, along with the Employer members and several Government members.

243. The Government member of Côte d'Ivoire withdrew his amendment.

244. An amendment was then submitted by the Government member of Sweden, speaking on behalf of 13 Government members of the Committee Member States of the European Union (Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom), to insert the word "adjustable" after "be appropriately" on the last line of Article 9.1. A subamendment was immediately proposed, to insert after "adjustable" the words "to different operators when applicable". The intention was to reflect the very great importance of ergonomics, which those Government members felt was not acknowledged in the draft text. Examples were quoted of serious physical harm, skeletal disorders and other illnesses suffered by workers in the forestry industry in Sweden, which illustrated the need to address the dangers arising from disregard for the principles of ergonomics.

245. The Employer Vice-Chairperson opposed the amendment and subamendment, arguing that they would unnecessarily complicate an adequate and clear Office text which referred to compliance with national laws and regulations. Adjustable machinery was beyond the means of the average poor farmer in a developing country.

246. The Worker members thought this a sound amendment which sought to ensure adjustable equipment in all sorts of working conditions. The Government member of Brazil also supported the amendment.

247. The Government members of India, Syrian Arab Republic and the United States all preferred the Office text, as did the Government member of Zimbabwe (speaking on behalf of the African Government members of the Committee), who pointed out the amendment's inappropriate emphasis on adjustable equipment; depending on the circumstances, fixed machinery was safer than adjustable machinery – hence his support for the Office text, which appropriately used the qualifier "appropriately" and avoided any prescription of adjustable over fixed machinery.

248. For the sake of greater clarity, the Government member of the United Kingdom pointed out that the amendment raised the issue of adjustability on the whole range of machinery, personal protective equipment, appliances and hand tools used in agriculture.

249. The Government member of Sweden, on behalf of the aforementioned 13 Government members of the Committee Member States of the European Union, withdrew the amendment and subamendment.

250. The Worker Vice-Chairperson submitted an amendment to replace the word "language" in paragraph 2 by the words "official language(s)", in recognition of the fact that many countries had more than one official language. The Employer Vice-Chairperson opposed the amendment, objecting that people might need information in a language that was not an official one, and that in countries with many official languages it placed an unacceptable burden on the employer. He indicated that even in his country of 2 million people, Lesotho, there were two major languages.

251. The amendment was also opposed by the Government members of Israel and the Syrian Arab Republic. It was supported by the Government member of Switzerland, who reminded the Committee of his country's three official languages, and by the Government member of the Democratic Republic of the Congo, who pointed out that although French was the official language of his country, national laws required that safety information also be translated into one or more of the four major national languages when appropriate. The amendment drew further support from the Government members of Australia, Austria, Belgium, Canada, Denmark, France, Italy, Romania, Sweden and the United States; the

Government member of Austria pointed out that the expression "official languages" was already present in the Office text of Article 12.

252. The Employer Vice-Chairperson withdrew his opposition and the amendment was adopted.

253. The Employer members submitted an amendment to replace the words "the importing country" by the words "the user country". They felt that the Office text would apply only to imported products, whereas it should also apply to products manufactured in a country. The amendment was supported by the Government member of Lebanon, by the Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, and by the Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee.

254. The Worker Vice-Chairperson subamended the amendment to read "both the importer and user country". The Employer Vice-Chairperson expressed the opinion that the term "user" covered the case of the "importer", but the Government member of South Africa pointed out that, on the practical level, the importer and the user of a product were usually quite different parties. The Chairperson agreed with the points, but emphasized that the Article referred to importing countries. The Worker Vice-Chairperson withdrew the subamendment.

255. The Government member of Uruguay suggested that the Spanish version of the amendment would be improved if "*usuario*" were replaced by "*usuarios*". The suggestion was referred to the Drafting Committee, and the paragraph was adopted as amended.

256. The Worker members submitted an amendment to the provision in paragraph 3 that "Employers shall ensure that workers receive and understand the safety and health information supplied by manufacturers, importers and suppliers", replacing "and understand" by "in an understandable form". The Employer Vice-Chairperson agreed that it was difficult for an employer to be sure that employees had really understood a safety message, but felt uncomfortable with the formulation put forth by the Worker members. He subamended the text to read: "the employer shall communicate to the workers in a language understood by the workers the safety and health information supplied by manufacturers, importers and suppliers". This said that if information arrived in a language that workers did not understand, it would be incumbent on the employer to translate it into one that they did.

257. The Worker Vice-Chairperson appreciated the willingness of the Employer members to retain the idea of the original amendment even while making a major subamendment, but said that the word "form" should not be eliminated, because it captured the idea that sometimes safety and health information was not communicated through words. The Employer Vice-Chairperson thereupon subsubamended the text to replace "language" with "manner", but this was not acceptable to the Worker members, and "manner" was replaced by "form".

258. The Government member of Hungary observed that, whatever the formulation, the Worker members' amendment had substantially weakened the paragraph. The obligation to provide information was much less stringent than the obligation to ensure comprehension. It was the case in Hungary that employers were required to ensure that workers understood safety and health messages. He opposed the amendment as subamended. The Government member of Pakistan likewise preferred the Office text. He held that the idea of "form" was implicit in the original. While the Government members of the Syrian Arab Republic and the United States supported the Worker members' amendment, it was opposed by the Government members of Austria, Belgium, France, Romania, the Russian Federation,

Sweden, Uruguay and Zimbabwe. The Government member of the Russian Federation observed that the prolonged discussion of the formulation of the amendment showed the dangers of departing from the Office text, and the Government member of Zimbabwe reinforced the observation of the Government member of Hungary, saying that "understandable form" was a very subjective expression. The Worker Vice-Chairperson withdrew the amendment.

259. The Employer members submitted an amendment to paragraph 3 that would replace "ensure that workers receive and understand" by "provide the workers with". Their Vice-Chairperson pointed out that the paragraph had been added by the Office to the text approved last year, asserting that only one country had asked for such a provision. He read from Report IV(2A) the text suggested by that country, which said that "national laws or regulations shall prescribe the duty of employers to reasonably ensure that their workers have received and understand the safety and health standard information supplied by manufacturers, importers and suppliers", and remarked on the absence of "reasonably" from the Office version. It was this tempering of the provision that had attracted him in the Worker members' amendment, and which his group hoped to introduce. The amendment was furthermore a reflection of the real state of affairs in the workplace.

260. The Government member of South Africa opposed the amendment. He interpreted the Employer Vice-Chairperson's remarks as saying that workers could be trained to operate machines but not to understand safety and health information. This was an important issue in South Africa, where many workers could not understand the materials supplied by manufacturers and relied on their employers for instruction. The Government member of Pakistan likewise expressed opposition, and it became clear that the Government members who had preferred the Office text over the Worker members' amendment also preferred it to the Employer members'. The amendment was withdrawn.

261. The Government member of Malaysia submitted an amendment to insert a new paragraph as paragraph 3, and move the previous paragraph 3 to position 4. The new paragraph prohibited employers from using the machinery, etc. specified in paragraph 1 until the information specified in paragraph 2 had been supplied. The Worker members supported the amendment, but it was opposed by the Employer members as imposing an additional obligation on employers. It was also opposed by the African Government members of the Committee, by the Government member of the United States, and by the Government member of Hungary, who pointed out that the proposed text made the employer responsible for something that paragraph 2 had made the responsibility of the competent authority. When the Worker Vice-Chairperson withdrew his support, the Government member of Malaysia withdrew the amendment.

262. Article 9 was adopted as amended.

Article 10

263. The Government members of Brazil and Paraguay submitted an amendment to delete the words "unless a use outside of the initial design purpose has been assessed as safe, and authorized by the competent authority". The Chairperson proposed that it be discussed together with an amendment submitted by the Employer members to simply delete the words "and authorized by the competent authority". The Government member of Brazil stated that the obligation placed on the competent authority by the Office text was inconsistent with the national system in his country, as well as with the human resources of the authorities.

264. A number of amendments submitted to Article 10(a) and 10(b) were dealt with by the Committee, before the Employer Vice-Chairperson announced that he had made a mistake during the discussion of the first of these amendments, which he had intended to oppose but for which he had in fact announced his support. He had also intended to support another of the amendments dealt with by the Committee in the intervening period (withdrawn by its proposers). He wished to know whether the Committee could agree to revert to discussing the amendment in question, so that he could rectify the situation. He also wished to reintroduce another amendment, which had been withdrawn, which he had the right to do, under the Standing Orders. He offered to withdraw the Employer members' amendment before the Committee when he announced his error.

265. It being clear that different outcomes might have been expected to the other amendments submitted since the Employer Vice-Chairperson's error, there followed a period of general discussion.

266. The Government member of Hungary stated that in his view there were two issues facing the Committee: (1) whether an amendment that had been withdrawn (as a result of the erroneous support by the Employer Vice-Chairperson) could be reintroduced; and (2) whether the error of the Employers' group should be debated as a procedural issue.

267. The Chairperson wished to know whether there was a consensus regarding whether an error had been committed by the Employer Vice-Chairperson.

268. After obtaining legal advice, the Chairperson stated that as the Committee had formally adopted the amendment erroneously supported by the Employer Vice-Chairperson, it could not be debated again, although the Employer Vice-Chairperson's statement could be placed on record; but the withdrawn amendment could be reintroduced in accordance with article 63, paragraph 7(2) of the Conference Standing Orders.

269. The Worker Vice-Chairperson stated the Worker members were looking for a Convention reached through debate and consensus. The Worker members accepted there had been an error, and were prepared to reopen discussion on the two amendments.

270. The Government member of Hungary pointed out that the Committee was in no position to decide whether there had been an error; it could only decide whether to reopen discussion of Article 10(a).

271. The Deputy Legal Adviser of the Conference stated that the Committee had to be aware of the implications of the interpretation of the rules presented by the Government member of Hungary: this would open up discussion of all amendments submitted on Article 10(a). The Chairperson had been trying to limit the Committee's decision to whether or not to reopen discussion just of the amendment on which there had been an error. If the Committee decided to reopen discussion of the whole of Article 10(a), then the discussion must address all the amendments to Article 10(a). The Committee so decided, and discussion returned to the point where amendments to Article 10(a) began.

272. The Government member of Brazil submitted an amendment to delete the words "unless a use outside of the initial design purpose has been assessed as safe, and authorized by the competent authority". He argued that such a provision would be difficult to build into national legislation.

273. The Employer members opposed the amendment, arguing that the phrase in the Office text was crucial to ensure that agricultural machinery and equipment thus used was assessed as safe before use; the Employer Vice-Chairperson also drew attention to another amendment

they were submitting, in which it was proposed to delete the words "and authorized by the competent authority", and pointed out that authorities could not check every piece of equipment used on farms; employers could only comply with the requirements of national laws and regulations.

274. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, opposed the amendment, on the grounds that there were many sectors in which the regulatory authority authorized different uses. The Government members of Pakistan and Sweden, speaking on behalf of the aforementioned 14 Governments of the Committee Member States of the European Union, also opposed the amendment.

275. The Government member of Switzerland endorsed the amendment, pointing out that in his country the supplier, not the government or any other competent authority, was responsible for stating the use for which machinery was intended.

276. The Worker Vice-Chairperson pointed out that, as many countries ratifying the instrument would be developing countries, the text could not properly state that equipment should be designed for one use only. Wishing to provide safeguards in such situations, the Worker members preferred the Office text.

277. The Government member of Brazil withdrew the amendment

278. The Employer members also withdrew their amendment to delete the words "and authorized by the competent authority" from Article 10(a).

279. The Government member of Sweden submitted an amendment on behalf of the Government members of Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom, seeking to replace the words in Article 10(a) "authorized by the competent authority" with "according to national law and practice". Without this amendment, they would be unable to ratify the proposed instrument. He was supported by the Government members of Brazil, Norway, Switzerland and Zimbabwe, on behalf of the African Government members of the Committee, and by the Employer members.

280. The amendment was adopted.

281. The Government member of Zimbabwe submitted an amendment, on behalf of the Government members of Algeria, Angola, Botswana, Congo, Côte d'Ivoire, Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, South Africa, United Republic of Tanzania and Zambia, which proposed to delete from Article 10(a) the words "and, in particular, shall not be used for human transportation, unless designed or adapted so as to carry persons;". The intention was not to compromise safety provisions but to recognize the numerous practical aspects to the issue, on which he considered that national laws and regulations should be allowed to prevail.

282. The Worker Vice-Chairperson recognized the fact implied by the proposers of the amendment, namely, that agricultural machinery or tractors could be redesigned to carry people and that regulations could not suddenly require this to cease to happen. He considered the approach should be through regulations laying down conditions in which an alternative use could be made – in which case the redesigned machinery should be inspected and approved. The Worker members preferred the Office text.

283. The Employer Vice-Chairperson supported the amendment, considering that the inclusion of "according to national laws and regulations" in the previous amendment covered the safety issue in such situations. He was joined by the Government members of Guatemala, India and Pakistan.

284. The Government member of Sweden, on behalf of the aforementioned Government members of the Committee Member States of the European Union, opposed the amendment, as did the Government member of Egypt.

285. The Worker Vice-Chairperson reminded delegates that in developing countries, ILO Conventions served as a basis for developing national legislation. As in those countries transport to and from work presented one of the major risks to human life, it was vital to include this question in the framework of the Convention.

286. After a short adjournment for consultations on an alternative wording for the amendment, the Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, stated that, on the understanding that the reference in Article 10(a) to national laws and practice covered the issue of human transportation in agricultural machinery redesigned for that purpose, then he withdrew the amendment.

287. An amendment was proposed by the Government member of Japan, to replace the words "trained and competent" in Article 10(b) with "appropriately trained". He explained that it was necessary because of the possible narrow legal interpretation of the word "competent", i.e., someone who has been licensed to operate the machinery or equipment in question by the competent authority.

288. The Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, opposed the amendment, as did the Government members of Canada, Côte d'Ivoire, the Russian Federation, Switzerland and Zimbabwe, speaking on behalf of the African Government members of the Committee.

289. The Employer Vice-Chairperson supported the amendment, as did the Government members of the Syrian Arab Republic and the United States.

290. The Worker Vice-Chairperson opposed the amendment.

291. After clarification from the Chair and the Deputy Legal Adviser of the Conference that the Office text in no way required governments to define "competent" in any restrictive way, the Government member of Japan withdrew the amendment.

292. The Employer Vice-Chairperson withdrew an amendment to delete the words ", in accordance with national law and practice" from Article 10(b).

293. Article 10 was adopted as amended.

Handling and transport of materials

Article 11

294. The Government member of Uruguay, speaking also for the Government members of Argentina, Brazil and Paraguay, presented an amendment to paragraph 1 which reformulated the description of manual handling in the Spanish text. It affected the French

but not the English version of the Article. He accepted that the amendment be referred to the Drafting Committee.

295. The Employer Vice-Chairperson submitted an amendment to paragraph 1 that would add, at the end of the paragraph, the words "in accordance with national law and practice". As he received support from the Government members of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, the Syrian Arab Republic, speaking also on behalf of the Government member of Lebanon, Zimbabwe, speaking on behalf of the African Government members of the Committee, the United States, as well as from the Worker members, the Committee adopted the amendment.

296. Article 11 was adopted as amended.

Sound management of chemicals

Article 12.

297. The Employer Vice-Chairperson submitted an amendment to insert the word "hazardous" before the word "chemicals" in the title of Article 12 and move the whole Article to the proposed Recommendation. As there was already a Chemicals Convention, 1990 (No. 170), chemicals should not be singled out in this Convention. However, if special reference were made to chemicals, it should be qualified to include only those which posed a danger to workers' safety and health. Furthermore, it should be in the Recommendation.

298. The Worker Vice-Chairperson strongly disagreed with the proposal. Since the Article deferred to national law and practice, there was no reason to be afraid of including a reference to chemicals in the Convention.

299. The Government member of Sweden, speaking on behalf of the 14 Government members of the Committee Member States of the European Union, agreed with the Worker members that it was important to retain the Office text. Therefore he could not support the amendment. His opinion was shared by the Government member of Bahrain, who spoke also on behalf of the Kuwait, Oman, Saudi Arabia and the United Arab Emirates, the Government members of Brazil, Switzerland, the Syrian Arab Republic, speaking also on behalf of Lebanon, as well as the Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee.

300. The Employer Vice-Chairperson withdrew the amendment.

301. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, submitted an amendment to subparagraph (a) that would insert "or any other system approved by the competent authority" after the words "national system" with regard to criteria for the importation, classification and labelling of chemicals, and insert ", exportation," after "importation". He pointed out that many developing countries had not developed their own chemicals management systems, and might want to adopt international standards or codes of practice. The Government member of South Africa observed that Africa was characterized by unequal development; one country might not need a chemicals management system at the time a second country was obliged to develop one, and the first should be able to profit from its neighbour's experience when it reached the point of needing to regulate chemicals. In response to the Worker Vice-Chairperson's expressions of concern about matters of sovereignty, the Government member of Hungary and the Employer Vice-Chairperson declared that once

the competent authority had approved a system, it became the national system of the country and its foreign origins became irrelevant.

302. The Government member of Lebanon supported the amendment, as did the Worker members; the Employer members agreed only to the first part of the amendment. With the general agreement of the Government members, the first part of the amendment was adopted.

303. The second part of the amendment was discussed together with amendments submitted by the Worker members and by the Government member of Côte d'Ivoire, both of which inserted ", exportation" after "importation". The Employer Vice-Chairperson opposed the mention of exportation, saying that it was up to importing countries to regulate chemical products coming to them from elsewhere. The Government members of Argentina, Brazil, Chile, Guatemala, Nicaragua, Panama, Paraguay and Uruguay supported the inclusion of exportation, but it was opposed by the 14 Government members of the Committee Member States of the European Union, Hungary, Japan, Lebanon and the Syrian Arab Republic.

304. The Government member of Côte d'Ivoire emphasized the harmony of the proposed amendments with the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the Chemicals Convention, 1990 (No. 170). It was very important for exporting nations to monitor trade in potentially hazardous products, since many developing countries lacked the means to prevent the importation of products that were banned or severely restricted in their countries of origin. The Worker Vice-Chairperson noted the existence of international conventions such as the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, to which he expected that many of the Committee Member States were parties, and therefore should have no trouble in supporting the amendment. The Government members of Japan and the United Kingdom (speaking on behalf of 14 Government members of the Committee Member States of the European Union) saw the existence of international standards such as the Chemicals Convention, 1990 (No. 170), the Rotterdam Convention and the United Nations Recommendations on the Transport of Dangerous Goods as a reason for not dealing with the same issues in the present proposed Convention.

305. The Worker Vice-Chairperson suggested that if the record showed that all parties recognized the existence of international agreements governing trade in chemical products and their applicability to the issue of exportation, the word did not need to be added to the present Article. This consensus was achieved and the second part of the amendment of the African Government members of the Committee was withdrawn, together with the amendments of Côte d'Ivoire and the Worker members.

306. The Government member of Malaysia submitted an amendment to insert the word "packaging" after the word "classification" in the list of things to be covered by a national system of chemicals management. The amendment was opposed by the Employer members, but after expressions of support from the Worker members and the Government members of Israel, Norway, Sweden (on behalf of 14 Government members of the Committee Member States of the European Union) and Zimbabwe (on behalf of the African Government members of the Committee). The amendment was adopted.

307. The Employer members withdrew amendments to qualify the word "chemicals" with the word "hazardous" in subparagraphs 12(a) and 12(c).

308. The Government members of Algeria, Angola, Botswana, Burkina Faso, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Kenya, Lesotho, Libyan Arab Jamahiriya,

Madagascar, Malawi, Mali, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Senegal, South Africa, United Republic of Tanzania, Zambia and Zimbabwe withdrew an amendment to insert "export," after the word "produce," in "those who produce, import, provide, sell, transfer, store or dispose of chemicals" in subparagraph 12(b).

309. Twelve African Government members of the Committee (Botswana, Burkina Faso, Democratic Republic of the Congo, Kenya, Lesotho, Mali, Namibia, Nigeria, South Africa, United Republic of Tanzania, Zambia and Zimbabwe) submitted an amendment to delete the words ", on request" from the provision of subparagraph (b) that those who produce, import, provide, sell, transfer, store or dispose of chemicals provide information to users and, on request, to the competent authority. The Government member of Zimbabwe stated that the provision was necessary to prevent the introduction of chemicals into the workplace without the knowledge of the competent authority. He held that it was essential for the competent authority to have a database on all chemicals used in the country.

310. The amendment was supported by the Worker members and by the Government members of Argentina, Brazil, Chile, China, Egypt and Paraguay. It was opposed by the Employer members and the Government members of Hungary, Israel, Norway, Sweden (on behalf of 14 Government members of the Committee Member States of the European Union) and the United States. Opposition was based largely on concerns over the volume of data with which the competent authority would have to cope if the submission of data were mandatory. The amendment was withdrawn.

311. The Employer members withdrew an amendment to insert "hazardous" before the word "chemicals" in Article 12(c).

312. The Employer Vice-Chairperson submitted an amendment to replace "obsolete chemicals", a term not defined anywhere, with "hazardous chemicals which are no longer required", a phrase taken from Article 14 of Convention No. 170.

313. The Worker Vice-Chairperson said that had this part of the proposed Convention been an imposition on employers, he would have been willing to look for a compromise. But in fact this was a matter for governments and it dealt with something that should concern everyone: environmental protection. He referred to a document issued recently by the Global Crop Protection Federation, in which a pledge was made by industry to help developing countries to get rid of pesticides. Environmental protection was very important for the Worker members and he saw no reason to restrict references to it to the workplace.

314. The Government member of India agreed with the Worker members and opposed the amendment. "obsolete chemicals" had a very different meaning from "hazardous chemicals", including (but not restricted to) chemicals whose expiry date has been reached.

315. The Government member of Switzerland proposed a subamendment that would delete the term "hazardous" from the phrase.

316. The Government member of Pakistan supported the Office text, saying that the term "obsolete chemical" was widely understood and had a specific meaning quite different from "hazardous chemical" or "dangerous chemical". In some cases, "obsolete" in this context may mean "expired".

317. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, and the Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, both opposed the amendment and subamendment.

318. The Employer members withdrew their amendment.

319. The Employer members also withdrew an amendment to insert "hazardous" after "containers of" in Article 12(c).

320. The Government member of Canada withdrew an amendment to replace "and to the environment" with "of agricultural workers" in the last line of Article 12(c).

321. The Government member of Sweden submitted an amendment on behalf of 14 Government members of the Committee Member States of the European Union, to add "workers'" before "environment" in Article 12(c).

322. The Worker Vice-Chairperson reiterated his group's interest in environmental protection, and explained that environmental protection did not stop at the limits of the undertaking. He was referring to issues such as the prevention of toxic waste getting into streams and the like, which should be part of environmental protection to be included in the proposed instrument. Thus he opposed the amendment.

323. The Employer Vice-Chairperson supported the amendment. He saw the Convention as serving primarily the safety and health of workers, and any reference to the environment should be specifically to the workers' environment. The Convention should not enlarge its scope to include matters covered by such agencies as UNEP. In any case, in his view a proper protection of the workers' environment would automatically protect the general environment as well.

324. The Government members of India proposed a subamendment changing "workers' environment" to "working environment". The Government members of Brazil, Israel and Pakistan all supported the amendment as subamended. The Government member of Sweden, on behalf of 14 Government members of the Committee Member States of the European Union, also supported the amendment, though he preferred the broader term "workers' environment".

325. The Government member of Côte d'Ivoire opposed the amendment, considering that the impact of environmental pollution from farming, contaminated milk, meat and water, was such that restricting prevention to the workplace was too limiting.

326. The Government member of Zimbabwe, on behalf of the African Government members of the Committee, said that for his group the term "environmental" included both the general environment and the working environment; consequently they preferred the Office text. The Government member of South Africa added that he was opposed to restricting protective measures to the workers' environment. The Government member of Barbados also opposed the amendment.

327. The Government member of Sweden, on behalf of the 14 Government members of the Committee Member States of the European Union, withdrew the amendment.

328. The Vice-Chairperson of the Employer members wished to express his group's general agreement with the paragraph, hoping that competent authorities would take their responsibilities for environmental protection seriously.

329. The Worker Vice-Chairperson submitted an amendment to insert a new subparagraph under 12, as follows: "( ) programmes for pollution prevention and toxic use reduction are established as part of an integrated pest management policy.", in an effort to take the previous subparagraph somewhat further.

330. The Government member of Pakistan considered the previous subparagraph covered the ground sufficiently and that the amendment was unnecessary.

331. The Worker members withdrew their amendment.

332. The Government member of Pakistan withdrew an amendment to add two new subparagraphs to Article 12 regarding training in the use and handling of chemicals.

333. Article 12 was adopted as amended.

Article 13

334. An amendment was proposed by the Government member of Côte d'Ivoire to replace "ensure that there are" by "ensure that the employer establishes", in an attempt to place greater emphasis on the obligations of the employer at the enterprise level, to be prescribed by national legislation.

335. The Employer Vice-Chairperson opposed the amendment, stating that national laws and regulations could already impose such obligations on the employer, and that this amendment might impose even more obligations on employers, who might not be able to carry them.

336. The Government member of Algeria opposed the amendment, as did the Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union.

337. The Worker Vice-Chairperson considered that if such an amendment were adopted, each employer might develop his/her own system of chemical safety. It was better to impose one system.

338. The Government member of Côte d'Ivoire withdrew his amendment.

339. An amendment originally submitted by the Government member of South Africa on behalf of several African Government members of the Committee was withdrawn by the Government member of Zimbabwe, on behalf of the African Government members of the Committee.

340. An amendment proposed by the Government member of Côte d'Ivoire concerned a drafting matter in the French version of Article 13.1 and was consequently referred to the Drafting Committee.

341. The Government member of Canada withdrew her amendment to add after the word "for" in Article 13.1 the words "the safety and health of agricultural workers with regard to".

342. The Employer Vice-Chairperson withdrew two amendments concerning the insertion of the word "hazardous" in Article 13.1 and 13.2.

343. The Government member of Côte d'Ivoire submitted an amendment to replace "include" with "concern" in the first line of Article 13.2. He explained that in effect the Office text presented a list of activities concerning the handling of chemicals as if they were preventive and protective measures.

344. The Employer Vice-Chairperson submitted a subamendment replacing "concern" with "cover".

345. The Worker Vice-Chairperson preferred the Office text.

346. The Government member of Hungary supported the amendment and agreed that the use of the verb "include" was not appropriate here.

347. The Government member of France considered the use of "*comprendre*" in the French version totally acceptable, since it included the senses of both "*couvrir*" and "*inclure*". He preferred the Office text.

348. The Government member of Côte d'Ivoire suggested the question be referred to the Drafting Committee.

349. The Chairperson requested the Drafting Committee to make changes to the Article as it thought necessary.

350. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, introduced an amendment to replace the existing subparagraph 2(b) with the following: "agricultural activities leading to the dispersion of chemicals;", on the grounds that the term "dispersion" was clearer than "release".

351. The Worker Vice-Chairperson said that the amendment had prompted the Worker members to review their amendment to add the words "especially with reference to run off, leaching and spray drift into ground and surface waters" after the word "activities". That amendment was motivated by a concern to protect the wider environment, as opposed to the working environment. It was understood that the Governments sponsoring the amendment wished to introduce greater clarity than was afforded by the Office text, although it was not clear why the term "release" was felt to be problematic. Nevertheless it might be possible to consider the two amendments together and produce a combined text that would meet the concerns behind both.

352. The Employer Vice-Chairperson did not understand the Worker Vice-Chairperson's reservation concerning the proposed amendment, and felt that the Worker members' amendment appeared to go too far and did not follow on from the one currently under discussion.

353. The Government member of the United Kingdom explained that the European Union amendment was based on the need to cover both the deliberate application of chemicals, which was covered by subparagraph 2(a), and unintentional, non-targeted release into the environment, which was covered by the wording of the present amendment.

354. Following informal consultations, the Worker Vice-Chairperson said that he was satisfied that the intention of the proposed amendment was to minimize possible environmental damage resulting from unintended dispersion, and thus largely coincided in its aims with the amendment submitted by the Worker members. On that understanding, the Workers' group therefore supported the proposed amendment and withdrew its own.

355. The amendment of the 14 Government members of the Committee Member States of the European Union was adopted.

356. The Employer members withdrew amendments to qualify "chemicals" with "hazardous" in Articles 13.2(b), 13.2(c) and 13.2(d).

357. The Employer members withdrew an amendment to replace the words "obsolete chemicals" by the words "hazardous chemicals which are no longer required" in Article 13.2(d).

358. The Worker members withdrew an amendment to insert a new subparagraph as follows: "( ) the prevention and control of exposure to chemicals so as to protect the safety and health of workers.".

359. The Government member of Canada introduced an amendment to add a new subparagraph as follows: "the appropriate selection of the chemicals used and the use of those chemicals solely for the purposes for which they are intended.". The Employer Vice-Chairperson opposed the amendment on the grounds that the provision in question was already covered by the Chemicals Convention, 1990 (No. 170).

360. The Government member of Hungary agreed with the idea behind the proposed new subparagraph, but opposed the amendment because the new item was of a different category from the others contained in subparagraphs (a) to (d): the first four were areas in which measures were to be taken, whereas the amendment described one particular measure.

361. The Worker Vice-Chairperson expressed a similar reservation and said that although the new subparagraph might well be a useful addition, it was not clear where in the text it really belonged.

362. The Government of Switzerland said that although the idea behind the amendment was an interesting one, he felt there might be difficulties in attempting to transpose it into national law.

363. The Government member of Canada, noting the general lack of support, withdrew the amendment.

364. Article 13 was adopted as amended.

Animal handling and protection against biological risks

Article 14

365. The Government member of Sweden, on behalf of 14 Government members of the Committee Member States of the European Union, introduced an amendment to replace the Office text of Article 14 and the associated title with the following:

> **Protection against biological risks**
>
> National laws and regulations shall ensure that the risks such as those of infection, allergy or poisoning are prevented or kept to a minimum when biological agents are handled and the activities involving animals, and livestock and stabling areas, must comply with national or other recognized health and safety standards.

366. The amendment was motivated by the fact that, while the Office text was comprehensive in its treatment of chemicals and animal handling, it paid too little attention to the risks associated with biological agents of vegetable origin. The health risks associated with such agents, as shown by recorded statistics, were considerable. Bio-aerosols caused infections, allergic reactions and toxic effects among agricultural workers. Up to 10 per cent of farm workers suffered from extrinsic allergic alveolitis, as many as 24 per cent suffered from

chronic bronchitis, up to 30 per cent of cereal farmers suffered from toxic syndromes, and chronic bronchitis had been reported in as many as 55 per cent of all swine confinement workers. Exposure to bio-aerosols could result in a number of conditions including dry cough, chronic bronchitis, allergic asthma, and toxic syndromes. Other recognized occupational hazards in agriculture included "farmer's lung" disease caused by mouldy hay and grain, byssinosis caused by cotton dust, and infectious diseases that could be transmitted from animals to humans such as tuberculosis, Q fever, cryptococcosis, psittacosis, brucellosis, leptospirosis and rabies. Such risks were already covered by the European Commission Directive 2000/54/EC concerning the protection of workers from risks related to exposure to biological agents at work.

367. As a further subamendment, he suggested that the title should after all include a reference to "animal handling".

368. The Worker Vice-Chairperson expressed support for the amendment.

369. The Government member of Panama, speaking also on behalf of the Government member of Guatemala, supported the amendment with the subamendment. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, likewise supported the amendment and subamendment.

370. The Government member of Côte d'Ivoire agreed in principle with the amendment, but proposed as a subamendment the removal of the reference to " poisoning" as incompatible with "biological risks", and the removal of the phrase "when biological agents are handled", since that was felt to be too limiting.

371. The Government member of Pakistan wondered whether the text without a reference to "poisoning" might imply that the latter was an acceptable risk. He expressed a preference for the original Office text of the Article and its title, but said that the text as amended but without the subamendment proposed by Côte d'Ivoire would be acceptable. The subamendment was also opposed by the Government members of South Africa and Sweden.

372. The Worker Vice-Chairperson said that the Worker members supported the amendment to the text of the Article, but preferred the title submitted by the Office.

373. The Employer Vice-Chairperson recalled that the Employers' group had submitted amendments to delete the reference to "biological risks" in the title and the reference to "contact with biological agents" in the text of the Article, since their inclusion added an unhelpful complication. However, the Employer members could live with the text as now amended by the European Union Member States, since the amended text was better overall than the Office text. However, it was doubtful that national laws and regulations could "ensure" anything, and consideration should therefore be given to reverting to the term "provide" used in the original Office text.

374. The Government member of Sweden agreed with the use of the title originally submitted by the Office.

375. The Chairperson noted that there appeared to be wide support for the amendment submitted by the Committee Member States of the European Union, as subamended to include the original Office title and without the further subamendment proposed by the Government member of Côte d'Ivoire. Since it appeared that the Committee wished to adopt the new text in its entirety, the other amendments that had been tabled no longer had an object and would not be considered.

376. The amendment, as subamended to include the original Office title of Article 14, was adopted.

377. Article 14 was adopted as amended.

Agricultural installations

Article 15

378. The Worker Vice-Chairperson, introducing an amendment to add the word "reconstruction," after the word "construction", said that the amendment was justified by the need for care to ensure that all situations were covered.

379. The Employer Vice-Chairperson said that he did not see how the term "reconstruction" differed from "construction" and might lead to confusion. The Employer members therefore opposed the amendment.

380. After some further discussion, it was agreed that the term "construction" was understood to cover all aspects of renovation and rebuilding work, as well as the construction of new structures, and the inclusion of the term "reconstruction" was therefore unnecessary. On that understanding, the Worker members withdrew their amendment.

381. Article 15 was adopted without amendment.

IV. OTHER PROVISIONS

Young workers

Article 16

382. The Government member of Egypt introduced an amendment to the title of Article 16, to add after "Young workers" the words "under hazardous conditions". This aim was to clarify the intention of the Committee, and the words proposed were inspired by the provisions of Article 3 of the Minimum Age Convention, 1973 (No. 138).

383. The Employer Vice-Chairperson shared the view of the Government member of Egypt, but proposed a subamendment to replace "under hazardous conditions" by "and hazardous work". He supported the amendment as subamended.

384. The Government member of Argentina, speaking also on behalf of the Governments of Brazil and Uruguay, drew attention to their proposed amendment, which also concerned the title. He suggested that both the amendments submitted to the title be considered at the same time. He stated that there were problems with the definition of the term "young workers". Paragraph 16.1 referred to young persons "not less than 18 years", paragraph 16.3 included a reference to 16 years of age, Convention No. 138 used the term "young persons", whereas Convention No. 182 referred to "children". In order to avoid confusion in the terminology used, the Government members of Argentina, Brazil and Uruguay proposed a subamendment to replace the words "young workers" with "minors".

385. The Employer Vice-Chairperson stated that he could not accept an amendment, which excluded the word "workers", because the young persons in question were being considered within the framework of an employment relationship. Therefore it was essential to refer to that employment relationship in the title of Article 16.

386. The Government members of Barbados and the United States supported the amendment of Egypt as subamended by the Employers' group.

387. The Government member of Hungary drew attention to the fact that several substantive amendments proposed to Article 16 tended to shift the emphasis from young workers to hazardous work. Therefore, he moved that the title in question should only be determined once the substantive amendments had been considered.

388. The Employer Vice-Chairperson opposed the proposal made by the Government member of Hungary and wished to give some further explanations. The Worker Vice-Chairperson asked the Government member of Hungary to withdraw his motion. Responding to this request, the Government member of Hungary withdrew the motion.

389. The Employer Vice-Chairperson thanked the Government member of Hungary and informed the Committee that the Employers' group would withdraw its amendments to paragraphs 16.1 and 16.2, if the title could be adopted as amended by Egypt and subamended by the Employers.

390. The Worker Vice-Chairperson said that if the Employers' group withdrew the two abovementioned amendments, the Workers' group would accept the amendment of the title.

391. After clarification by the Employer Vice-Chairperson of the position of the Employers' group, the Government member of Argentina stated that the question of the title was not merely a formal one, since it concerned the consistent use of ILO concepts and terms. Drawing attention to the diversity between the definitions of "minimum age", the Government member of Sri Lanka mentioned that in his country the term "under age" referred to persons less than 14 years of age.

392. The Government member of Egypt wished to ensure that the discussion concentrated on the title only.

393. The Government members of Bahrain (speaking also on behalf of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates), India, Lebanon (speaking also on behalf of the Syrian Arab Republic), Pakistan and Switzerland, supported the amendment submitted by Egypt as subamended by the Employers' group. The last speaker asked the Government member of Argentina to withdraw his amendment.

394. When withdrawing his amendment, the Government member of Argentina wished to put on record that, in his view, the question of terminology posed a problem not only in terms of national legislation but also in conjunction with the various terms used in related ILO Conventions; he had been seeking to establish consistency in use.

395. The amendment was adopted as subamended.

396. The Vice-Chairperson of the Employers' group withdrew a five-part amendment to Article 16.1.

397. The Government member of Sweden, speaking on behalf of the aforementioned 14 Governments of the Committee Member States of the European Union, submitted an amendment to insert before "The minimum age" in the first line the words "Notwithstanding the Minimum Age Convention, 1973". In their view, as a Convention already existed on the minimum age, then it should be referred to; certainly no attempt should be made to rewrite it in the proposed instrument.

398. In the Worker Vice-Chairperson's view there was no need for the amendment, because reference to Convention No. 138 and to Convention No. 182 was already made in the Preamble. He proposed a subamendment replacing "notwithstanding" with "in accordance with".

399. The Employer Vice-Chairperson supported the amendment, but not the Worker members' subamendment, which changed it substantially. He said that "notwithstanding" made sense, since the paragraph's meaning further limited the employment of young persons, while "in accordance with" would simply reaffirm the meaning of Convention No. 138, which was not the intention here. If the Committee were to opt for the subamended text, the Employer members would opt for the Office text.

400. The Government member of the United States preferred the original amendment.

401. In view of the opinions expressed, the Worker members decided to support the Office text and withdrew their subamendment.

402. The Government member of Argentina, speaking also on behalf of the Government members of Brazil, Paraguay and Uruguay, stated their strong support for other Conventions they had ratified and their wish for the proposed instrument to reaffirm the generic ban on child labour by making reference to the appropriate Conventions. He submitted three subamendments: (1) to change "Notwithstanding" to "In accordance with"; (2) to add reference to Convention No. 182 after the reference to Convention No. 138; and (3) to delete the words "of young persons".

403. The Government member of the Syrian Arab Republic, speaking also on behalf of Lebanon, considered a reference to Convention No. 138 was justified in the proposed instrument. The Government members of Guatemala, India, Nicaragua and Switzerland supported the original amendment without the subamendment of the Worker members. The Government member of Pakistan did so also, but not if mention of any further ILO Conventions were to be added.

404. The Government members of Mexico and Zimbabwe, on behalf of the African Government members of the Committee, stated their preference for the Office text.

405. The Government member of Sweden, on behalf of the 14 Governments of the Committee Member States of the European Union, withdrew their amendment. Consequently all subamendments were set aside.

406. The Government member of Egypt withdrew an amendment to introduce "hazardous" into the first line, given that it now appeared in the title.

407. The Government member of Egypt submitted an amendment to delete all commas in paragraph 16.1. In his view, the use of these commas unfortunately implied that all agricultural work was hazardous. Removing the commas would lead to the intended meaning, namely, that all young persons should be prevented from working in agricultural activities that were hazardous to their health and safety.

408. The Employer Vice-Chairperson considered that this was a drafting matter. He agreed that the elimination of the commas would indeed reflect the intention of the Convention better, so supported the amendment.

409. The Worker Vice-Chairperson considered that the presence or absence of commas did not alter the meaning. He preferred leaving the matter to the Drafting Committee.

410. The Government member of Chile said that in the Spanish version only the first comma should be removed.

411. It was agreed that the commas be removed, and the attention of the Drafting Committee be drawn to the matter.

412. The Government member of Pakistan submitted an amendment to replace in the last lines the words "not be less than 18 years of age" by "be determined by member States in accordance with their national laws and regulations". He said that the official text would be difficult for countries to adopt. In Pakistan, for example, poverty was widespread in the countryside, and if people were to survive they had to count on agricultural work by everyone. Age limits were simply irrelevant to the life of the rural poor. It was essential to insist on flexibility within the framework of existing legislation.

413. The Worker Vice-Chairperson expressed very strong opposition to this amendment. He reminded the Committee that the matter for discussion here was hazardous work by young persons, not just any work. He realized that certain kinds of child labour were going to continue in some countries, as long as their prime cause (poverty) remained. However, this should not mean that young people could be exposed to particularly hazardous working conditions.

414. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, agreed with the Worker members, and expressed his group's opposition to the amendment, while showing sympathy for the proposer's position. He recalled the title of the Article which now read "Young persons and hazardous work".

415. The Government members of Romania and Barbados also opposed the amendment.

416. The Government member of India supported the amendment and asked for some understanding of the situation in countries like India. One of the problems there was that the protection of young workers had been included in many different pieces of legislation introduced in the days of British rule. If the proposed instrument was to be ratified, all these would have to be updated, necessitating long-term consultations and, above all, time.

417. The Employer Vice-Chairperson said that the change in the Article's title should take care of the matter. He considered that the Government members of India and Pakistan should realize that the mood of the Committee was such that this amendment would never be accepted, as it would be seen as retrograde. Paragraph 16.2 would in any case take care of references to national laws and regulations. He opposed the amendment.

418. The Government member of Pakistan withdrew the amendment.

419. The Employer Vice-Chairperson withdrew an amendment to paragraph 16.2.

420. The Government members of Argentina and Uruguay submitted an amendment to delete paragraph 3 of Article 16. The Government member of Argentina stated that their intent was to align the proposed Convention with the Worst Forms of Child Labour Convention, 1999 (No. 182). Convention No. 182 had been adopted unanimously by the International Labour Conference and had been ratified more rapidly by more countries (74 to date) in the northern and southern hemispheres than any other ILO instrument, so this alignment seemed like a desirable course of action. As the issues with which paragraph 3 dealt were adequately provided for in Convention No. 182, there was no need to repeat them in the proposed Convention.

421. The Worker Vice-Chairperson disagreed with this interpretation. It was true that there had been universal agreement on Convention No. 182, but from this it did not follow that the contents of paragraph 3 should disappear. He asked if the Government members of Argentina and Uruguay would subamend their amendment to move it to the proposed Recommendation. This would be truly consistent with what was done in the adoption of Convention No. 182. He read from paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), to show its similarity to the text under discussion:

> … for the types of work referred to under Article 3(d) of the Convention [No. 182] and Paragraph 3 above [i.e., defined types of hazardous work], national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

422. The Government member of Argentina accepted the subamendment proposed by the Worker Vice-Chairperson. The Government member of Chile also supported this change. It was opposed by the Government members of Pakistan, Sweden (speaking on behalf of the Government members of the Committee Member States of the European Union: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden and the United Kingdom), the United States and Zimbabwe (speaking on behalf of the African Government members of the Committee: Angola, Algeria, Botswana, Burkina Faso, Côte d'Ivoire, Congo (Brazzaville), Democratic Republic of the Congo, Egypt, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritius, Mozambique, Morocco, Namibia, Nigeria, Guinea, Senegal, South Africa, United Republic of Tanzania, Zambia and Zimbabwe). The Employer Vice-Chairperson stated that the Employer members preferred the Office text to the amendment as subamended, and the amendment was withdrawn by the Government member of Argentina.

423. The Government members of Norway and Switzerland submitted an amendment to add a new Article after Article 16, but as the text had to do exclusively with young workers, the Committee took it up as a new paragraph under Article 16. In introducing the proposal to lower the minimum age for hazardous work to 14 if it was done under supervision in a vocational training or similar programme, the Government member of Norway explained that the minimum age of 18, fixed by paragraph 1 for the undertaking of hazardous work, was in general consistent with his national legislation, but that national laws and European Directive 94/33/EEC permitted persons 15 to 18 years of age to undertake certain tasks defined as hazardous, such as driving tractors, in the context of training programmes. Article 6 of the Minimum Age Convention, 1973 (No. 138), gave a derogation for vocational training from age 14, and it was from Convention No. 138 that the language of the amendment was taken. With the assurance that the record would show the Committee's feeling that Article 6 of Convention No. 138 met his concerns and those of the Government member of Switzerland, the Government member of Norway withdrew their amendment.

424. Article 16 was adopted as amended.

Temporary and seasonal workers

Article 17

425. The Government member of Sweden, on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, submitted an

amendment to delete the words “temporary and seasonal” after the words “ensure that” in the first line and to replace the part of the sentence after “health protection” in the second line with the words “irrespective of the form of employment”. It was felt that the amendment would bring greater clarity to the text. He also proposed a subamendment to change the title to “Temporary, seasonal and similar workers”. The text of the Article as amended would then be: “Measures shall be taken to ensure that workers receive the same safety and health protection irrespective of the form of employment.”.

426. The Worker Vice-Chairperson declared his support for the amendment as subamended.

427. The Employer Vice-Chairperson had two questions. One related to the subamendment: since the original amendment referred only to the text of the Article, the proposal to change the title was, strictly speaking a separate and new amendment and might not be receivable. The other problem related to the use of the word “similar” in the amendment to the title: since “temporary” and “seasonal” did not by any means refer to the same category of workers, it was not clear what “similar” was intended to refer to. Given the lack of clarity, he felt obliged to oppose the amendment. While he had some sympathy with the rationale behind the amendment, the Office text was preferable; in fact, the text as amended appeared to state little more than the obvious and undermined the very purpose of the Article to provide some special protection to temporary and seasonal workers. He was more positive about a forthcoming amendment submitted by the Worker members to replace the term “full-time” with the word “permanent”, since “full-time” was not the true opposite of “temporary”.

428. The Chairperson said that according to the Office’s legal advice, the “subamendment” proposed by the Government member of Sweden was indeed a new amendment and should not therefore be considered at the present stage.

429. The Government member of Sweden withdrew the amendment.

430. The Worker Vice-Chairperson, introducing the amendment to replace the term “full-time” by the word “permanent”, recalled that the Employer Vice-Chairperson had already expressed some support for it and that the Worker members had agreed to withdraw it only if the previous amendment were adopted.

431. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, expressed support for the amendment.

432. The amendment was adopted.

433. Article 17 was adopted as amended.

Women workers before and after childbirth

Article 18

434. The Government member of the United States introduced an amendment to delete Article 18 on the grounds that, while the protection of women workers before and after childbirth was of crucial importance, it was best left to the Maternity Protection Convention, 2000 (No. 183).

435. The Government member of Australia said that existing legislation in Australia prohibited discrimination against women workers on the basis of pregnancy. Article 18, on the other

hand, could lead to their unfavourable treatment. He noted that such protections were provided by Convention No. 183. Article 18 should be removed.

436. The Worker Vice-Chairperson emphasized the position of the Worker members in support of special protection for women, and was surprised at the views expressed by some that Article 18 could be used to justify unfavourable treatment of women and greater discrimination. It would be extremely disappointing if the position of the United States and Australia received general support. He urged that the amendment be withdrawn.

437. The Government member of Zimbabwe said that he could well imagine situations of some women workers nursing small children in the fields who would benefit from the protection the Article provided, and in his view it should be retained. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the European Union, felt that the Office text provided very important protection, and opposed the amendment. The Government member of the Syrian Arab Republic found Article 18 very straightforward and worth retaining. Indeed it provided no more than a minimum level of protection.

438. In opposing the amendment, the Government member of Côte d'Ivoire said that if the Article were to be deleted on the grounds that its provisions were already to be found in Convention No. 183, the same argument could be applied to remove many other provisions that had counterparts in other Conventions.

439. The amendment received further opposition from the Government members of Switzerland and China; the latter observed that it was very important to single out certain particular groups for special protection, and that included pregnant and nursing workers as one such group.

440. Noting the lack of general support, the Government member of the United States withdrew the amendment.

441. The Committee then considered three amendments simultaneously. They were: point 2 of an amendment submitted by the Government members of Argentina, Brazil, Paraguay and Uruguay, to replace Article 18 by: "Measures shall be taken to ensure that the needs of women workers are met, in particular with regard to pregnancy, nursing and reproductive functions"; an amendment submitted by the Government members of Côte d'Ivoire and Zambia to replace the words "the safety and health of pregnant and nursing agricultural workers" by "the special needs of women agricultural workers are taken into account, especially in relation to pregnancy, breastfeeding and reproductive health"; and point 2 of an amendment submitted by the Worker members to replace the text after "Measures shall be taken to ensure" by "that the special needs of women agricultural workers are taken into account, especially in relation to pregnancy, breastfeeding and reproductive health".

442. The Government member of Brazil said that the inclusion of specific reference to the needs of women with regard to pregnancy, nursing and reproductive functions was motivated by a desire to return to the text originally adopted during the first discussion of the proposed Convention, which was better than the latest formulation. The Government member of Zambia explained that the purpose of her amendment was to provide adequate protection for women workers both during pregnancy and afterwards. The Worker Vice-Chairperson asserted that the Worker members' amendment went further than either of the other two in that it did not restrict itself to the period immediately before and after birth, but also took account of the possibility of impaired reproductive health becoming apparent long after exposure to a harmful agent.

443. The Employer Vice-Chairperson said that, having considered the three amendments, he felt that the Office text was preferable. There appeared to be general agreement on the need to ensure that the safety and health of pregnant and nursing workers was properly protected, and the Office text appeared to do just that. He did not understand the use of the phrase "in particular" in the amendment introduced by the Government member of Brazil, since it did not appear necessary. In his view, the concept of "reproductive functions" or "reproductive health" was subsumed by the references in the original text to "pregnancy and nursing".

444. The Worker Vice Chairperson emphasized the wish of the Worker members to go back to the original text adopted during the first discussion. He believed that informal discussions might lead to a consensus on the wording to be adopted.

445. After consultations, the Worker Vice-Chairperson read out a consensus text for Article 18 that was formally a subamended version of the second point of the Worker members' amendment but was also identical to the result of the amendment submitted by the Government members of Côte d'Ivoire and Zambia: "Measures shall be taken to ensure that the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.".

446. The Government member of Brazil withdrew the amendment submitted by the Government members of Argentina, Brazil, Paraguay and Uruguay. The Government member of Zambia deferred to the Worker members by withdrawing the second amendment and the consensus text was adopted.

447. The Worker members returned to the first point of their amendment, which reduced the title of the Article to simply "Women workers". This met with general approval.

448. Article 18 was adopted as amended.

Welfare and accommodation facilities

Article 19

449. The Government member of Japan submitted an amendment to insert the words ", where necessary," after the word "provision" in subparagraph (a), which related to the provision of welfare facilities. He felt that the proposed modification would provide the flexibility that all were seeking. The text, as it stood, clarified neither the meaning of "adequate welfare facilities" nor that of "at no cost to the worker". He wondered whether lavatories, a cafeteria or a lounge for relaxation would be considered adequate welfare facilities and whether they would be provided to workers at no cost. He was convinced that the reply to these questions depended on national conditions or the type of agricultural work in which the workers were engaged.

450. The Worker Vice-Chairperson asked if the Government member of Japan were reading the subparagraph without the preceding text, which seemed to say that national laws and regulations or the competent authority had the power to decide what was necessary in a given context. The Government member of Japan replied that one still needed a definition of the scope of the obligation to provide welfare facilities.

451. The Government member of Zimbabwe, speaking on behalf of the aforementioned African Government members of the Committee, opposed the amendment on the grounds that the reference to "national laws and regulations or the competent authority" already took this concern into account. The Government member of Sweden, speaking on behalf of the aforementioned 14 Government members of the Committee Member States of the

European Union, agreed and added that Paragraph 10 of the proposed Recommendation would help define the scope of the Article.

452. The Employer Vice-Chairperson declared that he had no objection to the amendment, but did not insist in supporting it, whereupon the Government member of Japan withdrew the amendment.

453. The Government member of Sweden introduced an amendment submitted by the aforementioned 14 Government members of the Committee Member States of the European Union, proposing that the word "appropriate" in subparagraph (b) be replaced by the word "minimum" and that after the word "accommodation" the word "standards" be inserted. Read with the heading of the Article, the resulting formulation said that national laws and regulations or the competent authority should prescribe "the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.".

454. The Worker Vice-Chairperson supported the amendment, observing that many agricultural workers, particularly on plantations, had wholly inadequate accommodation, so that the establishment of minimum standards could only be beneficial. He reminded the Committee that the full heading of the Article required tripartite consultation for the establishment of the minimum standards.

455. A preference for the Office text was expressed by the Government members of Uruguay, (speaking also on behalf of Argentina, Brazil, Chile, Paraguay and Uruguay), as well as by Lebanon, (speaking also on behalf of the Syrian Arab Republic), and the Employer members. The Government members of Barbados, Israel, Switzerland and Zimbabwe (speaking on behalf of the African Government members of the Committee, excepting Côte d'Ivoire) supported the amendment.

456. The Employer Vice-Chairperson believed that there was a difference between the English and the French texts, and asked for clarification. The Government member of France explained that the amendment had two aims: to clarify the role of government in setting minimum standards, and to bring the French text closer to the English version.

457. The Government member of Côte d'Ivoire remarked that developing countries generally lacked the mechanisms to set standards of the kind referred to in the amendment, as in other Articles of the proposed Convention. He felt that the Office text provided more flexibility and was more compatible with national legislation.

458. The Government member of Sweden reassured the Employer Vice-Chairperson that the subparagraph as amended would mandate the setting of standards, not the provision of accommodation. Although the Employer Vice-Chairperson preferred the Office text, he did not wish to stand in the way of a consensus.

459. The amendment was adopted.

460. Article 19 was adopted as amended.

New Article after Article 19

461. An amendment was proposed by the Worker members to introduce a new Article after Article 19, with the title "Working time arrangements" and the text "The competent authority, after consulting the representative organizations of employers and workers concerned, shall establish requirements concerning total hours of work, distribution of

work, night work, overtime and rest periods.". The amendment was submitted in order to cover an issue which the Worker members believed had been inadvertently omitted from the first discussion. Some mention was needed of work organization and working time arrangements.

462. The Employer Vice-Chairperson had great difficulties with this amendment, which appeared to address general issues not related to health and safety. No similar formulation existed for workers in other sectors, and many countries already had legislation on these issues. Because climatic conditions affected agricultural work, often interrupting it, agriculture had always been exempted from regulations on hours of work. The distribution of work was the employer's prerogative, not the government's. As to night work, governments could regulate on this in practical terms. There was perhaps scope for regulating on the very long hours worked in agriculture, but it was not feasible to regulate on all these questions. In practice, regulations were often dictated by climatic conditions.

463. The Worker Vice-Chairperson agreed that the Employer members had addressed some real problems, but it was quite false to say that the amendment did not relate to safety and health. Workers' health, safety and psychological well-being were affected when they had to work for long, unattested hours or be available on a "7/24" basis. The Worker members recognized that special circumstances obtained in certain agricultural activities, and the proposed instrument needed to reflect this. He called on the Employer members to concede some of these points and to seek consensus based on the points on which there was common concern.

464. The Government member of Sweden, speaking on behalf of 13 Government members of the Committee Member States of the European Union, submitted a subamendment to replace the second part of the amendment as follows: "Following consultations with representative organizations of employers and workers, national laws and regulations or collective agreements shall establish regulations concerning total hours of work, overtime, and rest periods". The subamendment sought to broaden the framework of regulation by specifically mentioning collective agreements.

465. The Government member of Norway supported the amendment as subamended.

466. The Government member of the United States stated that this was a labour relations issue and strongly opposed the amendment and subamendment, which would make the proposed instrument inflexible and render ratification more difficult. The Government members of Australia and Switzerland also opposed both.

467. The Employer Vice-Chairperson considered that the subamendment did not address the concerns he had formulated earlier. Convention No. 167 on safety and health in construction, where work also tended to be affected by climatic conditions, made no mention of regulations on hours of work. The subamendment, which dropped the notions of distribution of work and overtime, was nevertheless unacceptable to the Employer members. Most developing countries depended for their livelihood on agriculture, and few governments would be able to ratify the instrument if this Article remained.

468. The Government member of the United Kingdom, expanding on the explanation provided by the Government member of Sweden, stated that hours of work are generally recognized as contributing to health problems in agriculture and other industries. If they were absent from past Conventions, this was because they had not been broadly accepted at the time. The ILO needed to move with the times and reflect the emergence of new concerns.

469. The Employer Vice-Chairperson pointed out that the subamendment used the mandatory word “shall”, which was scarcely a flexible approach.

470. The Government member of Zimbabwe considered that these issues were better dealt with through collective bargaining.

471. The Government member of the United Kingdom, responding to the Employer members, said that the subamendment proposed no set of criteria: each competent authority would establish its laws and regulations in relation to hours of work, in consultation with the employers and workers.

472. The Government member of the United States considered the subamendment most inflexible: it required hours of work to be set by law, one way or the other.

473. The Worker Vice-Chairperson recalled the positions taken by the Government members during the first discussion, and expressed his concern about the need to address rest periods, for there might be areas in which there was no possibility of collective agreement. He wondered whether *Decent work* was relevant for all workers except agricultural workers.

474. The Government member of Barbados supported the amendment, citing the experience of her country in this area and the intention of the proposed Convention to ensure that workers in agriculture were treated no less favourably than other workers. In her view, including collective agreements made the amendment more flexible.

475. After informal consultations with Government members and Worker members, the Employer Vice-Chairperson submitted as a subamendment to the Workers’ amendment a compromise text for the second part of the amendment, that read as follows: “Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements”.

476. The Worker Vice-Chairperson appreciated the efforts made to achieve a compromise, and confirmed that the Workers’ group supported the new subamendment.

477. On the reference to “national laws and regulations”, the Government member of the United States referred to cases where a country had no specific prescriptive provisions relating to the aspects such as overtime referred to in the Article, and asked whether it was in fact a condition of ratification that a country needed to have specific laws and regulations in the areas referred to.

478. The Deputy Legal Adviser confirmed that the existence of national laws and regulations or of collective agreements would be a condition of ratification, but the addition of a reference to, for example, “other means” after “regulations” would create additional flexibility.

479. Replying to a further question on that point from the Worker Vice-Chairperson, the Deputy Legal Adviser confirmed that, under the terms of Article 3, a country could ratify the Convention and exclude certain provisions of the Convention if there were special problems of a substantial nature, provided that it indicated its intention to move towards coverage of the excluded undertakings or categories of workers. In that sense the instrument was very flexible.

480. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, supported the Employer members' subamendment and withdrew their own previous subamendment.

481. The Employer Vice-Chairperson asked whether his own interpretation of the Article as subamended differed from that of the Deputy Legal Adviser: it was his view that, if it were agreed – for example, under the terms of a collective agreement – that there should be no specific provisions in a given area, the country in question could still ratify the Convention.

482. The Deputy Legal Adviser explained that it was not necessary for a country to have detailed prescriptive regulations governing aspects such as hours of work, although some general determination under laws or regulations or collective agreements was needed before a country could ratify the Convention. The complete absence of any reference in laws and regulations or collective agreements to the aspects referred to in the Article could impact on ratification. She suggested that the addition of a phrase such as "or by any means consistent with national law and practice" would ensure the necessary flexibility to allow ratification in doubtful cases.

483. The Government member of the United States noted the opinion given by the Deputy Legal Adviser, but suggested that the text as subamended did not appear to be more flexible than before, although the suggested addition might help.

484. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, supported the subamendment submitted by the Employer members.

485. The Employer Vice-Chairperson noted the difficulty of the Government member of the United States and wondered if the inclusion of a reference to "national law and practice" might solve the problem by creating the greater flexibility which would allow ratification for countries which did not have specific legal provisions governing the aspects referred to in the Article.

486. The Worker Vice-Chairperson recalled that the Worker members had consistently showed good faith and gone well beyond the strict requirements of procedure during discussions in order to reach a consensus. Under the circumstances, it was most disappointing that Employer members were now going back on a text which they had already submitted.

487. The Deputy Legal Adviser, replying to a request for clarification from the Government member of Sweden, said that the term "national practice" was a term frequently used in ILO instruments and was normally understood to cover other means of giving effect to a Convention, such as arbitration awards, court rulings, work rules, codes of practice and guidelines.

488. The Government member of the United States submitted a subamendment to the compromise text now to include a reference to "or any other method consistent with national law or practice". He objected to the subamendment proposed by the Employer members.

489. The Government member of Sweden, on behalf of the Government members of the Committee Member States of the European Union, opposed the subamendment proposed by the Government member of the United States, and supported the compromise text.

490. The amendment was adopted as subamended by the compromise text, and so outstanding subamendments fell.

491. The new Article following Article 19 was adopted, as amended.

Insurance against occupational injuries and diseases

Article 20

492. The Government member of the United States submitted an amendment to delete Article 20 because occupational accident and disease insurance was such a specialized regulatory area in the United States and elsewhere. There were already several Conventions dealing with benefits in the event of accident or disease, so it was inappropriate to address the issue in the present Article as well.

493. The Chairperson observed that the English text referred to "an insurance scheme" whereas the French version used the expression "*régime de sécurité sociale*", which might lead to different interpretations of the Article in different linguistic communities. However, the Government members of Brazil, Sweden (speaking on behalf of 13 Government members of the Committee Member States of the European Union) and Zimbabwe (speaking on behalf of 25 African Government members of the Committee) opposed the amendment and it was withdrawn.

494. The Employer Vice-Chairperson introduced an amendment of the Employer members to transfer Article 20 to the proposed Recommendation. Noting the possible difficulty caused by the apparent discrepancy between the French and English texts, he stated that the arguments put forward by the Employer members during the first discussion of the proposed Convention remained valid. The reference to insurance would make the Convention "top-heavy" and make it difficult for employers to support. Relating as it did to a highly complex and specialized field, the provision would greatly add to the burden on employers. It was, as far as he knew, an unprecedented attempt to include a provision relating to insurance for workers in an ILO instrument. The Government member of Sweden had referred to the need to keep up with the times, but it was vital for agriculture to be profitable if it were to remain a major employer. The proposed provision on insurance would increase employers' costs, in a sector that was particularly volatile and, in regions such as Africa, especially prone to the vagaries of floods, droughts and other natural disasters. The effect of added costs of insurance premiums on farmers in such areas would be considerable, and would fall indiscriminately on all farmers, whether they put in many claims or none at all. Non-insurance schemes, such as the social security schemes that already existed in many countries, could be used to cover workers for occupational injuries and illnesses.

495. The Deputy Legal Adviser confirmed that there was a discrepancy between the French and English texts, and the correct French equivalent of the English would be "*régime d'assurance*". The two texts would clearly have to be aligned. Another, but less consequential discrepancy, was the use of the phrase "against employment injury" in the English without a corresponding phrase in the French text. The term was present in the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), but did not add anything of real significance in relation to the French text.

496. The Chairperson suggested that, subject to the alignment of the French and English language versions at the drafting stage, the Committee could still decide whether or not to transfer the Article to the Recommendation.

497. The Worker Vice-Chairperson noted that the Employer Vice-Chairperson had been consistent in drawing attention to the same problems as he had done during the first discussion of the proposed instrument. On that occasion, the Employer Vice-Chairperson had suggested that the Article should refer to "appropriate insurance" rather than "compulsory insurance". Nevertheless, he clearly realized the importance of providing workers with insurance against accidents and disease, although he was understandably concerned by the cost implications for employers. The Worker Vice-Chairperson recalled that, according to the Committee's Report VI(1), (page 42 of the English version), "In most countries, the compensation of occupational injury and diseases is part of the broader social security system. The coverage of agricultural workers under national social security schemes has traditionally been limited.". In the interests of bringing about "decent work", the agricultural worker had to be seen as a person first and a worker second. Since governments took taxes from workers as well as employers, it was only fair that governments should contribute to ensuring certain minimum standards of protection. Workers travelling to work on an employer's vehicle, for example, should surely be insured against injury by the employer, but it seemed reasonable for governments to be responsible for someone injured on the way to work on foot. To ensure that governments would play their rightful part in providing such protection, the Article needed to be kept in the Convention and not transferred to the Recommendation.

498. The Government member of Sweden, speaking on behalf of the 13 Government members of the Committee Member States of the European Union, opposed the amendment.

499. The Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, recognized the risks faced by employers in the agricultural sector, but asserted that no responsible government could condone a situation where workers were not insured by an employer, while machinery and other property of the employer was insured. It was true that agriculture employed a large proportion of all workers in many countries – up to 80 per cent in Zimbabwe, for example – but the logical corollary of that was the need to provide them with adequate protection, since they formed the backbone of the economy. The Article therefore belonged in the Convention, not the Recommendation.

500. The Government member of Switzerland likewise opposed the amendment.

501. The Employer Vice-Chairperson noted the positions of the Government members of the Committee Member States of the European Union and Africa, although they appeared to take no account of some of the concerns raised by the Employers' groups. He noted that the Worker members had appeared to emphasize the role of governments in bearing costs, while the Government member of Zimbabwe had suggested that there was no reason for employers not to be required to bear the cost of insuring workers. Nevertheless the provision appeared to be unique among ILO instruments in providing for insurance cover for agricultural workers, when there was no such provision for workers in other sectors other than that provided by social security systems. There was no convincing reason for such singling out of agricultural workers for special treatment. He reiterated that agriculture was the most precarious sector, but also the biggest employer, in many developing countries. Agricultural employers, who were already severely disadvantaged, would have serious difficulties in finding the money to pay for insurance. A realistic view of what was possible was needed. The demands of the Article in question could only be met in a few countries, and not by all farmers, even in the richer countries. Given the likelihood that most countries would be unable to implement the provision, it really belonged in the Recommendation, and countries could then gradually move towards giving effect to it. The Director-General of the ILO had expressed disappointment at the Employer members' difficulty in supporting the Maternity Protection Convention, 2000

(No. 183), when it was presented to the International Labour Conference. The Employer Vice-Chairperson had hoped that things might be different with the present proposed Convention, but the provision relating to insurance was a major sticking point. A compromise solution based on the French version of the text might have been possible from the Employer members' point of view, but that version now appeared to be erroneous.

502. The Worker Vice-Chairperson asked the Employer Vice-Chairperson to clarify what he wished to modify in the Article. The Worker members shared the view of the Employer members that employers of agricultural workers should be under no obligation to have private insurance, unless this decision were taken via collective bargaining. (He acknowledged that collective bargaining was unacceptable in some countries, especially in agriculture.) The Employer Vice-Chairperson deferred a response until more Government members had pronounced themselves on this issue.

503. The Government member of Sweden, speaking on behalf of the 13 Government members of the Committee Member States of the European Union, reaffirmed that they could not support the movement of Article 20 to the proposed Recommendation, but that they were prepared to discuss the text of the Article. He proposed a subamendment to insert the words "or social security" after the words "insurance scheme", to reflect the French text that the Employer Vice-Chairperson had cited.

504. The Vice-Chairperson of the Employers reiterated that the focus of the Employers' group from the first session of the Committee had been to produce a workable Convention. In this spirit, he withdrew the amendment.

505. The Chairperson suggested that the Committee proceed to discuss a compromise text to replace the whole of Article 20 that had been prepared by the Government members of the Committee Member States of the European Union. Should this text be adopted, all the remaining amendments to Article 20 due for submission would fall automatically. The Worker Vice-Chairperson agreed to the suggestion, on the understanding that the Worker members would be able to put on record their own observations concerning the Article. It was so agreed.

506. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, submitted their compromise text for Article 20, which read as follows:

> **Protection against occupational injuries and diseases**
>
> 1. Workers in agriculture shall be covered by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases, as well as invalidity and other work-related health risks, providing protection that is at least equivalent to that enjoyed by workers in other sectors.
>
> 2. Such scheme may either be part of a national scheme or take any other appropriate form consistent with national law and practice.

507. The Employer Vice-Chairperson proposed a subamendment adding at the beginning of paragraph 1 the words "In accordance with national law and practice,". The Employer members would support the compromise text provided it was subamended thus.

508. The Worker Vice-Chairperson proposed a subsubamendment replacing "Such scheme" at the start of part 2 with "Such schemes", and expressed his group's support for the compromise text provided it was subsubamended thus. He did, however, express

reservations about the Employer members' subamendment, given that in many countries there were no national laws or practice related to safety and health in agriculture.

509. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, stated their understanding of the Employer members' subamendment to be that each country was free to choose whether its coverage was provided by an insurance scheme or by social security.

510. The Worker Vice-Chairperson said that if this was the accepted interpretation, the Workers' group was prepared to support the subamendment to the compromise text.

511. The Government member of Sweden, speaking on behalf of 14 Government members of the Committee Member States of the European Union, supported the Worker members' subamendment and the Employer members' subamendment to the compromise text they had submitted.

512. The Government member of Bahrain, speaking also on behalf of the Government members of Oman, Saudi Arabia and Tunisia, the Government member of Uruguay, speaking also on behalf of the Government members of Argentina, Brazil and Paraguay, and the Government member of Zimbabwe, speaking on behalf of the African Government members of the Committee, all expressed their support for the amendment as subamended.

513. The Worker Vice-Chairperson intervened at this point to place on record the comments he wished to make regarding issues covered in amendments the Worker members had prepared for submission on Article 20, but which had fallen as a result of the acceptance of the compromise text for discussion. He took it that the term "invalidity" used in the compromise text encompassed a range of situations from temporary illness, to longer illness, to incapacity, and finally to invalidity. The formulation "fatal and non-fatal occupational injuries and diseases" covered his concerns regarding employment injury. But of greater concern to the Worker Vice-Chairperson was the issue of commuting accidents, which he understood to be included in the concept of occupational injuries (he referred to Convention No. 121). Moreover, he stated that commuting accidents should include injuries suffered when walking to and from work, including those caused by violence.

514. The amendment (the compromise text) was adopted as subamended.

515. Article 20 was adopted as amended.

516. That concluded discussion of the proposed Convention.