International Labour Conference

Provisional Record

Ninetieth Session, Geneva, 2002

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Fifth item on the agenda: Recording and notification of occupational accidents and diseases, and list of occupational diseases
(single discussion)

Report of the Committee on Occupational Accidents and Diseases

1. The Committee on Occupational Accidents and Diseases was set up by the International Labour Conference at its first sitting on 4 June 2002. The Committee was originally composed of 172 members (79 Government members, 30 Employer members and 63 Worker members). To achieve equality of voting strength each Government member having the right to vote was allotted 630 votes, each Employer member 1,659 votes, and each Worker member 790 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) 4 June: 172 members (79 Governments entitled to vote with 630 votes each, 30 Employer members with 1,659 votes each and 63 Worker members with 790 votes each);

(b) 6 June: 190 members (94 Governments entitled to vote with 286 votes each, 44 Employer members with 611 votes each and 52 Worker members with 517 votes each);

(c) 7 June: 171 members (95 Governments entitled to vote with 287 votes each, 35 Employer members with 779 votes each and 41 Worker members with 665 votes each);

(d) 8 June: 164 members (96 Governments entitled to vote with 3 votes each, 32 Employer members with 9 votes each and 36 Worker members with 8 votes each);

(e) 10 June: 160 members (96 Governments entitled to vote with 1 vote each, 32 Employer members with 3 votes each and 32 Worker members with 3 votes each);

(f) 11 June: 157 members (97 Governments entitled to vote with 224 votes each, 32 Employer members with 679 votes each and 28 Worker members with 776 votes each);

(g) 12 June: 155 members (98 Governments entitled to vote with 135 votes each, 30 Employer members with 441 votes each and 27 Worker members with 490 votes each);

(h) 13 June: 151 members (98 Governments entitled to vote with 345 votes each, 30 Employer members with 1,127 votes each and 23 Worker members with 1,470 votes each);

(i) 17 June: 144 members (98 Governments entitled to vote with 120 votes each, 30 Employer members with 392 votes each and 16 Worker members with 735 votes each).

2. The Committee elected its Officers as follows:

Chairperson:	Mr. C.G.H. Schlettwein (Government member, Namibia)
Vice-Chairpersons:	Mr. F. Cunneen (Employer member, Ireland) and Mr. H. Robertson (Worker member, United Kingdom).
Reporter:	Mr. A. Coşeru (Government member, Romania).

3. At its third sitting, the Committee appointed a Drafting Committee composed of the following members: Mr. N. Cote (Employer member, Canada), Mr. H. Robertson (Worker member, United Kingdom) and the Reporter of the Committee, Mr. A. Coşeru (Government member, Romania).

4. The Committee had before it Reports V(1), V(2A) and V(2B), prepared by the Office on the fifth item of the agenda of the Conference: "Recording and notification of occupational accidents and diseases, including the possible revision of the list of occupational diseases, Schedule I to the Employment Injury Benefits Convention, 1964 (No. 121), including a mechanism for future updating of the list of occupational diseases".

5. The Committee held 12 sittings.

Introduction

6. The representative of the Secretary-General presented Reports V(1), V(2A) and V(2B), which had been prepared by the Office to serve as a basis for the Committee's discussion. At its 279th Session (November 2000) the Governing Body of the International Labour Office decided to place an item on the recording and notification of occupational accidents and diseases, including the possible revision of the list of occupational diseases, Schedule I to the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), on the agenda of the 90th Session (2002) of the International Labour Conference, with a view to standard setting under the single-discussion procedure. The Governing Body also indicated that the development of a mechanism for regularly updating the list of occupational diseases should be examined by the Conference as part of the agenda item. In accordance with article 38, paragraph 1, 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 V(1) which introduced the issue and analysed the law and practice in respect of the recording and notification of occupational accidents and diseases and the list of occupational diseases in various countries. The report also contained a questionnaire. Comments were received from 75 member States in time to be included in Report V(2A). Many of these included responses from employers' and workers' organizations, and in some cases replies were received directly from employers' and workers' organizations. The texts of a proposed Protocol to the Occupational Safety and Health Convention, 1981 (No. 155), and of a proposed Recommendation concerning the list of occupational diseases and the recording and notification of occupational accidents and diseases were presented in Report V(2B).

7. In his presentation the representative of the Secretary-General noted that, since the ILO's earlier estimates had been published in 1990, the estimated number of work-related fatalities had nearly doubled to about 2 million, which included fatal occupational

accidents and fatal work-related diseases. The increase could be explained in part by an increase in the overall number of workers, but also by the fact that previous estimates did not include any communicable diseases such as malaria, hepatitis and various zoonoses to which workers could be exposed. In addition, there were more cases of occupational cancer than had hitherto been realised and there had been a rise in the number of respiratory and circulatory diseases. As regards fatal injuries, for every one of these there were on average 1,200 injuries leading to three days' or more absence from work and up to 70,000 minor incidents which caused no injury but which still needed to be prevented.

8. He noted that the Committee had before it three main tasks. One was to adopt new standards on recording and notification of occupational accidents and diseases. The second was if possible to revise the list of occupational diseases contained in Schedule I to Convention No. 121. The third was to develop a mechanism for regularly updating the list of occupational diseases. It was proposed that the new standards include a Protocol to the Occupational Safety and Health Convention, 1981 (No. 155) which would extend certain specific elements of the latter, in particular Article 11(c) and (e), and elucidate certain basic principles for recording and notification, as well as encouraging annual publication of national statistics in the area. The main issues addressed in the Protocol would be occupational accidents, occupational diseases, dangerous occurrences, incidents, commuting accidents and suspected cases of occupational diseases, which had specific definitions and were subject to different recording and notification requirements. "Occupational accidents" by definition involved injury; "dangerous occurrences" did not, but were notifiable, while "incidents" involved a potential risk but did not cause actual injury and did not require notification.

9. The proposal of a Recommendation was motivated by the fact that the Schedule I list of occupational diseases in the Employment Injury Benefits Convention, 1964, had last been revised in 1980. The Convention included a mechanism for updating the list, but this had not been used since 1980. Updating could be achieved most efficiently through a meeting of experts, rather than being dealt with in the Conference, so it was proposed that the revised list be annexed to a Recommendation, where it could easily be so revised and used as a basis for establishing national lists of occupational diseases. Other elements in the proposed Recommendation might include the use of codes of practice as guidance in implementing the Protocol, provision of information on establishment and review of national lists to the ILO, and the provision of statistics to the ILO.

10. At the request of the Chairperson, the Legal Adviser took the floor to give an explanation on the legal nature of a Protocol. Protocols were rather rare, only four having been adopted so far. These had been adopted since 1982 as a means of revising a limited number of specific provisions of Conventions, and had followed a Governing Body decision to seek greater flexibility in the traditional revision procedure, according to which an entire revised Convention had to be adopted, a cumbersome procedure. In fact, there were no explicit provisions in the ILO Constitution or in the Standing Orders regarding Protocols. A Protocol was a Convention but it could be ratified only by States that had ratified the Convention to which it pertained, and, once ratified, it was binding as was the Convention. An unratified Protocol, like an unratified Convention, was legally equivalent to a Recommendation. In the present case, the proposed Protocol was intended to refine and reinforce Article 11(c) and (e) of Convention No. 155, and would thus be in line with the established practice. Of the possible options in the present case, a Protocol had been deemed to be the most suitable in the light of the goals set by the Governing Body for the work of the Committee and replies received from member States.

General discussion

11. The Employer Vice-Chairperson thanked the representative of the Secretary-General for his presentation, which set out the tasks and issues facing the Committee very clearly. While the apparent doubling in the number of fatalities to 2 million by the year 2000 was alarming, it was less so if it was the result of better reporting. The Employer members wished to emphasize that they, as much as anyone else in the Committee, shared the objective of improving safety and health, but differed as to the methods by which that might be achieved. They had reservations as to the form and scope of the proposed instruments, the conditions to be included in the list of occupational diseases, and the possible link with compensation, which in their view might be best treated separately. Furthermore, if only 37 member States had ratified the Occupational Safety and Health Convention, 1981, was it reasonable to devote the Committee's time to elaborating a Protocol? As a result of these concerns, the Employer members would be proposing some changes with regard to the means which they believed would be an improvement.

12. The Worker Vice-Chairperson thanked the Office for its work in producing such a readable and practical proposal. The aim of everyone in the Workers' group was to reach a consensus on a Protocol and Recommendation including an up-to-date list of diseases. The figures presented by the representative of the Secretary-General implied massive economic losses, as an estimated 4 per cent of world gross domestic product was lost as a result of occupational injury and disease. Safety and health therefore needed to be seen as a development issue, and resources spent on prevention should be seen as an investment. However, the information currently available on the nature and extent of occupational ill health was quite limited. In many countries, there was no real system of reporting; if one existed, the criteria used differed widely, and there was a high level of under-reporting. Many occupational diseases were not recognized, diagnosed or treated, and this often led to a problem of "social invisibility" for those affected. The aim of the Worker members was to reach an agreement over the next two weeks which would be of practical help to countries, especially developing countries, in recording and preventing occupational ill health. It was not simply a matter for governments, as employers and workers also needed to be involved. The list of occupational diseases was of importance to employers and trade unions in identifying and preventing industrial illness. The Occupational Safety and Health Convention, 1981, already provided a mechanism for the collection of information on occupational illnesses and accidents, and this was reinforced by the associated Recommendation. Useful guidance on developing recording and notification systems had been provided by the *Recording and notification of occupational accidents and diseases*, an ILO code of practice, (1996), and lists had been drawn up on the basis of the Employment Injury Benefits Convention, 1964 (No. 121). Since the list in that Convention had been updated in 1980, enormous advances in knowledge had been made, and there was therefore an urgent need for an efficient mechanism for updating the list. The list annexed to the 1996 code of practice, which had emerged from an informal consultation meeting in 1991, would be an obvious starting point for the present discussions.

13. The Worker members considered that the proposed Protocol fitted perfectly as a Protocol to Convention No. 155. Although in their view a full Convention and Recommendation would have been preferable, with a more comprehensive list, they recognized that this would not be possible. Under the circumstances, the Office proposal, though more modest, would be quite acceptable. They would be seeking certain amendments and extensions to the 1991 list in the light of new scientific knowledge, but on the whole endorsed the proposed text as a positive contribution to the prevention of work-related accidents and illness.

14. The Government member of Japan suggested that a country's system of recording and notification should be developed in the light of its overall level of technical development and education, in order to take account of prevailing circumstances. As a result, his Government favoured that the ILO instrument take the form of a Recommendation, rather than that of a Protocol.

15. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Netherlands, Spain and Sweden), thanked the Office for the work it had done and, in particular, the representative of the Secretary-General for his introduction.

16. The Government members on whose behalf he spoke had four main points of concern. First was whether the adoption of a Protocol or of a Recommendation would be preferable. Some countries had not ratified Convention No. 155, which could limit the number of future ratifications of a Protocol to that Convention. Greater flexibility was therefore needed. Secondly, in discussing a new instrument, three interrelated aspects needed to be considered: recording and notification (including statistical aspects); prevention; and the issue of compensation. Prevention was fundamental, and a preventive approach would imply the need for an open-ended list of diseases, rather than the more closed list that would emerge if a compensation-based approach were adopted. Thirdly, the European Union was also working on its own list of occupational diseases, and – in order to prevent discrepancies – it might be useful to examine this list during the updating of the Office list. Finally, an appropriate mechanism for updating the list had to be established.

17. The Government member of Argentina, speaking on behalf of the Government members of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay and associate member countries Bolivia and Chile), thanked the Office for producing a sound document for discussion. The countries of MERCOSUR broadly supported the Office proposals, and agreed with the need for effective recording and notification procedures, with the proviso that the emphasis needed to be on using the data for the prevention of accidents and diseases, rather than simply for the recording of occurrences more accurately. If this approach were adopted, the figures for work-related injuries and disease might in future be less alarming than those indicated in the presentation given by the representative of the Secretary-General. A tripartite MERCOSUR committee on occupational safety and health had produced a document based on ILO Convention No. 155, which had stated the importance of common recording and notification procedures.

18. The Government member of Kenya, speaking on behalf of the Africa group, [2] thanked the Office for its work and said that there was a clear need for a Protocol and a Recommendation as means of strengthening preventive measures.

19. The Government member of Bahrain, speaking also on behalf of the Government members of Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates expressed his hope that the Committee would reach a successful conclusion. He thanked the

[2] Off the floor of the Committee, the Government members of several African member States authorized the Government member of Kenya to speak on their behalf. This "Africa group" comprised Algeria, Benin, Burkina Faso, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Ethiopia, Gabon, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Niger, Nigeria, South Africa, Uganda, United Republic of Tanzania, Zambia and Zimbabwe, not all of whom were present at all sittings. The members of the African group remained free to intervene individually.

representative of the Secretary-General for the excellent overview he had provided, and said that he was horrified by the high number of occupational fatalities, injuries and diseases shown by the Office estimates. He was convinced that new legislation was needed to reduce these numbers. He noted that although most countries had by now national legislation concerning the recording and notification of occupational accidents and diseases, it was difficult for the informal sector and small companies to comply with such laws, or even to correctly identify the causes of occupational diseases, leading to serious under-reporting and to a lack of proper compensation in many cases. The governments he spoke on behalf of therefore approved the documents placed before them, and were in favour of adopting the proposed instruments.

20. The Government member of China supported the procedure proposed by the Office. In 2001, the Chinese Government had introduced a law on the prevention and monitoring of occupational diseases. Under this comprehensive legislation, after consultation with the employers' and workers' organizations, the Chinese authorities have prepared a schedule of occupational diseases, basing it on the ILO list. The schedule has 10 subdivisions, listing 115 illnesses and diseases. It is further divided into two categories: (1) those diseases and conditions which occur in China that have existing prevention and treatment standards, and (2) those diseases and conditions for which they are now in the process of establishing diagnostic criteria. The Government member of China suggested that the ILO report and list might benefit from reviewing these documents.

21. The Government member of France thanked the representative of the Secretary-General for his very clear presentation. She felt that the real number of occupational accidents and diseases in the world was much greater than that suggested by statistics. She was particularly concerned by the lack of information on accidents involving no injuries, incidents and near-misses. France had studied the draft Protocol, noting that it was limited to prevention and statistics. She noted that the proposed Protocol was limited to questions of recording and notification, dealing with compensation matters only in the proposed Recommendation. She remarked that the exclusion of compensation from the Protocol might make it more acceptable for certain members of the Committee.

22. The Government member of Canada was satisfied that the Office had achieved a broad consensus on the proposed instruments, of which he was in favour. He announced that his Government supported the idea of an international reference list of occupational diseases, which should however not be linked to compensation in order to ensure widespread support. He also said that Canada would later on submit amendments concerning commuting accidents and dangerous occurrences.

23. The Government member of Côte d'Ivoire expressed his thanks for the documents and their presentation. He felt that adopting such instruments was very helpful in the preparation of appropriate standards in developing countries. He noted that in his country the list of occupational diseases was quite short, and that the Government of Côte d'Ivoire was organizing a labour forum to review it. The shortness of the list was particularly notable in agriculture, where many workers suffered from occupational injuries and diseases with no possibility of compensation. A related issue was the uncontrolled importation of chemical products that had been declared dangerous in developed countries. The adoption of the Protocol, supported by a Recommendation, would greatly help in this respect. His Government would actually have been in favour of a new Convention and a new Recommendation on a schedule of occupational diseases, but he realized that this was not presently possible.

24. The Government member of Barbados thanked the ILO for the two reports that it had prepared for this discussion. He supported the proposed Protocol, throwing in a note of

caution however, concerning the lack of legal definitions of some terms used in the Protocol in certain countries. For example, he noted that in Barbados national law and practice had no definition of dangerous occurrences, nor was there provision for employers to inform the workers of dangerous occurrences. The national list of occupational diseases had not been revised or updated for a long time. The Protocol was acceptable to Barbados, but he recommended some additions. Among these were diseases affecting some organ systems (for example kidneys, liver, blood) not listed in Section 2, as well as diseases caused by some chemicals (such as mercury and lead), that may affect these systems. Barbados was currently revising its national law and would take the proposed ILO list into consideration.

25. The Government member of Malaysia was in favour of the proposed Protocol and Recommendation, with some modifications that he would present later on. He reported that his Government was currently preparing a new list of occupational illnesses, based on the ILO code of practice, and there are new regulations for reporting accidents based on the ILO standard.

26. The Government members of the Republic of Korea and the United States supported the goals of the proposed instruments. An internationally recognized system of recording and notification held out the possibility of more effective preventive measures based on more reliable data and more secure identification of the causes of occupational accidents and diseases. They shared the concern expressed by others that a flexible approach be adopted, one that would take account of national conditions. The Government member of the Republic of Korea looked forward to his country's ratification of the Occupational Safety and Health Convention, and said that that would permit the ratification of a Protocol if the Committee did adopt such an instrument.

27. The Government member of the Syrian Arab Republic stated a preference for a Recommendation alone. His country, like many developing countries, urgently needed the information that a system of recording and notification would yield. A framework for identifying accidents and diseases as occupational was necessary, and he hoped that the ILO would be able to provide the technical assistance necessary for the Syrian Arab Republic to create such a framework.

28. The Government member of Lebanon expressed support for the Protocol. He hoped that the list of occupational diseases attached to the proposed instruments would be exhaustive, so that it could be adopted by all countries on an equal basis.

29. In answer to a question from the Government member of Spain, the Chairperson stated that the question of whether or not to include a Protocol among the instruments that the Committee would recommend to the Conference for adoption would be decided by the process of amendment rather than by a separate vote.

30. The Chairperson invited any non-governmental organizations or other observers to make comments, but none came forth. In closing the general discussion, he said that his impression was that the Committee was on the whole in favour of the Office proposal, although there was a divergence of views as to what form the proposed instrument would take.

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

A. Proposed Protocol to the Occupational Safety and Health Convention, 1981

31. The Employer members submitted an amendment, and the Government members of Greece and Spain submitted a separate but similar amendment, both which would have the effect of deleting the proposed title "Proposed Protocol to the Occupational Safety and Health Convention" and replace it by "Proposed Recommendation on the Recording and Notification of Occupational Accidents and Diseases". The amendment of the two Government members further specified the replacement of all occurrences of the word "Protocol" by "Recommendation".

32. In support of the Employer members' amendment, their Vice-Chairperson reaffirmed their attachment to the objectives shared by all the members of the Committee, but expressed disappointment that it had been 21 years since the Occupational Safety and Health Convention had been adopted yet only 37 countries have ratified it. It was clear that the standard-setting method had not achieved the results intended. While the Employer members did not dispute the essence of the Office text, they felt that the instrument would be most effective as a Recommendation. The credibility of the ILO was at stake.

33. The Government member of Spain asserted that the motivation for the amendment submitted jointly with the Government member of Greece was different from that of the Employer members. Spain had ratified the Occupational Safety and Health Convention, so if the Protocol were adopted and were binding, it would take precedence over and conflict with national laws which had been developed in line with that Convention in its unmodified form. Spanish law, for example, did not distinguish a "commuting accident" from an "occupational accident", and if the distinction were to be brought in at this point, it might lead to confusion and reduce the level of protection of people at risk. Similarly, a heart attack that was now classified as an occupational accident under Spanish law would be an occupational disease according to the Protocol.

34. The Worker Vice-Chairperson noted that Report V(2A) showed that there had been overwhelming support for the idea of a Protocol, with support in 56 national responses and opposed in only 9. Furthermore, the difference between a Recommendation and a Protocol was more complex than just a change of title. He reminded the Committee that a Protocol gives countries the option of choosing whether or not to adopt it. Those who had already adopted the Occupational Safety and Health Convention could choose not to adopt the Protocol. Concerning potential conflicts with national law, the ILO Constitution held that Conventions could not undermine higher national standards. He agreed that there was a low number of ratifications, but he felt that this called for members to be more active in supporting ratification. He also noted that even those who did not ratify could use the Convention as guidance in developing their own national standards in the same way as they could use a Recommendation. The Worker members supported the Office proposal, with its direct reference to Article 11(c) and (e) of the Occupational Safety and Health Convention, as this would strengthen recording with the aim of identifying causes and establishing preventive measures. They likewise supported the harmonization of recording systems. A Protocol was the only sensible place to enunciate the principles involved, whereas the technical aspects of implementation could quite rightly be dealt with in a Recommendation. He supported the need for flexibility in the Protocol and agreed with the Employer members that the credibility of the ILO was at stake. Many countries were trying to develop national recording and notification systems under difficult circumstances, and they needed the help both forms of instrument would provide.

35. The Government member of Greece added in support of his shared amendment that although there might be technical and legal reasons for the principles of recording and notification to be in the Protocol and for the list of diseases to be recognized to be put in the Recommendation, but that this seemed impractical.

36. The Government member of Australia acknowledged the importance of adopting recording and notification methods that implemented the Occupational Safety and Health Convention, but held that a binding instrument was inappropriate at the moment, given the ongoing examination of an integrated approach to standard-related activities in the area of occupational safety and health that would be reported on at the 2003 International Labour Conference. The Organization had recognized the need to review its means of action in the area of occupational safety and health, so the adoption of another binding instrument now would be premature and risked complicating the integrated approach process, so she supported both amendments.

37. The Government member of Argentina, speaking also on behalf of the Government members of Brazil, Chile and Uruguay, declared that ILO Conventions are part of the "international legal conscience", so it would be helpful to know what impact the Occupational Safety and Health Convention had had in ratifying countries. The members for whom he spoke felt that that Convention was one of the most important ones, so a Protocol would be quite appropriate.

38. The Government member of India reiterated his Government's support for a Protocol, and referred to the reasons recorded in Report V(2A), but reminded the members of the Committee that flexibility would improve a Protocol's chances of ratification.

39. The Government member of Hungary asked for clarification from the Employers' group as to the impact of their proposed change of title on the content of the proposed instrument. The Employer Vice-Chairperson replied that the content of the proposed Protocol and Recommendation would be amalgamated. He reminded the members of the Committee that the text in Report V(2B) had been submitted as a basis for discussion, not as a fait accompli. At the grass-roots level of implementation, a Recommendation would provide greater health and safety for a greater number of people than would a Protocol.

40. The Government member of China stated that if a Protocol were to be adopted, it would need to be more specific than the current text regarding its aims and scope. The document should stick to the "core" occupational diseases and not mention those that could not be demonstrated to be occupational. It might be useful to have a second list of diseases that might or might not be occupational. The instrument should take into account the specific situation of developing countries by avoiding undue complexity. China would like to see a Protocol, but a more manageable one.

41. The Government member of Kenya, speaking on behalf of the Africa group, remarked that if the members of the Committee were serious about preventive measures against occupational disease and accidents, a binding instrument would be better than a Recommendation and supported the Office text.

42. The Government member of New Zealand likewise supported the Protocol. She recalled that when the original questionnaire was circulated, the Government of New Zealand and its social partners had jointly determined that the standards should be practical; should focus on outcomes and results, so that the means of achieving them could differ according to national law and practice; and should be broadly framed so as to be applicable in as many situations as possible. New Zealand recognized the need for flexibility expressed by some countries and welcomed the recognition by the Worker members of this concern. She

was sympathetic to the concern of the Government member of Australia over the relation of the Committee's work to the integrated approach to standard setting under study by the Organization, but emphasized this Committee had an opportunity to move towards a basis for international comparability of data, which New Zealand strongly supported.

43. In the absence of consensus on the form of the instrument, the Employer Vice-Chairperson requested a record vote on his group's amendment, which proposed to replace the current title of the Instrument by the words "Proposed Recommendation on the Recording and Notification of Occupational Accidents and Diseases". If adopted, this amendment would change the proposed instrument from a Protocol and Recommendation into a single Recommendation combining the essence of the texts of the proposed Protocol and Recommendation.

44. Put to a vote, the amendment was rejected by 29,952 votes in favour, 42,042 votes against, with no abstentions. [3]

45. The Employer Vice-Chairperson thanked the Chairperson for having taken his request for a record vote. He repeated his assurance that the Employer members supported the essence of the Office's proposal and that they were therefore committed to achieving consensus. In particular, his group was determined to work closely with the Worker members, in order to arrive at a document that would serve the cause of health and safety in the workplace.

46. The Worker Vice-Chairperson expressed his regret at the need for a record vote. On the other hand, he welcomed the Employer Vice-Chairperson's offer of cooperation, and he expressed his hope that a workable instrument for the reporting and notification of occupational accidents and diseases would be arrived at.

47. As a result of the record vote just held, the Government member of Spain withdrew the amendment proposed by himself and the Government member of Greece, the effect of which was almost identical to that of the amendment by the Employer members that had just been rejected.

PREAMBLE

48. The Government member of Spain withdrew three amendments proposed by himself and the Government member of Greece, all three of which depended on the instrument title changing from "Protocol" to "Recommendation".

49. The Government member of Spain introduced an amendment on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden. He explained that the amendment, which shifted the words "and to promote the harmonization of recording and notification systems" from the end of the fourth paragraph of the Preamble to its middle, would change the emphasis of

[3] Government members: for 4,290 (Angola, Australia, Burkina Faso, Cyprus, Dominican Republic, Greece, Islamic Republic of Iran, Japan, Mozambique, San Marino, South Africa, Spain, Syrian Arab Republic, Turkey, United States); against 15,158 (Algeria, Argentina, Austria, Bahrain, Barbados, Belgium, Brazil, Canada, Chile, China, Côte d'Ivoire, Czech Republic, Denmark, Finland, France, Gabon, Guatemala, Hungary, India, Ireland, Italy, Kenya, Kuwait, Lesotho, Lebanon, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Malawi, Mexico, Namibia, Netherlands, New Zealand, Niger, Nigeria, Norway, Panama, Philippines, Poland, Republic of Korea, Romania, Saudi Arabia, Senegal, Slovakia, Sri Lanka, Sweden, Switzerland, Thailand, United Arab Emirates, Uruguay, Zambia, Zimbabwe); Abstentions 0. Employer members: for 25,662; against 0; abstentions 0. Worker members: for 0; against 26,884; abstentions 0.

the sentence from the harmonization of recording and notification systems to the furthering of preventive measures.

50. The Worker Vice-Chairperson supported the amendment, wishing however to delete one occurrence of the word "and" in the resulting sentence. There being no support for this suggestion, and the Employers' group supporting the amendment, it was adopted as submitted.

51. The Preamble was adopted, as amended.

SCOPE

Article 1

52. The Employer Vice-Chairperson introduced an amendment, which proposed to change the heading appearing before Article 1 from "Scope" to "Definitions". He stated that the contents of Article 1 consisted of a series of definitions; therefore calling it by that title was more accurate. He drew attention to the distinction made between "Scope" and "Definitions" in the code of practice on the recording and notification of occupational accidents and diseases.

53. The Worker Vice-Chairperson did not wish to turn this into a major issue, but saw some need for retaining the word "Scope". As a result, he asked if the title "Scope and Definitions" would satisfy the Employers' group.

54. The Employer Vice-Chairperson reiterated that it was a question of definitions in this Article and, therefore, a matter of accuracy. The Government members of Austria and Côte d'Ivoire agreed that "Definitions" corresponded more closely to the contents of the Article. The Worker Vice-Chairperson then announced his support for the amendment, which was adopted as submitted.

55. The Employer Vice-Chairperson withdrew an amendment replacing the word "Protocol" by the word "Recommendation" in Article 1, in line with the results of the earlier record vote.

Subparagraph 1(a)

56. An amendment submitted by the Government member of Chile, which proposed to introduce a change of wording in the Spanish text of subparagraph 1(a) (which would have replaced the expression "*en el curso del trabajo o en relación con el trabajo*" by "*a causa o con ocasión del trabajo y*"), failed to be seconded and was withdrawn.

57. The Government member of Spain introduced an amendment on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden. The amendment proposed to insert the word "occupational" before the word "injury" occurring at the end of subparagraph 1(a). He explained the purpose of this as being consistent with the usage in the ILO list of occupational diseases. He said that the added word would add clarity to the text, and if others did not see it this way, he was prepared to withdraw the amendment.

58. The Employer Vice-Chairperson supported the amendment.

59. The Worker Vice-Chairperson opposed it, on the other hand, as he thought that rather than qualifying matters, it led to further confusion. The word "occupational" was already used

before the word "accident" and the same meaning was conveyed by the words "arising out of, or in the course of, work", so that there was hardly a need to repeat the word "occupational" again.

60. The Government member of Kenya opposed the amendment because of the repetition.

61. The Government member of Hungary referred to the experience of the 1994 Meeting of Experts which drew up the code of practice and which had had the same discussion and had arrived at a similarly worded clause, which then had to be changed for the same reasons of repetitiveness. He therefore recommended keeping the original clause and was against the amendment.

62. In the absence of consensus, the Government member of Spain withdrew the amendment.

63. The Worker Vice-Chairperson introduced an amendment which would add the words "whether physical or mental" to the word "injury" at the end of subparagraph 1(a). He saw this as essential in order to recognize the severe mental injuries that can result from an occupational accident.

64. The Employer Vice-Chairperson opposed the amendment because of the lack of precision involved in the definition of mental effects of injury. He asked an expert in occupational medicine from his group to elaborate on this matter. The expert, an occupational physician from Germany, reaffirmed the difficulty in defining "mental" as it had such a broad meaning. He said that the conditions that could conceivably be classified here might include stress-induced psychological problems, brain damage, and so on. He thought that limiting the text to the general definition of "fatal or non-fatal injury" was preferable if one wanted to avoid long discussions of definitions.

65. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, supported the amendment but preferred to use the term "psychological" rather than "mental", as this was the standard term used by the European Union's statistical services.

66. The Worker Vice-Chairperson said that he would accept either "mental" or "psychological".

67. The Government member of Kenya, speaking on behalf of the Africa group, supported the Office text because the range of conditions covered by either "mental" or "psychological" was too broad for the Committee to be sure of the import of the amendment, with or without the subamendment.

68. The Government members of Bahrain (speaking also on behalf of the Government members of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates), Hungary and Thailand also spoke in favour of the Office text. The Government member of Hungary pointed out that subparagraphs 1(a) and 1(b) needed to be viewed together: 1(a) referred to injuries resulting from accidents; 1(b) to diseases resulting from exposure to risk factors. Whereas the concept of "mental disease" was well established, the concept of "mental injury" implied by the amendment threatened to complicate the definition of the scope of the instruments.

69. The Worker Vice-Chairperson withdrew the amendment, thereby rendering the subamendment without object.

70. Subparagraph 1(a) was adopted without change.

Subparagraph 1(b)

71. The Worker members submitted an amendment to insert the words "or aggravated" after the word "contracted". Their Vice-Chairperson pointed out that many conditions were known, for example asthma, dermatitis or lung diseases, that could be made much more serious by exposure to workplace factors.

72. The Employer Vice-Chairperson opposed the amendment on the grounds that it introduced imprecision in an already complex situation. Conditions in the workplace could be aggravated by external factors as much as pre-existing conditions could be aggravated in the workplace, so that it would in practice be impossible to establish cause-and-effect relationships. This would put employers in an untenable situation with respect to their responsibilities for the safety and health of their employees.

73. The amendment was supported by the Government members of Côte d'Ivoire, Spain (speaking also on behalf of Austria, Belgium, Denmark, Luxembourg and Sweden) and the United States, the last noting that the concept of aggravation was included in relevant United States regulations. It was opposed by the Government members of China, Hungary, Kenya (on behalf of the Africa group), Lebanon, Sri Lanka and the Syrian Arab Republic. All felt that the amendment complicated the definition. The Government members of China and Hungary agreed with the Employer members on the difficulty of establishing cause-and-effect relationships between workplace conditions and the state of health of workers if pre-existing conditions were to be recognized by the Protocol, and the Government members of China and Sri Lanka predicted that workers with pre-existing conditions that could be aggravated by workplace factors would risk being excluded from employment if those conditions were classified as occupational diseases.

74. The Workers' Vice-Chairperson withdrew the amendment, but restated the principle that the workplace should be safe for all, even those with pre-existing health problems, and saluted those governments that already recognized this principle in their legislation.

75. The Government member of Spain introduced an amendment on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden, to replace "a" with "any" in the first line of the English text; the amendment did not apply to the French or Spanish texts. The words "a disease contracted" would thus become "any disease contracted". The amendment was adopted.

76. The Government members of Argentina, Brazil, Chile and Uruguay submitted an amendment to change the words "*inherentes a*" in the Spanish version of the text to "*presentes en*", because the original words gave the impression that unsafe conditions could be an integral part of work. This was an untenable assertion. On the assurance from the Chairperson that the wording would be corrected and harmonized among the three working languages by the Drafting Committee, the amendment was withdrawn.

77. An amendment submitted by the Government member of Chile, to change "an exposure" to "direct exposure" and to add the words "and which results in incapacity or death" to the end of the subparagraph was not seconded.

78. Subparagraph 1(b) was adopted as amended.

Subparagraph 1(c)

79. The Employer Vice-Chairperson introduced an amendment to delete the subparagraph, arguing that the text was imprecise and that dangerous occurrences might involve events

outside the workplace. Furthermore, including the exposure of the public in the definition of dangerous occurrences made the employer responsible for persons and locations over which he or she had no control. He noted that public safety was unlikely to fall under the mandate of the ministries responsible for health and safety at work, so that the Office text risked provoking jurisdictional conflicts at the national level.

80. The Worker Vice-Chairperson strongly opposed the amendment, as the setting of the "dangerous occurrence" in the proposed Protocol was clearly the workplace. He added that if someone were nearly killed as a result of workplace activities there was a need for an employer to know about such occurrences to be able to prevent their recurrence. Further, the text came from the ILO code of practice on recording and notification, which reflected what was already practised in many countries. The Worker members were aware of the concerns of some member States concerning "dangerous occurrences", "incidents" and "commuting accidents" in cases where these terms did not exist in their present legislation, but deletion of this subparagraph would not help that situation.

81. The Government members of Canada, Côte d'Ivoire, El Salvador, India, Lebanon and the Syrian Arab Republic opposed the amendment. The Government member of Bahrain, speaking also on behalf of the Government members of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates, also opposed the amendment, stating that laws and regulations in all these countries already obliged employers to report dangerous occurrences; protection of the public was important. The Government member of Canada emphasized the preventive value of recording dangerous occurrences.

82. The Employer Vice-Chairperson withdrew the amendment.

83. The Employer Vice-Chairperson then introduced an amendment to delete the words "or to the public" at the end of subparagraph (c). He expressed concern that the paragraph as it stood was so imprecise as to include passers-by, neighbours, and even trespassers to the premises, and also that it lacked connection to the employer. This would, in the Employer members' view, both complicate recording and place an unacceptable burden on the employer; consequently, it would not contribute to the objective of health and safety in the workplace.

84. The Government member of the Republic of Korea submitted an amendment to delete the same words, but with the additional rationale that a Protocol, which is binding, should be limited to injuries and diseases that are clearly occupational in order that the resulting statistics be comparable and accurate.

85. The Worker Vice-Chairperson strongly supported the Office text and asked if the point was being misunderstood, since there was no intention of recording threats to the public that did not arise from workplace activities. On the contrary, he stated, a "dangerous occurrence" would be recorded only if a work activity almost caused injury to a member of the public, for example in the collapse of a scaffold, and such recording would be a means of ensuring that such dangerous situations were corrected in the future. He also noted that it was common practice in almost all countries that record dangerous occurrences to include the public within the scope of the provision.

86. The Government member of India opposed the amendment, drawing on the experience of the Bhopal disaster that had affected the whole city. The event showed that a dangerous occurrence in a factory could have a major effect on the population around the factory. The Government member of Côte d'Ivoire agreed with the Government member of India, citing the threat of explosion or contamination to surrounding housing areas posed by oil refineries or chemical industries. The Government member of Argentina, speaking also on

behalf of the Government members of Brazil and Uruguay, opposed the amendment for the same reasons as the Government member of India.

87. The Government member of Hungary, in opposing the amendment, noted that his country's regulations already required employers to record occurrences that threatened the surroundings of their enterprises. The Office text was sufficiently flexible that countries could fit their regulations to their particular situations.

88. The Employer Vice-Chairperson and the Government member of the Republic of Korea withdrew their amendments.

89. The Government member of Spain, speaking on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain, and Sweden, introduced an amendment to adjust the word in the Spanish and French versions used to translate the concept of the "potential to" cause injury. On the suggestion of the Worker Vice-Chairperson, supported by the Employer members, she agreed that this matter could be addressed in the Drafting Committee and the amendment was withdrawn.

90. Subparagraph 1(c) was adopted without change.

Subparagraph 1(d)

91. The Employer members submitted an amendment to delete the entire subparagraph (d). Their Vice-Chairperson argued that the Office text strayed into the philosophical realm, remote from reality.

92. The Government member of Spain, speaking on behalf of the aforementioned 11 Government members of the Committee Member States of the European Union in support of an identical amendment that they had submitted, explained that for them the concept of "incident" was simply a specific case of "dangerous occurrence" and did not necessarily affect the public. She noted that if the public was involved, there was specific public health legislation to cover that, and so if this item were retained it might contribute to confusion, rather than to the clarification that the Protocol is trying to achieve.

93. A third amendment to delete the subparagraph had also been submitted by the Government member of Japan. He too regarded "incident" as not appropriate to be included in the Protocol as it was difficult to define in general, and furthermore was not defined in Japanese national law.

94. The Worker Vice-Chairperson stated that, although the Worker members supported the Office text, they could agree to the amendments, and they were consequently adopted.

95. Subparagraph 1(d) was deleted.

Subparagraph 1(e)

96. The Employer members submitted an amendment to delete subparagraph (e), which defined the nature and scope of "commuting accidents". Their concern was, again, that of the responsibility of employers and their control of situations. They supported the improvement of health and safety at work and were of the opinion that this subparagraph would dilute action toward that objective in that "commuting accidents" or deviation to a third place make it more difficult to define, record, or make a causal link with the workplace or specific employer.

97. The Worker members opposed this amendment, citing the statistics presented at the first sitting, that 150,000 workers were killed annually while commuting, which in their view made this a major occupational issue. The Worker Vice-Chairperson noted also that reference to commuting accidents was already included in other ILO Conventions, such as the Safety and Health in Agriculture Convention, 2001 (No. 184) or the Employment Injury Benefits Convention. Furthermore, he explained that the recording of commuting accidents enabled countries to design preventive strategies to address this issue. In consideration of the views of a number of countries which had expressed their difficulty in recording such statistics, the Worker members were prepared to support amendments to Articles 2 and 3 of the proposed Protocol to add the phrase "where appropriate" or to address this provision only to national governments which had systems that would make this recording possible.

98. The Government member of the Syrian Arab Republic expressed the view that the Office text was precise, moderate, and well balanced and would have the effect of protecting workers before and after their work, in the spirit of the Social Security (Minimum Standards) Convention, 1952 (No. 102).

99. The amendment was likewise opposed by the Government members of Argentina (speaking also on behalf of Brazil and Uruguay), Bahrain (speaking also on behalf of Kuwait, Oman, Saudi Arabia, Tunisia and the United Arab Emirates), Côte d'Ivoire, Lebanon, New Zealand and the United States. The Government members of New Zealand and the United States remarked that their countries' regulations did not define commuting accidents, but that did not bar them from supporting the Office text for the benefit of other countries. The Government member of Lebanon asked for clarification as to whether this provision would cover an employee who departed from the direct route to or from work for non-occupational reasons. The representative of the Secretary-General responded that the ILO distinguished commuting accidents from occupational accidents, and that any accident outside the workplace that did not fit the three cases enumerated in subparagraph 1(e) would not be classified as a commuting accident by the ILO. National regulations could differ.

100. The Employer members withdrew their amendment, given the understanding that due consideration would be given to amendment of subsequent Articles.

101. The Government member of Côte d'Ivoire introduced an amendment which proposed to insert after the word "occurring" in subparagraph 1(e) the words ", as a result of or in the course of work". This was not seconded.

102. The Government member of Kenya introduced an amendment on behalf of Algeria, Benin, Burkina Faso, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, United Republic of Tanzania, Zambia and Zimbabwe, proposing to insert the words "taking into account national laws and regulations" in subparagraph 1(e) on commuting accidents because of the variation in legislation among countries. In their view, such terminology would clarify the definition, keeping in mind that in the developing world many common terms were defined differently from the developed world.

103. The Employer Vice-Chairperson indicated that this was a useful clarification, serving to emphasize the primacy of national law. The Worker Vice-Chairperson supported the intent of the amendment, seeing its principal value in offering increased flexibility. However, he thought that the best place for indicating flexibility was in Articles 2 and 3, and not in the definitions, and therefore he favoured keeping the Office text.

104. The Government member of Hungary said that he saw two, mutually exclusive, approaches to this issue: either keep definitions to the bare essentials; or include in them references to national laws and practice. He preferred the first approach, and therefore opposed the amendment.

105. The Government member of Malawi supported the amendment, noting however that there were still situations not provided for in the definition (it did not cover, for example, someone delivering mail) and preferred that something more encompassing be found.

106. The Chairperson pointed out that the discussion involved a matter of principle: should references to national laws and regulations be included in the definition part of the instrument, or not?

107. The Government member of Côte d'Ivoire expressed his preference for a flexible text, and wished to defer the discussion in order to make the definition more easily adaptable to standards in different countries.

108. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, supported the Office text, although she anticipated modifying it slightly.

109. The Employer members, again noting the importance of workers' protection, emphasized that the issue was one of recording and notification. To be confident that the data was consistent and transferable, there could be flexibility in the field of application but not in the definition itself – otherwise it could not be recorded properly. Their Vice-Chairperson expressed the view that: (1) there should be agreement on a definition that is consistent; and (2) there should be flexibility to conform to custom and practice in the application, in order to ensure consistency. He opposed the amendment, preferring references to national legislation to be included in Articles 2 and 3.

110. The Government member of Japan also supported the Worker members in calling for flexibility to be provided for in Articles 2 and 3, and not in the definitions.

111. The Government member of Kenya, speaking on behalf of the Africa group, then announced that he was prepared to withdraw the amendment on the understanding that in subsequent provisions relating to implementation with regard to commuting accidents, a reference would be included to "national laws and regulations".

112. The Worker Vice-Chairperson said that the Worker members supported the principle of flexibility in the sense that they wanted a text that would allow countries to use recording and notification procedures that suited their circumstances, but would not wish to commit themselves to a specific wording at this stage.

113. The Employer Vice-Chairperson accepted that the issue was one of a general understanding, and agreed to this.

114. The amendment was withdrawn.

115. The Government member of the Republic of Korea introduced an amendment, seconded by the Government member of Japan, which would insert the word "or" after the word "residence" in clause 1(e)(i). He said that he had been prompted by considerations of consistency with the wording of a similar provision in the Employment Injury Benefits Convention.

116. The Worker and Employer Vice-Chairpersons both suggested that the matter would be better left to a decision of the Drafting Committee.

117. The Government member of the Republic of Korea agreed and on that understanding withdrew the amendment.

118. The Government member of Japan introduced an amendment, seconded by the Government member of the Republic of Korea, which would insert the words "where applicable," into clauses 1(e)(ii) and (iii). He said that he saw a need for this amendment because in some countries commuting accidents were restricted to the circumstances mentioned in clause 1(e)(i), and this needed to be reflected in the text.

119. The Chairperson suggested leaving the definition of commuting accident as it was in subparagraph 1(e) in the interests of maximum precision, while introducing greater flexibility into subsequent implementation provisions, an approach that had been agreed to with regard to the previous amendment.

120. The Employer and Worker Vice-Chairpersons agreed that such a modification should be left to subsequent Articles.

121. The Government member of the Syrian Arab Republic pointed out that his country's legislation already contained provisions similar to the Office text and from his point of view there was no reason to support the amendment.

122. The Government member of Canada suggested that the concerns that had prompted the amendment could be met by adopting the approach suggested by the Chairperson, which would enable the Committee to move ahead with its agenda.

123. The Government member of Lebanon supported the Office text, but wondered if an accident suffered by workers on the way to or from a restaurant where they did not usually take their meals would be classified as a "commuting accident".

124. The Chairperson suggested that the matter could be considered during the discussion on amendments to subsequent Articles.

125. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, supported the Office text.

126. The Government member of Japan, noting the evident lack of support, withdrew the amendment.

127. The Government member of Canada, also speaking on behalf of the Government members of Norway and the United States, introduced an amendment that would replace the words "meals are usually taken" in clause 1(e)(ii) with the words "worker usually takes his or her meals".

128. The Worker Vice-Chairperson supported the amendment.

129. The Employer Vice-Chairperson suggested that the matter was best left to the Drafting Committee. If it created greater clarity, the Employer members had no objection in principle to the amendment, but wondered about the implications for the rest of the text.

130. In reply to a question from the Government member of Hungary, the representative of the Secretary-General explained that the wording used originally in Convention No. 121 had

been modified by the deletion of "worker" as the easiest way of ensuring gender-neutral language; it was in itself a relatively minor issue which could be dealt with by the Drafting Committee.

131. The Government member of Burkina Faso said that it would be useful to define accidents as "happening to a worker" so that subsequent references to "his or her" might be avoided.

132. In reply to a question from the Government member of Lebanon, the Chairperson said that the Drafting Committee would no doubt find a more elegant formula for ensuring gender neutrality than including "his or her" everywhere.

133. The amendment was adopted, subject to adjustment by the Drafting Committee.

134. The Government member of Canada, also speaking on behalf of the Government members of Norway and the United States, introduced an amendment that would replace the words "remuneration is usually received" in clause 1(e)(iii) with the words "worker receives his or her remuneration".

135. Being based on the same arguments as the previous amendment, the amendment was adopted.

136. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, withdrew an amendment the words and intent of which had been identical to the two previous ones. He wished to note however that the gender-neutral language was already part of the Spanish text in the Office version, and would probably not have to be changed at all.

137. The Government member of Canada, also speaking on behalf of the Government members of Norway and the United States, withdrew an amendment that would insert the word "worker's" after the words "where the" in clause 1(e)(iii).

138. The Government member of Côte d'Ivoire, seconded by the Government member of Kenya, introduced an amendment that would add a new clause to 1(e) with the wording "another place of work". He saw this as necessary to take care of accidents that might occur during travel between different work locations. This was especially important in developing countries where workers were often required to travel on missions between different places of work.

139. The Worker Vice-Chairperson supported the principle of the amendment, but suggested that two rather different situations might arise and this created a degree of ambiguity. In one situation, a worker might travel between different places of work for the same employer, in which case an accident would be considered as an occupational, rather than as a commuting accident. In the other, a worker might have two different jobs with different employers, and an accident between the different workplaces would then be regarded as a commuting accident. The Office text should be preferred.

140. The Employer Vice-Chairperson agreed that the amendment created a degree of ambiguity and likewise preferred the Office text. Many workers were required to travel between locations as part of their work. The important point was whether or not the worker was at a bona fide place of work when an accident occurred, and there was no need to create unnecessary complications.

141. The Government member of Burkina Faso, supported the amendment and pointed out that in many developing countries workers were required to go on missions to other places of work for their employers, and this needed to be reflected in the text.

142. The Government member of Sri Lanka suggested that an accident suffered by a worker travelling from one place of work to another was already covered by the term "occupational accident" and the amendment was therefore unnecessary.

143. The Government member of the Syrian Arab Republic agreed that the amendment was unnecessary. An accident during travel to and from home and a place of work was a "commuting accident", while one that occurred during travel between places of work would be considered to be an "occupational accident".

144. The Chairperson suggested that, according to the definitions set out in Article 1, the case described by the Government member of Côte d'Ivoire as a justification for the amendment was an "occupational accident".

145. The Government member of Côte d'Ivoire said that this was not the case in his country.

146. The Government member of Argentina said that the case referred to was certainly covered by Article 1, although separate provision might be made for the case of a worker who suffered an accident while travelling between workplaces for different employers. He therefore proposed as a subamendment the addition of a new clause (iv) "another place of work for another employer".

147. The Government member of Gabon supported the original amendment on the grounds that it covered a specific eventuality that had not previously been covered.

148. The Government member of Hungary opposed the subamendment, which went far beyond the code of practice, on the grounds that it could lead to disputes regarding the respective liabilities of different employers for accidents occurring between places of work.

149. The Government member of Argentina withdrew the subamendment.

150. Seeing little support in the Committee, the Government member of Côte d'Ivoire withdrew his amendment.

151. The Government member of Brazil, speaking also on behalf of the Government members of Argentina, Chile and Uruguay, introduced an amendment that would delete the words "involving loss of working time" from clause 1(e)(iii). He said that the amendment was based on the concept that "loss of working time" was an irrelevant factor, and that the only matter of any importance was whether death or personal injury were incurred in the accident. The state of affairs was reflected in Argentinian law.

152. The Worker members supported the amendment, while the Employer Vice-Chairperson proposed a subamendment that would insert the following words at the end of 1(e)(iii): "and which results either in death or in a non-fatal injury making a quantifiable loss of working time". The Employer members' intention was to separate death and non-fatal injury from trivial events out of concern that treating fatal accidents and mere first-aid injuries in the same way made the recording process a purely statistical exercise. Furthermore, should the amendment be accepted, a country which was currently recording based on loss of working time would be faced with the decision of retaining its own system or adapting to the ILO definition.

153. As an amendment to delete can be subamended only to limit the scope of deletion, the subamendment had to be withdrawn, which led the Employer members to oppose the amendment proposed by the Government members of the MERCOSUR countries.

154. The Government member of Hungary asked rhetorically if a minor injury incurred by him while leaving the meeting room after the meeting would qualify as a "commuting accident". He held that the definition resulting from the amendment would be so inclusive that the Protocol would be unusable. He urged retention of the Office text, and was supported in this by the Government member of the United States.

155. The Government member of the Syrian Arab Republic supported the amendment, remarking that it was quite possible for a worker to be involved in an accident serious enough to merit reporting, but be able to return immediately to work after treatment. The Government member of Spain, speaking for the Government members of the Committee Member States of the European Union, agreed that there were many cases where incapacity could occur without loss of working time. She cited the Worker Vice-Chairperson's example of a weekend-long incapacity incurred in an accident on the way home from work at the end of a week.

156. The Government member of Kenya, speaking on behalf of the Africa group, observed that these countries would be seriously inconvenienced by the change in standard entailed by the amendment, and opposed it. The Government member of France countered that her country's legislation did not include loss of working time in its definition of commuting accidents, and so the basis of its statistics would change if the definition in the Office text were followed.

157. The Government member of Australia pointed out that the goals of the Protocol were an important consideration, and in that context asked if lost workdays were always the object of interest in accident statistics, or if other things, such as compensation costs, could not also be important data. The Government member of Malawi thought that it would have been useful to mention disability rather than lost working time.

158. The representative of the Secretary-General emphasized the role of national authorities in defining the scope of categories used for recording accident data. He reminded the Committee that the Office text followed the unanimous decision of the Committee of Experts that had drafted the code of practice on the recording and notification of occupational accidents and diseases.

159. The Government member of Brazil asked why, if the Committee of Experts had felt lost working time to be so important in the definition of commuting accidents, they had not mentioned it in the definition of occupational accidents.

160. The Chairperson recalled that Article 2 of the proposed Protocol recognized the power of the competent authority to define the extent of coverage of the terms defined in Article 1, so that the Committee might not need to expend further effort refining the definitions.

161. The Employer Vice-Chairperson reiterated his concern that removing lost working time as a criterion for recording accidents would conflict with existing systems and impair the comparability of statistics, which was one of the Committee's important goals. The Worker Vice-Chairperson pointed out that the absence of lost working time from the definition did not prevent national authorities from using that as a criterion. If accident prevention was the major object of the Committee's work, it made sense to encourage the acquisition of as much information on accidents as possible, whether or not they led to lost workdays.

162. The Government member of Argentina recalled that the Employment Injury Benefits Recommendation, 1964 (No. 121), did not mention lost working time in its definition of commuting accidents, so it seemed inconsistent to include it here. An indicative show of hands having been inconclusive, he called for a vote on the amendment and was seconded by Brazil.

163. Put to the vote, the amendment was adopted by 384 votes in favour, 330 votes against, with 3 abstentions.

164. The Government member of Côte d'Ivoire, seconded by the Government member of Kenya, introduced an amendment that would add a new clause 1(e)(iv), to read as follows: "a place of treatment or any other place where the worker may go at his or her employer's request during working hours". He said that the proposal was intended to cover cases where workers were required to travel to places of treatment, for example after minor accidents at work.

165. The Employer Vice-Chairperson expressed the view that the amendment extended the definition of "commuting accident" to travel during working hours and to locations that could be termed "semi-workplaces". This imprecision was contrary to the goal of improved recording and notification, and threatened to make employers responsible for situations over which they had no control.

166. The Worker Vice-Chairperson also opposed the amendment, noting that current practice in most countries would define any accident during travel at the employer's request as an occupational accident, not a commuting accident. The Government member of Côte d'Ivoire replied that such cases were classified as commuting accidents in his country, and assured the Employer members that he was trying to restrict the definition to work-related accidents during travel, not enter into questions of compensation.

167. At the request of the Chairperson, the representative of the Secretary-General stated that the ILO considered commuting accidents to be only those that occurred on a direct route to or from work including extensions listed in subparagraph 1(e) but excluding others. He pointed out that many kinds of traffic accidents were occupational accidents in ILO terms; those suffered by bus drivers would be one example, and the case cited by the Government member of Côte d'Ivoire in his amendment would be another.

168. The Government member of the Syrian Arab Republic felt that definitions such as that intended by the proposed amendment were better left to national authorities and were out of place in the Protocol. He preferred the Office text.

169. The Government member of Hungary observed that the definition of "occupational accident" in the Office text did not mention workplaces, only work (in line with the code of practice on recording and notification) and held the amendment to be unnecessary.

170. The Government member of Côte d'Ivoire withdrew the amendment.

171. Subparagraph 1(e) was adopted as amended.

Proposed new subparagraph 1(f)

172. The Government member of China, seconded by the Government member of India, introduced an amendment that would add a new subparagraph (f) to Article 1, reading "the term 'suspected cases of occupational diseases' covers a disease which is suspected to be

caused by occupational exposure but has not been confirmed by the competent authority or designated experts".

173. A clear definition of "suspected cases of occupational diseases" was needed because of the subsequent references to such cases in the text of the Protocol. Suspected cases referred to those that appeared to be connected with exposure to risk factors but where a causal link had not been definitively established by the competent authorities. This would help in the collection and analysis of statistics, enable the international comparison of such statistics, and otherwise improve protection of workers' health.

174. The Worker Vice-Chairperson supported the amendment, noting that Article 1 already included definitions of the other key terms in the Protocol, and should logically also include a definition of the suspected cases referred to elsewhere in the text.

175. The Employer Vice-Chairperson said that the Employer members opposed the amendment on the grounds that the existing definitions were already comprehensive enough.

176. The Government member of India supported the amendment, and said that his Government had already in its reply to the Office questionnaire expressed its belief in the need for a definition of "suspected cases", in the interests of greater precision and in order to improve the collection and analysis of statistics.

177. The Government member of Hungary said that the amendment did not improve the Office text, and simply raised the question "suspected by whom?". It defined "suspected" in subjective terms with a reference to the competent authorities, by contrast with the objective definitions of the other terms referred to in Article 1.

178. The Government member of Kenya, speaking on behalf of the Africa group, opposed the amendment, saying that it would lead to greater confusion.

179. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, and the Government member of Malawi opposed the amendment on the same grounds.

180. The Government member of Indonesia, supported by the Government member of the United States, opposed the amendment. She said that "suspected cases" were those which in medical terms were still in the process of diagnosis; they might or might not be confirmed as having an occupational origin, and so a degree of confusion could arise.

181. The Government member of China pointed out that the fundamental aim of all recording and notification was to identify risks, which implied some form of preliminary monitoring and therefore also certain measures to record "suspected" cases of occupational diseases. However, there would be no point in including references in subsequent Articles to "suspected cases" if they were not clearly defined. His delegation was prepared to consider other proposals that would meet these concerns.

182. The Chairperson suggested that the issue was only whether or not to include a definition of "suspected cases of occupational diseases" in the Protocol; countries would always be free to include such a definition in their own legislation.

183. The Government member of Germany opposed the amendment. Although German legislation included provisions for the recording and notification of suspected cases of occupational diseases for the purpose of improving preventive measures, such a definition at this point in the Protocol would create confusion.

184. The Government member of Canada opposed the amendment, and said that the adjective "suspected" could equally be applied to all the other terms referred to in Article 1. It should be left to governments to decide whether to establish a definition in their own legislation.

185. Seeing the lack of support, the Government member of China withdrew his amendment, but suggested that references in subsequent Articles to "suspected cases of occupational diseases" should also be deleted, since there would now be no definition of them.

186. The Worker Vice-Chairperson submitted an amendment that would add a new subparagraph (f) to Article 1, reading "the term 'workers' covers any person who performs work either regularly or temporarily regardless of the status of their employment".

187. Such a definition was needed to ensure that certain groups of people were not excluded from reporting and notification measures, and to prevent a situation in which certain groups were covered by such measures in some countries and not in others. It was also logical to define groups for whom statistics were collected, in the same way that the occurrences on which data were to be collected had also been defined. The wording of the proposed definition was also consistent with the ILO code of practice on the recording and notification of occupational accidents and diseases.

188. The Employer Vice-Chairperson opposed the amendment, on the grounds that the Occupational Safety and Health Convention, to which the proposed Protocol was linked, already provided a sufficiently inclusive definition of workers as "all employed persons". This definition, as well as the one used in the ILO code of practice, was quite adequate and a new one was not required.

189. The Chairperson suggested that, since the proposed Protocol would effectively form part of Convention No. 155, which defined "workers", another definition was unnecessary.

190. The Worker Vice-Chairperson, acknowledging the possibility of confusion, withdrew the amendment.

191. Article 1 was adopted as amended.

SYSTEMS FOR RECORDING AND NOTIFICATION

Article 2

192. The Government member of Japan, seconded by the Government member of the Republic of Korea, submitted an amendment that would replace the word "periodically" in the third line of Article 2 with the words "as necessary". This wording was felt to be less restrictive on governments and would allow for greater flexibility.

193. The Employer Vice-Chairperson, supported by the Worker Vice-Chairperson, said that the Office text was preferable, as the amendment introduced a certain ambiguity as to who should decide when a review was necessary.

194. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, opposed the amendment.

195. The Government member of Côte d'Ivoire said that the Office text was preferable. His country's legislation had provisions for the "periodic" compilation of statistics and this facilitated the prevention of accidents and diseases.

196. At the request of the Government member of Japan, the representative of the Secretary-General said that the term "periodically" implied a regular, although not necessarily constant, period of perhaps a year or two.

197. In the light of the clarification given and other comments made, the Government member of Japan withdrew the amendment.

Subparagraph 2(a)

198. The Government member of the Republic of Korea, seconded by the Government member of Japan, submitted an amendment inserting the words "and, as appropriate," after the words "occupational diseases" in subparagraph 2(a), while deleting the words "as appropriate," after the word "and" in the second line. Referring to the Office commentary on this Article in Report V(2A), he suggested that the phrase introduced a welcome degree of flexibility.

199. The Worker Vice-Chairperson said that the Worker members recognized the need for flexibility and supported the amendment, as they had supported a similar previous amendment. However, he hoped that the Drafting Committee could ensure that the necessary changes were made consistently throughout the text, not only in Article 2.

200. The Employer Vice-Chairperson supported the amendment and agreed with the proposal for sending the matter to the Drafting Committee.

201. The Government member of Kenya, speaking on behalf of the Africa group, supported the amendment.

202. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, and the Government member of Canada expressed their support for the Worker members' proposal in the interest of speeding up the discussions.

203. The Chairperson said that the members of the Drafting Committee should make sure that the qualifying phrase "as appropriate" was introduced throughout the text as they thought necessary.

204. The amendment was adopted.

205. The Government member of Canada, acting also on behalf of the Government members of New Zealand, Norway and the United States, withdrew an amendment identical to the one just adopted.

206. The Government member of Spain, speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Luxembourg, Netherlands and Sweden, withdrew the first part of an amendment the wording of which was identical to the one just adopted. The second part, to delete the word "incidents", was adopted in line with a previously adopted amendment to delete the definition of the term "incident" in subparagraph 1(d).

207. The Employer Vice-Chairperson presented an amendment that would delete the words "dangerous occurrences, incidents, commuting accidents" from subparagraph 2(a).

208. After consideration of the text of the subparagraph as it stood as amended, he said that the Employer members' amendment was now unnecessary, and he withdrew it.

209. The Government member of Canada, speaking also on behalf of the Government members of Norway and the United States, withdrew an amendment transferring the words "as appropriate" from the beginning of clause 2(b)(ii) to the beginning of subparagraph 2(b). He said that the amendment was no longer necessary because of the general agreement reached concerning the use of "as appropriate" in the instrument.

210. In light of the promised insertion of "as appropriate" by the Drafting Committee, the Government members of China and the Republic of Korea withdrew identically phrased amendments deleting the words "and dangerous occurrences" from clause 2(b)(i).

211. An amendment introduced by the Employer Vice-Chairperson to delete "dangerous occurrences; and" and to insert the word "and" after the word "accidents" was likewise withdrawn.

212. In the same spirit, the Government member of Spain, speaking also on behalf of the abovementioned Government members of the Committee Member States of the European Union, withdrew an amendment that would have transferred the words "and dangerous occurrences" from clause (i) to clause (ii) in subparagraph 2(b).

213. The Employer Vice-Chairperson withdrew an amendment that would have deleted clause (ii) from subparagraph 2(b).

214. The Government members of China and the Republic of Korea withdrew identical amendments inserting the words "dangerous occurrences" after the words "as appropriate" in clause 2(b)(ii).

215. Article 2 was adopted as amended.

Article 3

Proposed new subparagraph before subparagraph 3(a)

216. The Employer Vice-Chairperson submitted an amendment inserting a new subparagraph before 3(a), reading "the duties of workers to report occupational accidents, occupational diseases, or suspected cases of occupational diseases, unless precluded by privacy legislation under national laws and regulations". The amendment had been prompted by the belief that what actually happened at the workplace was more important than the collection of statistical data, and that it was therefore important to encourage workers to report relevant cases in the interest of developing preventive measures. As a subamendment, he proposed replacing the word "or" before "suspected cases" with the word "and". The last part of the Employer members' amendment was inserted in recognition of the privacy legislation in some member States.

217. The Worker Vice-Chairperson opposed the amendment on the grounds that it appeared to impose a specific legal reporting obligation on workers and thus ran counter to the terms of the Occupational Safety and Health Convention, which had placed this obligation specifically on employers. While it was unquestionably necessary for workers to assist employers in their reporting obligations, only employers could be expected to report accidents and diseases to the competent authorities, and the proposed amendment appeared to provide employers with a means of evading their responsibilities in that regard. In the interests of maintaining clear responsibilities, he urged the Committee to reject the amendment.

218. The Employer Vice-Chairperson said that possibly the wording of the amendment could be improved, but he pointed out that there was a clear distinction between "reporting", which involved an internal mechanism between workers and employers, and "notification" to the competent authorities, which was clearly an obligation of the employer. There was no intention to relieve employers of their responsibilities. As a possible way of meeting the Worker members' concerns, he suggested a subamendment to add the words "to the employer" after "to report".

219. An adviser to the Employer members explained that the amendment had been proposed in the light of considerable experience within enterprises which had shown that in many cases workers thought that it was not worthwhile to report certain minor accidents which proved to have serious consequences later on, at which time it was difficult to establish a causal link between the accident and the resulting injury or disease. The aim of the amendment was to encourage workers to report all accidents to the employer in the interests of improving prevention.

220. The Government member of Argentina said that the proposed new paragraph could be a useful addition to the instrument, and he proposed a subamendment on behalf of the Government members of the Committee Member States of MERCOSUR, changing the words "duties of workers to report" to the words "right of workers to report", while deleting the phrase beginning with "unless precluded".

221. The Employer Vice-Chairperson reiterated his wish to see workers involved in the safety and health reporting process, while stressing that this in no way diminished the full responsibility that employers had for maintaining safe workplaces. As a result, he did not support the subamendment submitted by the Government member of Argentina.

222. The Worker Vice-Chairperson equally opposed the subamendment, stating that it would cause problems and confusion as reporting procedures vary from country to country, and reporting is very often done through the doctor consulted, in particular for occupational diseases. He reminded the Committee that the responsibility of workers to cooperate was already mentioned in Occupational Safety and Health Convention.

223. The Government members of India, Kenya (speaking on behalf of the Africa group) and Spain (speaking also on behalf of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal and Sweden) also spoke against both the amendment and the subamendment, clearly favouring the Office text.

224. The Government member of Uruguay, speaking also on behalf of the Government members of the MERCOSUR countries, withdrew the subamendment.

225. The Employer members proposed a subamendment inserting "to the employer" after the word "report" in line 1 of their amendment. The Employer Vice-Chairperson explained that this subamendment was introduced in order to emphasize that the amendment dealt with reporting accidents to the employer, and had nothing to do with notification of the authorities.

226. The Worker Vice-Chairperson said that the Worker members would continue to oppose both the amendment and the subamendment, on the grounds that there was no question of the Protocol imposing new duties on the workers in terms of reporting, which was the employer's responsibility according to the Occupational Safety and Health Convention.

227. The Government members of Hungary and Japan opposed the subamendment and the amendment, the member of Japan referring to the legal difficulty of imposing new duties on workers.

228. The Employer Vice-Chairperson repeated the Employer members' desire to clarify the text. He reminded the Committee that an employer had no way of knowing that a worker had suffered a commuting accident if it were not reported to him. However, seeing no support, he withdrew the subamendment and amendment.

Subparagraph 3(a)

229. The Employer Vice-Chairperson introduced an amendment deleting the words "dangerous occurrences, incidents, commuting accidents" from clause 3(a)(i), and inserting the words "brought to the attention of the employer" at the end of the subparagraph. As the first part was analogous to what had already been discussed earlier, it was withdrawn. The second part was intended to clarify the fact that employers could only report what they were aware of.

230. The Worker members opposed the second part of the amendment. However, the Worker Vice-Chairperson noted the intention behind it. He reminded the Committee of the responsibility for reporting being with the employer and added that this amendment would confuse the issue. Furthermore, the substance of the amendment was a matter of application.

231. The Government member of Hungary pointed out that the spirit of this part of the amendment was similar to that of the previous one, and he opposed it for the same reasons.

232. The Government members of Kenya (speaking on behalf of the Africa group), Lebanon, Spain (speaking on behalf the Government members of the Committee Member States of the European Union) and Uruguay (speaking on behalf of the MERCOSUR countries already listed) also opposed the second part of the amendment.

233. The Employer Vice-Chairperson withdrew the second part of the amendment.

234. The Government member of Spain, speaking also on behalf of the Government member of Greece, withdrew an amendment whose wording was almost identical to another one submitted jointly by the other Government members of the Committee Member States of the European Union (Austria, Belgium, Denmark, Finland, France, Ireland, Luxembourg, Netherlands and Sweden).

235. This latter amendment, introduced by the Government member of Spain, had three parts: (1) replacement of clause 3(a)(i) with "to record occupational accidents and, 'as appropriate', dangerous occurrences and commuting accidents"; (2) insertion of a new clause (ii), reading: "to record either directly or by delegation, occupational diseases and as appropriate, suspected cases of occupational disease"; and (3) renumbering of clause (ii) as (iv). The first part involved the "as appropriate" phraseology, which the Committee had earlier agreed to refer systematically to the Drafting Committee. For the second part, she said that in many countries in the European Union the employer does not record occupational accidents and diseases directly, but does the reporting through health and safety services indirectly. The third part was not just a change in numbering, but was a more logical way to sequence the subparagraph.

236. The Worker Vice-Chairperson was opposed to part 2 of the amendment because it might create confusion as to where the ultimate responsibility lay. The responsibility for

recording and notification could not, in the Worker members' view, be delegated, and it must remain with the employer, something clearly expressed by the Office text.

237. The Employer members, although not feeling strongly on the issue, thought that part 2 of the amendment made a useful contribution and assisted in the adaptation of the Protocol to national custom and practice.

238. The Government members of Japan and Lebanon said that they could not support the second part of the amendment, as in their opinion notification of accidents and diseases to the authorities should be conveyed directly by the employers, otherwise they would not have easy access to the information to improve conditions in the future.

239. The Government member of Hungary pointed out that while the Office text assigned responsibility for recording to the employers, they were free to set up the mechanisms for this. There was no reason why such a mechanism could not involve indirect reporting, and as a result the amendment was not necessary.

240. The Government member of Côte d'Ivoire was also not in favour of the second part, as recording would continue to be the responsibility of the employer. Reference to delegation could only cause confusion.

241. The Government member of Spain, on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Ireland, Luxembourg, Netherlands and Sweden, withdrew the amendment.

242. Two amendments involving the addition and deletion of the words "as appropriate" from clause 3(a)(i), submitted by the Government members of Canada (also on behalf of the Government members of New Zealand, Norway and United States) and the Republic of Korea (seconded by the Government member of Japan), respectively, were withdrawn by their proposers.

243. The Worker Vice-Chairperson introduced an amendment that would add a new clause (iv) to subparagraph 3(a), prohibiting discrimination against workers who reported an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease. Although Article 5, subparagraph (e) of the Occupational Safety and Health Convention, 1981 prohibits disciplinary measures as a result of actions properly taken by workers in connection with the prevention of accidents and injury, it does not give specific protection to workers who report them. As there have been cases of workers suffering such discrimination, the Worker members felt that only by introducing clear legal protection, would workers be adequately protected.

244. The Employer Vice-Chairperson said that the Employer members wished to encourage workers to report cases of occupational disease or accident and welcomed the opportunity to promote such laudable actions by workers. However, they felt that the word "discriminating" was not the best choice in that discrimination in any form was illegal. They proposed the phrase "instituting disciplinary or retaliatory measures" in place of "discriminating".

245. The Worker Vice-Chairperson preferred the Office text, but was prepared to accept the term "disciplinary measures", in order to show a readiness to compromise.

246. The Government members of Canada, Kenya (speaking on behalf of the Africa group), Lebanon, Spain (speaking also on behalf of the Government members of Austria, Belgium,

Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal and Sweden) and the United States, supported this subamendment.

247. The amendment was adopted as subamended.

248. The Government member of Côte d'Ivoire, seconded by the Government member of Algeria, submitted an amendment to add a new clause (iv) to subparagraph 3(a), to give employers the responsibility "to send to the competent authorities a quarterly or annual report on the state of workers' health, with statistics on occupational accidents and diseases". He justified the addition as an aid to the competent authority, which was obliged by Article 6 of the proposed Protocol to publish annual statistics. Many countries already had similar provisions in their laws.

249. The Employer Vice-Chairperson asserted that the amendment was out of place in Article 3, because the Article bore on recording and the amendment on notification. The Worker Vice-Chairperson agreed that the amendment was inappropriate in context, although he appreciated the sentiment that it reflected.

250. The Government members of Brazil and India opposed the amendment in the same spirit, and it was withdrawn by the Government member of Côte d'Ivoire.

251. Subparagraph 3(a) was adopted, as amended.

252. Subparagraphs 3(b) and 3(c) were adopted without change.

Proposed new subparagraph after subparagraph 3(b)

253. The Government member of El Salvador, seconded by the Government member of Brazil, submitted an amendment to add a new subparagraph between subparagraphs 3(b) and 3(c) to mandate that the requirements and procedures for recording should determine, in addition to those things already specified, the maximum time allowed for registration.

254. The Worker members, the Employer members and the Government members of Kenya (speaking on behalf of the Africa group), Norway and Spain (speaking for all the Government members of the Committee Member States of the European Union), all opposed the amendment as bringing unnecessary detail into the Protocol and applying more to notification than to recording.

255. The Government member of El Salvador withdrew the amendment.

Proposed new subparagraph 3(d)

256. The Government member of Spain, on behalf of the Government members of the Committee Member States of the European Union, submitted an amendment to add a new subparagraph (d) to Article 3, mandating that the requirements and procedures for recording should determine "measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice". She justified the addition by the presence of a similar provision in the ILO's own code of practice on the recording and notification of occupational accidents and diseases, as well as in many national laws.

257. The Worker Vice-Chairperson said that the Government members of the Committee Member States of the European Union had, with this amendment, identified one of the few

areas in which the Office text might be regarded as deficient. The amendment seemed appropriately worded, and he supported it.

258. The Employer Vice-Chairperson agreed, and said that the amendment was in keeping with a considerable body of national law and practice with regard to confidentiality.

259. The Government member of Côte d'Ivoire opposed the amendment. While "medical data" needed to be kept confidential, the same did not necessarily apply to other "personal data". He proposed a subamendment removing the word "and", so that the provision would apply to "personal medical data". Personal data were not necessarily subject to the same sort of mandatory protection as medical data.

260. The Government member of Hungary pointed out that there was a great difference between "personal medical data" and "personal and medical data", and opposed the subamendment. As no support was forthcoming, the Government member of Côte d'Ivoire withdrew the proposed subamendment, but reiterated his reservations regarding the protection of personal data in general.

261. The amendment was adopted as submitted.

262. The new subparagraph 3(d) was adopted.

263. Article 3 was adopted as amended.

Article 4

Subparagraph 4(a)

264. The Employer members submitted an amendment to modify subparagraph 4(a), clause (i), as follows: "In the second line, after the word 'accidents', insert the word 'and' and in the second line, after the word 'diseases', insert the words 'recorded under Article 3', and delete the words 'dangerous occurrences and, as appropriate, commuting accidents and suspected cases of occupational diseases'". At the suggestion of the Worker Vice-Chairperson, with the procedural guidance of the Chairperson, the Employer Vice-Chairperson subamended the amendment to delete the words "as appropriate" from before "commuting accidents" and insert them before "dangerous occurrences" on the understanding that the Drafting Committee would further harmonize the phraseology of clause 4(a)(i) in accordance with the principles earlier agreed on by the Committee for clause 3(a)(i).

265. The Worker Vice-Chairperson supported the subamendment.

266. There being no objection from any Government member, the amendment was adopted as subamended.

267. In the light of the adoption of the previous amendment, the Government member of Spain withdrew an amendment to delete "dangerous occurrences" in the second line that she had submitted with the Government member of Greece.

268. The Government members of Canada and the Republic of Korea withdrew amendments that would have accomplished the insertion of "as appropriate" at the point already agreed on.

269. The Government member of China and the Government member of Spain, speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France,

Greece, Ireland, Luxembourg, Netherlands and Sweden, withdrew amendments to move the words "dangerous occurrences" so that they would be qualified by the term "as appropriate", because that effect had been achieved by the Employer members' amendment as subamended.

270. The Employer Vice-Chairperson introduced an amendment to replace clause 4(a)(ii) with the following: "to make available to workers in their workplace, and to their representatives, in accordance with national law and practice, appropriate information concerning notified cases". The intention was to make the Office text clearer, and to introduce a desirable degree of flexibility. It was not the intention to diminish the employer's responsibility; employers could only provide information on what they were actually aware of.

271. The Worker Vice-Chairperson said that the Employer members' concern for flexibility was already met by the existing wording in the preceding sub-clause ("as appropriate"). As to the phrase "in accordance with national law and practice", employers had an unconditional obligation to provide workers with information, which should not be qualified. The Worker members therefore preferred the Office text.

272. In reply to a request from the Government member of Hungary for clarification as to the meaning of the phrase "in their workplace", the Employer Vice-Chairperson said that it was intended to ensure that in a situation where an employer might have a number of different sites, only the workers at a particular site would need to be informed about the notified cases at their site. Having heard the explanation, the Government member of Hungary opposed the amendment and preferred the Office text.

273. The Government members of Brazil, Côte d'Ivoire and Spain opposed the wording of the amendment on the grounds that the Office text, which used the word "provide", was preferable.

274. The Government member of Kenya, speaking on behalf of the Africa group, also supported the Office text, saying that the proposed amendment introduced too much flexibility which could lead to abuses.

275. In view of the general lack of support, the Employer Vice-Chairperson withdrew the amendment.

276. The Government member of Japan, seconded by the Government member of Thailand, introduced an amendment to insert the words "where appropriate" at the beginning of clause 4(a)(ii). The amendment took account of those situations in which it was considered desirable not to provide information to all workers at a given enterprise.

277. The Worker Vice-Chairperson suggested that the phrase "as appropriate" was redundant, since the word "appropriate" was already present in the clause. He preferred the Office text.

278. The Employer Vice-Chairperson agreed, and suggested that the double occurrence of "appropriate" in the same clause could be confusing.

279. The Government member of Japan withdrew the amendment.

280. Subparagraph 4(a) was adopted as amended.

Subparagraph 4(b)

281. The Government member of Japan introduced an amendment, seconded by the Government member of Thailand, which would insert the words ", through the employers," after the word "diseases" in subparagraph 4(b). The purpose of this was to insist on the employer's primary responsibility for the notification of occupational accidents and diseases.

282. The Employer Vice-Chairperson stated that this amendment depended on a supposition that employers had certain kinds of knowledge, which was not necessarily the case. He also referred to the ambiguity and vagueness of the proposed amendment. He added that outside Europe, reporting by employers was already less than satisfactory and that imposing new obligations would be most unlikely to generate more meaningful data. Therefore, the Employer members were against the proposed amendment. For similar reasons, the Worker Vice-Chairperson also opposed the amendment.

283. The Government members of Argentina (speaking on behalf of the MERCOSUR Member States of Argentina, Brazil, Paraguay and Uruguay), Kenya (speaking on behalf of the Africa group) and Spain (speaking on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal and Sweden) and opposed the amendment, preferring the text proposed by the Office.

284. Given the apparent lack of support, the Government member of Japan withdrew the amendment.

285. Having found little support in the other groups, the Worker Vice-Chairperson withdrew an amendment to insert the words "workers and their organizations, the self-employed, and also by" before the words "insurance institutions" in the text of subparagraph 4(b). He said that the purpose of this amendment would have been to encourage workers to participate more in safety and health activities in the workplace.

286. Subparagraph 4(b) was adopted without change.

Subparagraph 4(c)

287. The Government member of China proposed an amendment, seconded by the Government member of India, to delete the words "the criteria according to" from the beginning of subparagraph 4(c) because the definition of criteria was unclear and the data collected would not be comparable. He emphasized the need for standardization of reporting.

288. The Workers' and Employers' Vice-Chairpersons opposed the amendment, both saying that the Office text was flexible enough.

289. The Government member of India supported the amendment. He said that in the absence of the reference to criteria, the general assumption of conforming to national law and regulations would be understood, and this would better serve the purposes of the Protocol.

290. The Government members of Argentina (speaking on behalf of the Government members of the Member States of MERCOSUR), Kenya (speaking on behalf of the Africa group), the Republic of Korea and Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) all opposed the amendment. The Republic of Korea noted that the word "criteria", replacing the word "types", had been chosen by the Office precisely for the greater flexibility it gave the instrument.

291. In the absence of significant support, the Government member of China, repeating his wish to have a clearer target and more useable data, withdrew the amendment.

292. In line with the decision to refer the use of the expression "as appropriate" to the Drafting Committee, the Employer Vice-Chairperson and the Government members of Canada, Republic of Korea and Spain withdrew amendments involving the use of this expression in subparagraph 4(c), submitted respectively by the Employer members; the Government members of Canada, Norway and the United States; the Government member of the Republic of Korea; and the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden.

293. The Government member of Spain, speaking also on behalf of the Government member of Greece, withdrew an amendment deleting the words "dangerous occurrences" from subparagraph 4(c).

294. Subparagraph 4(c) was adopted without change.

Subparagraph 4(d)

295. Subparagraph 4(d) was adopted without change.

296. There were no further amendments and Article 4 was adopted as amended.

Article 5

297. The Government member of Kenya (speaking on behalf of Algeria, Burkina Faso, Côte d'Ivoire, Djibouti, Ethiopia, Gabon, Kenya, Lesotho, Malawi, Mozambique, Namibia, Nigeria, United Republic of Tanzania, Zambia and Zimbabwe) introduced an amendment that would add the word "appropriate" before "data" in Article 5. He said that normally there was a lot of information available on a particular case of occupational accident or disease, and it was therefore reasonable to limit the information to be included in the notification to what was appropriate.

298. The Employer Vice-Chairperson supported the idea of making the instrument more relevant. However, the amendment raised the question as to who would decide what was appropriate, and in order to avoid potential confusion he opposed the amendment.

299. The Worker Vice-Chairperson agreed, and expressed his preference for the Office text.

300. The Government members of China, Hungary, Lebanon and Spain (the latter speaking on behalf of the Government members of the Committee Member States of the European Union) opposed the amendment, preferring the Office text. The Government member of Hungary noted that there was a presumption that this instrument should be applied in good faith, and it was unnecessary to qualify the word "data". The Government member of Spain said that the Office text provided for the type of data to be determined by national laws and therefore, no further qualification was needed.

301. In the absence of support, the Government member of Kenya withdrew the amendment.

302. The Worker Vice-Chairperson introduced an amendment to make Article 5 specify the minimum information to be notified by reference to the *Recording and notification of occupational accidents and diseases*, an ILO code of practice, (1996).

303. The Employer Vice-Chairperson thought that the amendment provided too much detail; governments, he continued, needed flexibility and this was already provided by the Office text. He added that it was unhelpful to be prescriptive to this extent. It also raised questions of the legal hierarchy of instruments for the Protocol to cite a code of practice. For all these reasons, the Employer members opposed the amendment.

304. Similarly, the Government member of Hungary said that a legally binding document, such as the Protocol, should not normally refer directly to the code of practice. If part of the code were felt to be relevant, the text should be quoted in full.

305. The Government members of Kenya (speaking on behalf of the Africa group) and Spain (speaking on behalf of the Government members of the Committee Member States of the European Union), opposed the amendment, preferring the Office text.

306. The Government member of China spoke in favour of the amendment, remarking that it would facilitate the work of governments in identifying the causes of accidents.

307. The Government member of Argentina, speaking on behalf of the Government members of the Committee Member States of MERCOSUR, opposed the amendment because he did not think it appropriate for references to the code of practice to be included in the Protocol.

308. The Worker Vice-Chairperson appreciated the comments expressed concerning the spirit of the amendment, but he recognized the validity of the arguments and withdrew the amendment.

Subparagraph 5(a)

309. The Government member of Spain introduced an amendment on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden (also supported by the Government members of Germany, Italy and Portugal) to replace subparagraph 5(a) with the following text: “the enterprise(s), establishment(s) and employer(s)”. The amendment was prompted by the fact that health problems often arose many years after a worker’s exposure to risk factors such as chemicals, and it had therefore been felt necessary to take into account the worker’s history with previous employers and at previous enterprises and establishments.

310. The Worker Vice-Chairperson supported the amendment.

311. The Employer Vice-Chairperson said that the reasoning behind the amendment was reasonably clear and the intention sound, but it seemed to be relevant only to occupational diseases. Also, in his understanding the singular was normally deemed to include the plural in legal language, thus rendering the change unnecessary. Indeed the proposed changes could lead to some confusion, as the plural nouns could cover quite different notions and result in legal difficulties with regard to a possible obligation of one employer to provide data on a worker now with a different employer. He invited an adviser to the Employer members to shed some light on the matter.

312. The adviser said that the proposed amendment made little sense in the context of occupational accidents. Even in the context of occupational diseases, where the intention had been to take account of a worker’s past history of exposure to risks, it seemed unnecessary, given that national legislation generally included provisions concerning investigation of the worker’s past job history.

313. The Government member of India supported the amendment, which he believed took account of the case of workers who moved frequently from one job to another, the large number of migrant workers in his country being a good example.

314. The Government member of Japan said that the amendment raised a number of questions as to how a worker's history would be traced by an employer. He supported the Office text.

315. The Government member of Kenya (speaking on behalf of the Africa group) supported the Office text. Although the intention behind the amendment was good, it could lead to confusion in practice.

316. The Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) said that in the European Union group the legal opinion was that the singular did not automatically cover the plural in all countries, and the change was necessary to allow for this.

317. The Government member of Hungary said that if the amendment was being proposed simply because the singular did not always cover the plural, it was acceptable, but he wondered if this was not just a drafting change, rather than a matter of substance.

318. The representative of the Secretary-General said that the Office stood by its original text, although it was for the Committee to accept or reject the amendment.

319. The Chairperson suggested that since the "s" to indicate plurality was in parentheses, it covered all possible cases.

320. The Government member of Hungary suggested that the problem might be solved by adopting the formulation used in the ILO code of practice on recording and notification, which referred to "establishment, enterprise, employer" without the definite article.

321. The Government member of Japan said that in the Japanese language nouns did not differentiate between the singular and the plural, so that this matter did not really affect his country. However, it was not clear whether the use of the plural implied that information was to be provided on a worker's previous workplaces.

322. The Chairperson confirmed that that had been the intention expressed when the amendment was introduced.

323. The Government member of Spain observed that while the intention of the amendment had been to create greater clarity, it had not had that effect, so he was prepared to withdraw the amendment.

324. The Chairperson said that if the amendment was withdrawn, its intent could be referred to the Drafting Committee for consideration, but this suggestion received no encouragement from the Committee and the amendment was withdrawn.

325. The Worker Vice-Chairperson introduced an amendment to include the word ", workplace" after "establishment" in subparagraph 5(a). During the long discussions that had taken place in the Workers' group, it had been clear that the term "establishment" was not synonymous with "workplace", and one establishment might well include a number of quite different sites where work was done. It was therefore felt that a specific reference to "workplace" should be included.

326. The Employer Vice-Chairperson said that data on the "enterprise, establishment and employer" were quite sufficient for notification purposes, and the inclusion of a specific reference to workplaces might even create some confusion. He therefore supported the Office text.

327. The Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) supported the Worker members' amendment, as "workplace" and "enterprise" were different concepts. He pointed out that the Occupational Safety and Health Convention made use of the concept of "workplace", and it was therefore appropriate to include the term in the subparagraph if it was understood to have the same meaning as in the Convention.

328. The Government member of Hungary suggested that the term "workplace" was rather a loose concept, and asked for clarification as to the type of data regarding the workplace that would be provided in a notification.

329. The Worker Vice-Chairperson replied that an enterprise had been defined as a particular economic activity within a certain geographical area, and could cover a number of very different workplaces. This meant that it was very important to record and notify occupational accidents and diseases separately for each individual workplace.

330. The Government member of Hungary suggested that in that case, a reference to the specific workplace might be better included in subparagraph 5(c), which concerned the environment in which an accident occurred.

331. The Government member of Kenya (speaking on behalf of the Africa group) said that including details of the workplace was useful in investigations, but for the purpose of notification it was superfluous detail. The Office text was to be preferred.

332. The Government member of China supported the amendment.

333. The Worker Vice-Chairperson reiterated that an establishment was not the same as a workplace, to which the code of practice referred specifically. It was very important to indicate in any notification the precise location of an accident, and this was particularly important in the case of workers such as maintenance workers who might move from one site to another in the course of their work.

334. The Employer Vice-Chairperson agreed that the amendment had a certain logic behind it, but agreed with the Government member of Hungary that subparagraph 5(c) was a better place to include a reference to the workplace, if this could be done under the procedural rules.

335. The Government member of Kenya agreed with the Employer members' proposal.

336. The Government member of Japan said that, given that the intention behind the amendment was to allow specific data on risk factors to be collected, it was more important to include data on the type of work. He opposed the inclusion of a reference to "workplace" in either subparagraph 5(a) or 5(c).

337. The Employer Vice-Chairperson said that if the Worker members withdrew this amendment, he was prepared to commit himself to introduce a subamendment mentioning the workplace in subparagraph 5(c).

338. The Worker Vice-Chairperson accepted this proposal, and withdrew the amendment.

339. The Government member of Canada (speaking also on behalf of the Government members of the Netherlands, Norway and United States) introduced a two-part amendment to increase the flexibility of the provision by adding the words "where appropriate" at the beginning of subparagraph 5(a), and replace "if applicable" with "where appropriate" at the beginning of subparagraph 5(b). It was his contention that the Office text was too inflexible and that the altered wording would give countries added flexibility.

340. The Employer Vice-Chairperson had no strong opinion on this amendment, except that he wished to support flexibility and national sovereignty wherever possible.

341. The Worker Vice-Chairperson, however, supported the Office text, saying that it already had considerable flexibility introduced in previous Articles. It was preferable in this Article to state clearly the action required.

342. The Government member of Hungary wondered when data would in fact not be "appropriate". In cases where there was no enterprise, obviously the paragraph would simply not apply.

343. The Government member of the Netherlands explained that the issue related to occupational diseases only, and particularly to the way in which the Netherlands used the data. In the Netherlands compensation did not depend on the diagnosis of occupational diseases, and therefore the only use of occupational disease data was for analysis and prevention. As a result, the only readily available information was on occupation and type of occupational disease, and not on the employer. There is already evidence that occupational diseases are under-reported in the Netherlands, and there was a risk that if employers were asked to provide their names and addresses, data reporting would decrease even further.

344. The Government member of Hungary asked whether this amendment implied anonymous notification. The Government member of the Netherlands responded that, indeed, it was anonymous in that, in the Netherlands, it was not the employer who made the notification to the competent authority, but the medical services.

345. The Government member of Denmark explained that the Danish system was similar to the one in the Netherlands. She supported the call for greater flexibility in the phrasing of the Article, reserving to the employer the responsibility for notification of occupational accidents but not of occupational diseases.

346. The Government member of Spain (speaking on behalf of Government members of the Committee Member States of the European Union, with the exception of the Member States of Denmark and Netherlands) noted that the European Union group had had extensive discussion on this matter, and the Government members he represented decided to support the Office text as submitted.

347. The Government member of China supported the Office text, explaining that there was no need to introduce more flexibility into the text.

348. The Government member of Kenya (speaking on behalf of the Africa group) said that the wording of the Protocol as submitted absolutely obliged the employer to notify occupational accidents and diseases, whereas this amendment made this obligation in some situations. For this reason, he did not support the amendment.

349. The Government member of Argentina, speaking on behalf of the MERCOSUR Government members, also supported the Office text.

350. The Employer Vice-Chairperson said that, in the interest of reaching consensus, he would support the Office text.

351. The Government member of Canada withdrew the amendment.

352. Subparagraph 5(a) was adopted without change.

Subparagraph 5(b)

353. The Employer Vice-Chairperson introduced an amendment inserting a reference to national privacy legislation into subparagraph 5(b), noting that in a number of countries notification of occupational diseases may be at variance with national laws and daily reality, and therefore a qualifier related to privacy legislation was needed.

354. The Worker Vice-Chairperson supported the Office text. He explained that he realized the importance of privacy, but also that this issue was dealt with in Article 3, and there was sufficient flexibility built in elsewhere in Articles 2, 3, and 4.

355. The Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) said that his group had submitted an amendment on workers' right to privacy, but as the information to be notified was of an occupational and not a personal nature, he did not consider that this qualification was necessary here, and he supported the Office text.

356. The Government member of Argentina (speaking on behalf of the Government members of MERCOSUR) and the Government member of Kenya (speaking on behalf of the Africa group) also supported the Office text.

357. The Employer Vice-Chairperson felt that Article 3 dealt only with recording, not notification, and therefore there was a case to be made for consistency between the two. He foresaw difficulties in complying with these provisions when employers had no access to occupational disease information because of privacy laws.

358. The Employer Vice-Chairperson said that there was no way around the basic contradiction, but in the absence of support he withdrew the amendment.

359. Subparagraph 5(b) was adopted without change.

Subparagraph 5(c)

360. The Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden submitted an amendment to add the phrase "the circumstances of" after the word "disease" in subparagraph 5(c). The Government member of Spain, in introducing the amendment, immediately proposed a subamendment deleting the words "or the dangerous occurrence" from subparagraph 5(c), adding at the end of the text "unless precluded by privacy legislation under national laws and regulations" and inverting the order of subparagraphs 5(b) and 5(c). He explained that the motivation of the change was originally in the Spanish text. In his view, it was necessary to make clear what the term "circumstances of exposure of" meant. He did not propose changing the underlying meaning of the text, but to ensure that all versions meant the same thing.

361. The Worker Vice-Chairperson supported the amendment as it clarified the situation.

362. The Employer Vice-Chairperson did not feel that the amendment clarified the situation, and therefore did not support it as it stood. However, the Employer members proposed a subamendment that added ", including the workplace," after "circumstances" which qualified the entire phrase. This was also to respond positively to the withdrawal by the Worker members of an amendment referring to the workplace in subparagraph 5(a).

363. The Worker Vice-Chairperson supported the subamendment.

364. The Government member of Hungary noted that the paragraph contained reference to four aspects: the workplace, date and time, type of activity, and the agency of the accident (for example, the machine involved in it). He did not agree with an amended text that would place one of these aspects in a privileged position.

365. The Government member of Spain asked whether the subamendment modified the original text or the amendment, recommending that in any case, the change should relate to the circumstances.

366. The Government member of Côte d'Ivoire endorsed the view of the Government member of Spain, advocating that circumstances be related to exposure, and was against the subamendment.

367. The Government member of El Salvador understood that there had been agreement earlier and feared that this subamendment would undermine the amendment. She thought that it was relevant to mention the workplace and was seeking a way of including it now.

368. After consultation with other Committee members, the Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union listed above) introduced a new wording for subparagraph 5(c), which was "the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards".

369. The Employer Vice-Chairperson withdrew his subamendment, and expressed his support for the amendment as subamended by the Government member of Spain.

370. The Worker Vice-Chairperson and the Government member of Japan also expressed their support for the amendment as subamended.

371. The amendment, as subamended, was adopted.

372. The Government member of China and the Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) withdrew their respective amendments that would have deleted the words "or the dangerous occurrence" from subparagraph 5(c). This was done because the matter had been settled during discussions of the previous amendment.

373. The Employer members submitted an amendment in three parts. The Employer Vice-Chairperson withdrew part 1 because it was identical to the two just withdrawn by the Government members of China and Spain. He then withdrew part 2 dealing with privacy matters, because this matter had also been settled during previous discussions. Finally, he withdrew part 3, which would have inverted the order of subparagraphs 5(b) and 5(c), agreeing to refer the matter to the Drafting Committee.

374. The Government member of Japan, seconded by the Government member of Hungary, introduced an amendment replacing the words "exposure to health hazards" in

subparagraph 5(c) with the words "risk factors". Because the original text had changed due to the adoption of other amendments, he wanted clarification as to whether the phrase "circumstances of exposure to hazard" referred to only qualitative data, or had a quantitative element as well.

375. The representative of the Secretary-General explained that exposure evaluation usually had both a qualitative and quantitative element. This, however, should not influence the meaning of the text in question too much.

376. The Government member of Japan said that it was not realistic to introduce references to quantitative data into the subparagraph. However, he did not object to qualitative data.

377. The Employer Vice-Chairperson saw no difference between exposure to health hazard and risk, the only likely quantification possibly being in the level of risk, but the text referred to the situation in the workplace independent of the degree of risk.

378. The Worker Vice-Chairperson supported the Office text as amended and subamended, but not the current amendment.

379. The Government member of Japan was still uncertain as to the nature of the hazard referred to.

380. The Government member of Hungary responded that the circumstance of exposure to a health hazard would not require quantitative data but would not exclude it either.

381. On this understanding, the Government member of Japan withdrew his amendment.

382. The Government member of El Salvador, seconded by the Government member of China, submitted an amendment to add the text "and any medical examinations carried out" to the end of subparagraph 5(c). She argued that the results of such examinations were so important as to warrant specific mention.

383. The Worker Vice-Chairperson was sympathetic to the principle of the amendment, but felt it could not be implemented in practice and so could not support it. The Employer Vice-Chairperson was equally unable to support the amendment. On the one hand, it was not clear that the amendment was appropriate for an Article on notification; on the other, it seemed to conflict with national law and practice regarding personal privacy and the confidentiality of medical records.

384. The Government member of China asserted that the amendment did fit the Article, because the reporting of the data gathered in medical examinations was notification. The results of routine medical inspection could reveal incipient health problems before workers became seriously ill.

385. The Government members of Côte d'Ivoire, Kenya (speaking on behalf of the Africa group), Thailand and the United States opposed the amendment on the grounds that it posed ethical and practical problems. The Government member of Spain, on behalf of the Government members of the Committee Member States of the European Union, declared that the amendment would conflict with European regulations on the protection of workers' privacy; the results of medical examinations could be made available to employers, but not notified to public authorities.

386. The Government member of El Salvador withdrew the amendment.

387. Subparagraph 5(c) was adopted as amended.

388. Article 5 was adopted as amended.

New Article before Article 6

389. The Government member of Côte d'Ivoire, seconded by the Government member of Algeria, submitted an amendment to add a new Article before the Article on national statistics: "The employer shall provide the competent authorities with annual reports on the state of their workers' health, together with statistics on occupational accidents and diseases". He had proposed a similar amendment to Article 3, but had withdrawn it because the majority of the Committee had felt it to bear more on notification than recording. As he had remarked earlier, experience showed that the competent authorities of many developing countries had difficulty in acquiring data on occupational accidents and diseases. His proposed Article would make it easier for those authorities to implement the provisions of Article 6 on national statistics.

390. The Employer Vice-Chairperson saluted the good intention behind the amendment and acknowledged the comments on the situation in developing countries. However, the amendment as it was worded would be difficult to implement. In particular, the phrase "the state of workers' health" called for subjective judgements. Thus, the amendment did not provide a viable solution to the problem of scarce statistics and the Employer members opposed it.

391. The Government members of India and Thailand opposed the amendment as impractical.

392. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, understood the purpose of the amendment but could not support it because it could undermine the consistency of data. Furthermore, acquisition of data by means of employers' reports conflicted with the European mechanism of collecting data through public agencies. The Government member of Argentina, on behalf of the Government members of the MERCOSUR countries, opposed it on the grounds that it was the responsibility of the state to publish statistics and of the employers to notify the state of the relevant information.

393. The Worker Vice-Chairperson initially supported the amendment, finding it to be helpful in reinforcing reporting, identifying causes and developing strategies for prevention. However, as the widespread objections of the Government members indicated that inclusion of the proposed new Article would impair the implementation of the Protocol, he subsequently withdrew his support.

394. The Government member of Côte d'Ivoire withdrew the amendment, with the wish that the special needs of developing countries be recorded in the report of the Committee's work.

Article 6

NATIONAL STATISTICS

395. The Employer members submitted an amendment in three parts: to replace the words "which ratifies this Protocol shall" with "should"; to insert the word "and" after the word "accidents"; and to replace the wording "and, as appropriate, dangerous occurrences and commuting accidents, as well as their analyses" with the words "in accordance with national laws and practice". The Employer Vice-Chairperson stated that their amendment had been submitted in the expectation that the instrument would be a Recommendation and

not a Protocol. As that issue had been resolved, he withdrew the amendment, but requested that the Drafting Committee consider changing "their analyses" to "analyses of them" for stylistic reasons.

396. The Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden submitted an amendment to insert the words "and furnish to the International Labour Office" after the word "annually". It was supported by the Government members of Germany, Italy and Portugal. Although the obligation to provide statistics to the ILO was set out in the Recommendation, the proposers felt that it was useful to include it in the Protocol as well, in order to achieve the objectives of the Protocol through harmonized and reliable statistics from all countries ratifying it.

397. The Worker Vice-Chairperson supported the amendment. The Employer Vice-Chairperson offered no objection, considering this to be a matter for governments.

398. The Government member of Kenya, speaking on behalf of the Africa group, supported the amendment. The Government member of Japan said that his country collected and published statistics as a matter of course, although he was concerned that the additional task of sending them to the International Labour Office could be overlooked.

399. The Government member of India opposed the amendment, noting that he had submitted an amendment to extend the required frequency of submission to three years, which he felt to be more realistic for his country. The Government members of Bahrain (speaking also on behalf of Kuwait, Oman, Saudi Arabia, and the United Arab Emirates), China, El Salvador and Thailand also opposed the amendment. The Government member of Sri Lanka stated that, because of his country's small size, it could collect the statistics specified by the Protocol and publish them annually, and although he understood that other countries would face delays in publishing them, he opposed the amendment. Côte d'Ivoire, too, came to oppose the amendment.

400. In view of the difficulties asserted by the Government members, the Government member of Spain withdrew the amendment.

401. The Government member of India, seconded by the Government member of China, submitted an amendment to replace the word "annually" by the words "once in three years". He held that collecting, analysing and notifying all this data to the International Labour Office annually was not possible, whereas the longer interval would ensure the quality of the statistics.

402. The Employer Vice-Chairperson supported the amendment, as it was unfair to impose obligations on countries that could not meet them.

403. The Worker members supported the text proposed by the Office. He noted that the data submitted in any year did not have to be that year's figures; it was not unusual for long periods to elapse between collection and publication of such information.

404. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, acknowledged the problems that some countries might face, but felt that reducing the frequency of publication weakened the Article. Responding to a suggestion from the Chairperson, he submitted a subamendment to add the words "at least" to "once in three years", which would allow those countries which did publish statistics annually to continue to do so.

405. The Government members of Gabon and India supported the subamendment proposed by the Government member of Spain, but the Government members of Kenya (speaking on behalf of the Africa group) Sri Lanka and Thailand opposed the amendment, even as subamended.

406. The Worker Vice-Chairperson reminded the Committee that it was a question of publishing statistics relative to one year, whatever the time required to process the data. He expressed concern that the subamendment would undermine the comparability of statistics by leading countries to produce statistics for different periods of time.

407. The Government member of Spain thereupon proposed a further subamendment, to insert "annual" before "statistics" in the sequence of words "... publish at least every three years statistics that are compiled ..." that resulted from the amendment as subamended.

408. The Employer Vice-Chairperson asked if Article 11, subparagraphs (c) and (e) of the Occupational Safety and Health Convention, 1981, did not already stipulate annual publication of annual statistics, and this was confirmed by the representative of the Secretary-General.

409. The Government member of India felt obliged by this fact to withdraw his amendment.

410. The Worker members submitted an amendment to insert at the end of Article 6 ", and recommendations for preventive measures". The Worker Vice-Chairperson asserted that this would encourage governments to make the prevention of accidents and diseases a top priority.

411. The Employer Vice-Chairperson agreed with the principle but, noting the problems to which some countries had testified with regard to gathering and publishing statistics, he doubted whether it were realistic to ask governments to do more.

412. The amendment was opposed as impractical by the Government members of Côte d'Ivoire, Indonesia, Kenya (speaking on behalf of the Africa group), Spain (on behalf of the Government members of the Committee Member States of the European Union), Sri Lanka and Thailand.

413. The Worker Vice-Chairperson withdrew the amendment.

414. The Government member of Chile withdrew an amendment to add the word "incidents" to the scope of the statistics to be compiled and published, as the word had been rejected early in the Committee's deliberations.

415. Article 6 was adopted without amendment.

Article 7

416. The Government member of China, seconded by the Government member of Japan, submitted an amendment to replace the word "established" by the words "reported to ILO" in the first line of the Article, because his delegation felt that statistics were important and should be sent to the International Labour Office; however, the compilation had to be done in accordance with national laws.

417. In view of the discussion regarding Article 6, the Employer Vice-Chairperson opposed the amendment, wishing the Office text be retained.

418. The Worker Vice-Chairperson also opposed the amendment.

419. The Government members of Argentina (on behalf of the Government members of the MERCOSUR countries represented on the Committee), Kenya (speaking on behalf of the Africa group) and Thailand opposed the amendment.

420. The Government member of China stressed the importance of compiling statistics according to national systems; this would be particularly helpful to developing countries. The results could later be drawn up according to an international classification system for publication or submission to the ILO.

421. The Government member of Spain, on behalf of the Government members of the Committee Member States of the European Union, opposed the amendment as contrary to the aim of the Protocol to have internationally comparable statistics.

422. In response to the lack of support, the Government member of China withdrew the amendment.

423. The Worker members submitted an amendment to insert "and occupational health surveillance systems" after the word "schemes". The Worker Vice-Chairperson stressed the preventive uses of statistics, and the Worker members' desire to see the maximum use made of statistics.

424. The Employer Vice-Chairperson acknowledged the good intentions of the amendment, but said that the problems described by the Government members of some developing countries in the discussion of other amendments made him feel that the Office text was already very demanding. He thus found the amendment unrealistic.

425. The amendment was also opposed by the Government members of the Committee Member States of MERCOSUR, Kenya (speaking on behalf of the Africa group), Spain (on behalf of the Government members of the Committee Member States of the European Union) and Thailand. They all felt that the amendment too greatly expanded the scope of Article 7.

426. The Worker Vice-Chairperson withdrew the amendment.

427. The Government member of Canada, speaking also on behalf of the Government member of the United States, introduced an amendment to replace the word "using" in the first line with "considering". This was prompted by a desire to introduce greater flexibility with regard to national systems.

428. The Government member of Japan, having submitted a nearly identical amendment to change "using" to "taking into consideration", said that while it was important to respect the ILO's classification system, it was also essential to take into account the classification schemes used historically in countries such as Japan. Given the close similarity of the two amendments, he would be prepared to support the amendment of the Government members of Canada and the United States.

429. The Worker Vice-Chairperson held that the Office text was preferable to either of the two amendments. Given that the instrument under discussion was a Protocol, which was binding once ratified, it was not desirable to go too far in the direction of flexibility, as the term "considering" appeared to do.

430. The Employer Vice-Chairperson agreed, and said that too much flexibility at this point in the text might exacerbate the difficulties already referred to during the discussions of ensuring comparability of the statistical data collected in different countries.

431. The Government member of Kenya (speaking on behalf of the Africa group) supported the change to "considering", on the grounds that it introduced greater flexibility, but said that he would have preferred the wording proposed by the Government member of Japan.

432. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, said that the proposed change was a substantive one, as it affected the scope of the instrument and weakened its provisions. He preferred the Office text.

433. The Government member of Argentina, speaking on behalf of the Government members of the Committee Member States of MERCOSUR, likewise supported the Office text. The proposed amendment appeared to run counter to the goal of the instrument as set out in the Preamble – to "promote the harmonization of recording and notification systems".

434. The Government member of the United States said that quite apart from the issue of flexibility, there were also concerns about the possibility that the Office text might, given the binding nature of the instrument, imply a commitment to adhering to future international schemes as yet unknown.

435. The Government member of Kenya asserted that the amendment did not call into question the need for compatibility of statistics, given that the existing wording of the Article stipulated that schemes be "compatible with" the latest international schemes established under the auspices of the ILO.

436. The Government member of Sri Lanka suggested that the existing wording, which used the term "compatible with", already provided a certain degree of flexibility in the choice of classification schemes adopted by individual countries, and so supported the Office text.

437. The Government member of China supported the amendment of the Government members of Canada and the United States, which appeared to be consistent with the basic purpose of the Article – to ensure comparability of statistical data, while also introducing a degree of flexibility with regard to the choice of systems adopted under national legislation. The Government members of the Gulf Cooperation Council countries represented on the Committee likewise supported the amendment.

438. The Government member of Canada said that it was undeniably true that any national statistics systems used by governments needed to be compatible with the ILO's schemes, but the existing wording needed to be made more flexible.

439. The Government member of Algeria supported the Office text, arguing that it was not desirable to introduce too much flexibility in a Protocol.

440. The Government member of China said that a degree of flexibility was essential, even in a binding instrument, in order to ensure that national systems could be respected.

441. The Chairperson reminded the Committee that in addition to the questions of flexibility and compatibility, it was also important to ensure that the Protocol was ratifiable.

442. The Government member of Japan pointed out that if the Protocol did not take into account the systems used in the past in Japan, it would be very difficult for Japan to compare historical data with new data, and ratification of the Protocol would be difficult.

443. The Worker Vice-Chairperson said that he was concerned that the Committee should not lose sight of the basic goal of the Protocol, which was "to promote the harmonization of recording and notification systems". The Protocol was the only international instrument to focus on this area. He pointed out that according to the original wording of Article 7, countries were not required to use the same systems; the only requirement was that the systems used be "compatible" with international schemes established under the auspices of the ILO. A degree of flexibility was therefore already present in the existing text.

444. The Government member of Germany asked whether the phrase "or other competent international organizations" at the end of the clause did not run counter to the fundamental aim of ensuring compatibility, given that those other international organizations might have systems that were not compatible with those of the ILO. The representative of the Secretary-General said that the only other competent organization with a classification of diseases was the World Health Organization.

445. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, submitted a subamendment that would replace the word "using" in Article 7 with the word "following", rather than the word "considering" which was in the original amendment. He said that this replacement was the result of long discussions among Committee members from all three groups, and it seemed to be the word most likely to satisfy everyone. He also said that it was the usage most likely to encourage a uniform use of statistics in the future.

446. The Government member of Canada supported the subamendment. He did say, in defence of the use of the word "considering" in the original amendment, that this was the word used in the Labour Statistics Convention, 1985, (No. 160) so that its use here would have been consistent with other instruments.

447. The Government member of the United States also supported the subamendment, which was the result of a good compromise. He also defended the alternative "considering", which would have been a good word to use for international harmonization purposes.

448. The Government member of Japan also accepted the subamendment resulting from the compromise. He stated that Article 2 of the Labour Statistics Convention, 1985, had wording in line with their proposal and wanted this point recorded.

449. The Government members of Kenya (speaking on behalf of the Africa group) and Uruguay (speaking on behalf of the Government members of the MERCOSUR Member States), as well as the Worker Vice-Chairperson, also supported the subamendment and praised the willingness to compromise that lay behind it.

450. The amendment, as subamended, was adopted.

451. In line with the compromise just reached, the Government member of Japan withdrew his amendment.

452. Article 7 was adopted, as subamended.

453. The Protocol, as amended, was adopted.

B. Proposed Recommendation concerning the list of occupational diseases and the recording and notification of occupational accidents and diseases

PREAMBLE

454. The Employer Vice-Chairperson withdrew two amendments that would have deleted all or part of the Preamble of the Recommendation. He said that these amendments had been part of the Employer members' original idea of merging the Protocol and the Recommendation into one document, and as this had not happened, these amendments where no longer appropriate.

455. The Government member of Spain (speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands and Sweden) submitted an amendment inserting the word "identification" after the word "strengthen" in the fourth paragraph of the Preamble. He said that it was essential early in the Preamble to call attention to the identification of occupational diseases.

456. The Worker and Employer Vice-Chairpersons both supported this amendment. There were no objections by Government members, and the amendment was adopted.

457. The Employer Vice-Chairperson introduced an amendment deleting the reference in the fourth paragraph of the Preamble to the compensation process in the case of occupational accidents and occupational diseases, as well as inserting the word "and" between "preventive measures" and "promoting the harmonization ...", for readability of the text assuming the substantive part of the amendment was adopted. He said that the Employer members considered this to be a very important matter. Compensation is a different issue from recording and notification, and it should be discussed separately. The Employer members had no objection to a discussion of compensation as such, but rather to a discussion as part of the package including recording and notification, which diminished the importance of all three issues.

458. The Worker Vice-Chairperson strongly opposed the amendment. First, he pointed out that the Governing Body in November 2000 had decided to review the issue of compensation as well as recording and notification and that the questionnaire sent out by the Office in Report V(1) had addressed this issue and responses had been received on it. The fear that diseases in the list in the Report might give rise to compensation was unfounded. The list would be part of a Recommendation and as such, would not be legally binding on member States. Further, the proposed text of the Recommendation stated in Paragraph 2 "A national list of occupational diseases for the purposes of recording should be established by the competent authority" and continued in (a) to refer to the list of diseases in the 1980 list which, by definition, he argued, were for injury benefits and compensation, and in (b) to the list annexed to the Recommendation. He stressed that (b) specifically stated "comprise, to the extent possible [diseases on that list]". The Worker members supported this part of the text's being a Recommendation so that countries could have the flexibility to use it for prevention and/or compensation, as appropriate. However, the wording of the Office text, and the fact that it took the form of a Recommendation, meant that no government would be obliged to use the list for compensation. Further, any such list for compensation would require exposure and diagnostic criteria to be developed at the national level by the competent authorities. The Worker members were aware that the legal systems for workers' compensation varied from one country to another. All definitions specified causality between the disease, exposure, the work environment or occupation,

and the frequency of its occurrence. The identification of an occupational disease impacted on national prevention programmes as well as on employment injury benefit provision. Further, the proposed list should be considered as a general framework and further details could be worked out at the national level. Exposure and diagnostic criteria for the use of the list for compensation purposes should also be worked out at the national level. He reiterated that one of the key issues facing the Worker members was prevention. This Recommendation had to be relevant for all countries, with the flexibility to use it for prevention, recording, notification, compensation, or any combination of these as suited their national circumstances.

459. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, affirmed that he was, in principle, in favour of the inclusion of compensation in the Preamble in addition to prevention, notification and registration. This was, in part, out of consideration of social justice, as the compensation of workers for occupational injuries and diseases must be seen to be a question of principle. He said that for many workers the purpose of the list of occupational diseases was to serve as a basis for compensation claims. Finally, he said that the position of the European Union countries was taken without prejudice to those that already had the concept of compensation in their national legislation (for example, France, Netherlands and Sweden).

460. The Government member of Argentina, speaking on behalf of the Government members of the MERCOSUR countries, rejected the amendment for the same reasons as those advanced by the previous two speakers.

461. The Government member of Kenya, speaking on behalf of the Africa group, rejected the substantial part of the amendment on the grounds that the next logical step after identification of an occupational disease is compensation. The Government member of the Democratic Republic of the Congo added that it was important to improve on the concept of the compensation process. Similarly, the Government member of Côte d'Ivoire stressed the importance of compensation and insisted that the reference to it not be deleted.

462. The Government member of the Syrian Arab Republic agreed that the link between prevention and compensation was crucial and therefore supported the Office text. The Government member of Bahrain, speaking on behalf of the Government members of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) also supported the Office text.

463. The Employer Vice-Chairperson reiterated the importance of this issue to employers. He said that the Employers' group was prepared to discuss compensation and there was perhaps a need for a tripartite ILO meeting devoted to this topic, at which all relevant issues could be examined systematically, and for which all the parties could make proper preparations. The present Committee was however not the appropriate place to discuss the matter. He called attention to the proposed list of occupational diseases, which included diseases whose relationship to occupational factors was scientifically proven, but also diseases whose relationship to occupational factors was still under investigation, and were at best suspect. He also made the point that it was employers who would be forced to bear the brunt of compensation payments. He warned that the Employer members took this issue so seriously that the outcome of the Committee decision regarding this amendment would have a significant influence on their position on the Recommendation as a whole. Again, he emphasized that the Employer members were not against discussions of compensation, which was a regrettable fact of working life, but that they opposed the method used to arrive at the text and the way it was being dealt with by this Committee. Finally, he pointed out that this was the first reference to compensation in the

Recommendation, and it was important for the Employer members to take a strong stand at this stage.

464. As there was no general support for their amendment, the Employer members called for a record vote on this issue, in order to show the position of every member of the Committee, and to call attention to the fact that a decision was being taken without consensus.

465. In the ensuing record vote, the amendment was rejected by 13,230 votes in favour, 20,925 votes against, with 540 abstentions. [4]

466. After the record vote, the Employer Vice-Chairperson regretted the polarization demonstrated by the need for the record vote. He strongly reasserted his view that compensation was an important issue, so important indeed that it needed to have a separate forum of discussion. But its discussion should not be linked to a discussion of a list of occupational diseases, many of which were in fact still not confirmed to be occupational. The current list for notification had been established 11 years ago, but the Employer members had never accepted it because of the informal way in which it had been formulated. Nevertheless, in attempting to make progress, the Employer members tabled amendments that would have made this list acceptable. He said that, indeed, it was possibly more important to notify diseases under investigation than to notify well-established occupational diseases, since the very act of notification may contribute to an increase in scientific knowledge. However, if such notifications were tied to compensation, employers would be more reluctant to make them. Finally, he stated that because of this linkage, it would be more difficult for the Employer members to approve the proposed list of occupational diseases, since many items on it would have to be individually scrutinized.

467. The Worker Vice-Chairperson, in his statement, regretted that the Employer members had not been able to accept the views expressed by the Government members. He also reminded the Committee that the purpose of record votes was to arrive at decisions, and not to make a protest.

468. The Chairperson asked Committee members to try to make better use of their collective expertise, and thus avoid such conflicts.

469. The Government member of Spain (speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands and Sweden) with the support of the Government members of Germany, Italy and Portugal, introduced an amendment replacing the words "simplified mechanism" in the fifth paragraph of the Preamble with the word "procedure". He explained that he did so primarily because, at least in the Spanish version of the proposed text, the term "*mecanismo*" seemed to imply an automatic procedure, which he did not favour.

[4] Government members: for 0; against 7,695 (Algeria, Argentina, Austria, Bahrain, Belgium, Botswana, Brazil, Burkina Faso, Canada, China, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, El Salvador, United Arab Emirates, Spain, Finland, France, Gabon, Germany, Greece, Guatemala, Guinea, Hungary, Indonesia, Ireland, Italy, Kenya, Kuwait, Lesotho, Luxembourg, Madagascar, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Republic of Korea, Romania, Russian Federation, Slovakia, Slovenia, South Africa, Sweden, Syrian Arab Republic, Turkey, United Republic of Tanzania, Uruguay, Zambia, Zimbabwe); abstentions 540 (Australia, Japan, San Marino, United States). Employer members: for 13,230; against 0; abstentions 0. Worker members: for 0; against 13,230; abstentions 0.

470. The Chairperson recalled that the Spanish version of the instrument was not an authentic version, and as a result an amendment that applied only to the Spanish version could not be debated by the Committee. He wondered if the matter could not be referred to the Drafting Committee.

471. After consultation with other Government members from the European Union, the Government member of Spain said that in other languages the word "mechanism" did not seem to have quite the same implication. He said that in order to improve the text, he submitted a subamendment changing the replacement to "simplified procedure".

472. The subamendment was supported by both the Employer and the Worker Vice-Chairpersons, and the amendment, as subamended, was adopted.

473. The representative of the Secretary-General called attention to the fact that there was a mistake in the sixth paragraph of the Preamble: the terms normally given as "recording and notification" were inverted and given as "notification and recording". He said that the Drafting Committee would repair the text.

474. The Preamble was adopted, as amended.

Paragraph 1

475. The Employer Vice-Chairperson introduced an amendment deleting references in Paragraph 1 to codes of practice or guides other than the *Recording and notification of occupational accidents and diseases*, an ILO code of practice, (1996). He said that the Employer members thought that references to any document but the 1996 code of practice would lead to much uncertainty and confusion. He thought that it was best to stick to that one document for the time being.

476. The Worker Vice-Chairperson opposed the amendment. He suggested that without the provision that the amendment was trying to delete, it would not be possible to refer to an eventual update of the 1996 code of practice. Since any document cited would have to be approved by the ILO, the Worker members thought that the amendment was unreasonable.

477. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, opposed the amendment on the same grounds. He thought that provision had to be made for the use of an eventual updating of the 1996 code of practice, without the need for changing the Recommendation.

478. The Government member of Lebanon supported the amendment, because he shared the Employer members uncertainty about the legal status of future ILO documents.

479. The Government members of Algeria and Kenya (the latter on behalf of the Africa group) opposed the amendment.

480. The Government member of Hungary thought that the Office text was very clear. As a Recommendation (i.e. a non-binding instrument), it stated that the ILO recommended that account be taken of all ILO-approved Recommendations and codes. He did not understand what the Employer members were worried about. He supported the Office text.

481. The Government member of Argentina, speaking on behalf of the Government members of the MERCOSUR countries, reaffirmed his basic trust in the ILO. He said that there was no reason to distrust material published by the ILO. He supported the Office text.

482. The Employer Vice-Chairperson stated that the Employer members were not "against" the Office text, but they wished to see a methodology for updating that included tripartite consultation, which had not always been the case. In the interests of making progress, the Employer members withdrew the amendment.

483. The Government member of Spain (speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Greece, Italy, Luxembourg, Netherlands and Sweden) introduced an amendment inserting the phrase "or other competent international organizations" at the end of Paragraph 1. He explained that this was simply to conform to the usage established in Article 7 of the Protocol.

484. The Worker Vice-Chairperson preferred the Office text, because it retained ILO control over reference sources. His preference was not very strong, however, and he was interested in other opinions.

485. The Employer Vice-Chairperson wondered who decided competence. This was another example of "leaping into the dark". He therefore opposed the amendment.

486. The Government member of Kenya, speaking on behalf of the Africa group, preferred flexibility in such matters, and therefore supported the amendment.

487. The Government member of Japan needed clarification as to which international organizations constituted competent authorities. He was against the amendment.

488. The Government member of Algeria said that the reference to Article 7 of the Protocol was somewhat misleading, as competent authorities in that Article dealt with statistics, a field in which competent authorities had a very different meaning than in the publication of guidance documents dealing with recording and notification of occupational accidents and diseases. He did not see the analogy, and opposed the amendment.

489. The Government member of Argentina, speaking on behalf of the Government members of the MERCOSUR countries, and the Government members of China and Russia, also supported the Office text.

490. The Government member of Spain explained that by other competent international authorities he had primarily meant WHO and the European Union. However, in the light of the lack of support, he withdrew the amendment.

491. The Chairperson noted that the Office text did not exclude consultation with other organizations.

492. Paragraph 1 was adopted without change.

Paragraph 2

493. The Government members of Austria, Belgium, Denmark, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Spain and Sweden submitted an amendment to add "prevention" to the list of purposes of the Recommendation in Paragraph 2. In introducing the amendment, the Government member of Spain noted that the Government members of Germany, Italy and Portugal also supported it. He said that the proposers felt that the stress laid on the prevention of accidents and diseases by all the Committee members made it important for the concept to be present explicitly at this point in the instrument.

494. The amendment was immediately supported by the Worker members and the Government members of Algeria, Argentina (speaking on behalf of the Government members of the Committee member States of MERCOSUR), Bahrain (speaking on behalf of the Government members of the Committee member States of the Gulf Cooperation Council) and China. The Employer Vice-Chairperson suggested that the word "prevention" might be redundant in Paragraph 2 because the concept was already present in the Preamble to the Recommendation, but did not consider that a reason to withhold his support. The amendment was adopted.

495. The Employer members submitted an amendment to delete "compensation" from the purposes of a national list of occupational diseases, and make the necessary grammatical adjustment in the sentence. The Employer Vice-Chairperson repeated his reluctance to see compensation on an equal footing with recording and notification, and his disquiet at the association of the word "compensation" with a list of diseases that in fact included both compensable and non-compensable ones. The invocation of national law and practice and the fact that the instrument under discussion was a Recommendation rather than a Protocol were not reassuring.

496. The Worker Vice-Chairperson expressed surprise that the Employer members maintained their amendment after the Committee's earlier treatment of the issue of compensation, and opposed the amendment.

497. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, felt obliged to oppose the amendment in order to be consistent with the position that those members had taken on the formulation of the Preamble. The Government member of Kenya, speaking on behalf of the Africa group, opposed the amendment. The Government member of Argentina did as well, noting that essentially all ILO member States had social insurance systems, so that compensation should not be ignored.

498. The Government member of France acknowledged that the different uses of a list of occupational diseases were in conflict, since for example a reference list for purposes of compensation should not be overly long, whereas for preventive purposes the number of diseases on which data was collected should not be unduly limited. She submitted a subamendment to replace the deletion of "compensation" prescribed by the Employer members' amendment and, instead of moving the conjunction "and" as had been entailed by the deletion, inserting the words "if applicable" after the words "notification and" to qualify "compensation".

499. The Employer Vice-Chairperson replied that the length of lists was not itself a problem for the Employer members; a longer list than the one annexed to the proposed Recommendation would be welcome if the entries were scientifically validated. He reiterated that the Employer members did not object to the compensation of recognized occupational diseases, but did not wish to see the word "compensation" associated with diseases whose occupational nature was only suspected. He supported the subamendment.

500. The Worker Vice-Chairperson opposed the subamendment on the grounds that it was confusing for "if applicable" to refer only to "compensation". While the "as appropriate" formulation had been useful in the Protocol because of its legally binding nature, the same approach was not necessary in a Recommendation. The Worker members also questioned the receivability of the subamendment, as the original amendment had proposed a deletion.

501. The Chair, after consultation of the Office of the Legal Adviser, confirmed the propriety of the subamendment, because the original amendment had not been a call for deletion of the

whole provision. Limiting the effect of a partial deletion was legally an acceptable subamendment.

502. The subamendment was supported by the Government members of Belgium, Denmark, Finland, Germany, Hungary, Japan, Netherlands, Norway, Sweden and the United States. It was opposed by the Government members of Algeria, China and Kenya (speaking on behalf of the Africa group). The representative of the Secretary-General stated his personal opinion that the Office text already allowed national authorities to decide the purposes and extent for which they established lists, but acknowledged that the members of the Committee were entitled to spell out that liberty in greater detail.

503. Seeing the wide support for the subamendment, the Worker Vice-Chairperson reluctantly withdrew his opposition and the amendment was adopted as subamended.

504. The Worker members submitted an amendment to insert the words ", in consultation with the social partners," after the word "authority". The Worker Vice-Chairperson, introducing the amendment, said that it had been prompted by a feeling that it was important for the process of drawing up a national list of occupational diseases to involve tripartite consultations, which was in keeping with the ethos of the ILO and of the Committee.

505. The Employer Vice-Chairperson supported the proposed amendment as a very sensible one. In view of the diversity of different workers' and employers' representative bodies in many countries, he proposed as a subamendment that "the social partners" be replaced with the phrase "the most representative employers' and workers' organizations".

506. The Government member of Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) agreed, but suggested that the precise wording of the subamendment be the wording already agreed in Article 2 of the Protocol ("the most representative organizations of employers and workers").

507. The Employer Vice-Chairperson withdrew his subamendment, and the subamendment proposed by the Government member of Spain was adopted.

508. The amendment as subamended was adopted.

509. The Employer Vice-Chairperson introduced an amendment to delete the phrase ", at the least" in the first line of clause 2(a). It was felt by the Employer members that the inclusion of the phrase might lead to the inclusion in national lists of diseases the occupational origin of which had not been fully established in scientific terms. Deleting the phrase would also enhance flexibility.

510. The Worker Vice-Chairperson held that deleting the phrase "at the least" would reduce the flexibility of the provision. The list set out in Schedule I of the Employment Injury Benefits Convention, 1964, was already accepted as a standard list for all countries that applied the Convention. He supported the Office text. The Chairperson pointed out that the amendment was actually based on the wording of Article 8 of that Convention.

511. The Government member of Côte d'Ivoire opposed the amendment, on the grounds that it reduced the flexibility of the provision.

512. The Government members of Argentina (speaking on behalf of the Government members of MERCOSUR), Kenya (speaking on behalf of the Africa group) and Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) also supported the Office text.

513. The Employer Vice-Chairperson withdrew the amendment.

514. Clause 2(a) was adopted without change.

515. The Government member of Japan, seconded by the Government member of Thailand, introduced an amendment to replace the words "comprise, to the extent possible, other diseases contained in" with the words "be established referring to". It was felt that the amendment would introduce greater flexibility by taking into account the differences that existed between the industries of different countries and therefore in the prevalent occupational diseases.

516. The Worker and Employer Vice-Chairpersons and the Government members of Kenya (speaking on behalf of the Africa group) and Spain (speaking on behalf of the Government members of the Committee Member States of the European Union) supported the Office text.

517. The Government member of Japan noted the lack of support for the amendment and withdrew it.

518. The Employer Vice-Chairperson introduced an amendment to replace existing clause 2(b) with the following text: "comprise, as appropriate, other occupational diseases contained in a list established by a tripartite committee of experts for approval by the Governing Body of the International Labour Office at its March 2003 session". In proposing the amendment, the Employer members wanted the most modern scientific data to be made available to the ILO. The list in the existing annex dated from 1991, and since then many scientific developments had taken place. A tripartite committee of experts could, if approved, begin work on reviewing the existing list of occupational diseases in September 2002 and produce a report for discussion at the 2003 International Labour Conference, which would provide final approval.

519. The Worker Vice-Chairperson agreed on certain points, in particular the idea that the existing list was out of date, but in general opposed the amendment. Until an appropriate updating mechanism was established, the existing list needed to be maintained, and the proposed amendment did not appear to do this; the existing list would provide the necessary starting point for a future committee of experts. Procedurally, Paragraph 3 would be a more appropriate place for the provisions of the proposed amendment.

520. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, said that the tripartite character of the proposed committee of experts was a positive element, and the fact that experts were to be involved would mean useful preliminary work being done. However, the subject of the current discussion was the establishment of a list of occupational diseases and not the establishment of a mechanism for updating the list. He preferred the Office text.

521. The Government member of Côte d'Ivoire opposed the amendment and supported the Office text, on the grounds that the amendment implied the need for ILO approval of national lists of occupational diseases.

522. The Government member of Argentina (speaking on behalf of the Government members of the MERCOSUR countries) opposed the amendment, on the grounds that it was at variance with the support voiced previously by the Employer members for an amendment to Paragraph 2 regarding national lists. He pointed out that, in the cases of both Argentina and Brazil, the national lists of occupational diseases went beyond the current list in the annex to the Recommendation, which should be adopted as a reference list.

523. The Employer Vice-Chairperson noted the general lack of support for the amendment and withdrew it.

524. Clause 2(b) was adopted without change.

525. The Government member of Côte d'Ivoire, seconded by the Government member of Ireland, introduced an amendment to insert a new clause as follows: "comprise, to the extent possible, a section entitled 'Suspected occupational diseases'". This was justified by the fact that, in addition to cases of diseases recognized to be of occupational origin, there were also cases of workers affected by diseases which were suspected of being occupational in origin, although no clear causal link with occupational factors had yet been scientifically established. This was especially the case in many developing countries, where typically lists of recognized occupational diseases were very limited. The amendment would also be consistent with the Protocol, Article 2 of which included a reference to "suspected cases of occupational diseases". A list of suspected occupational diseases would help to stimulate research with a view to extending the existing list of recognized occupational diseases, and would allow a clear distinction to be drawn between diseases known to be occupational in origin and thus subject to compensation and those diseases for which evidence was not conclusive and no compensation was payable.

526. The Government member of Ireland said that the amendment was also supported by the Government members of France, Italy and Sweden. She said that the issue of prevention was crucial, and in order to promote effective preventive measures, there was a need for an "early warning system", which was currently lacking. This was true of both developing and developed countries. Many occupational diseases had long latency periods: 20 years or more. In that time, if absolutely no preventive action were taken because the scientific evidence was judged to be inconclusive, many thousands of workers could continue to be exposed to risks. Hence the need to gather such data as existed with a view to alerting those responsible to the possibility that a given disease might be linked with workplace factors. Establishing a list of "suspected occupational diseases" was an essential element of such an early warning system.

527. The Employer Vice-Chairperson, following consultations with a technical adviser, said that the Employer members supported the amendment.

528. The Worker Vice-Chairperson supported the amendment in principle but wondered if the proposed reference to a list of suspected occupational diseases should not be included at a different place in the text.

529. The Government member of Sri Lanka pointed out that the proposed amendment referred to a list of "suspected occupational diseases", while the Protocol referred to "suspected cases of occupational diseases". The difference might be important. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, proposed that the wording of the amendment reflect the wording used in Article 2 of the Protocol, which referred to "suspected cases of occupational disease".

530. The Government member of Argentina supported the amendment. Suspicion of a link between a case of illness and a particular risk factor was the essential first stage in any epidemiological investigation, and was followed by detailed research and analysis which in many previous cases had led to conclusive proof only after many years, during which time workers might continue to be exposed to risk if no action were taken. He cited the example of the link between certain dyes and bladder cancer, which had been suspected as early as 1921 but conclusively proved only long after. He disagreed with the inclusion of the word

"cases", as the list set out in the annex to the proposed Recommendation did not refer to suspected cases but to diseases which had been shown conclusively to be caused by workplace factors. The Government member of the Democratic Republic of the Congo also supported the amendment.

531. A medical adviser to the Employer members said that the notion of "suspected occupational disease" was based on the observation of individual cases which led to a suspicion of a causal link. Initially, the number of suspected cases would be few but this would increase with increasing awareness among medical specialists that a link was suspected. He proposed as a subamendment a reference to a list of "suspected cases of occupational diseases".

532. The Government member of Côte d'Ivoire disagreed, and pointed out that the term "suspected cases of occupational diseases" in Article 3 of the Protocol was appropriate in the context of recording and notification, but not in the context of a list of diseases.

533. The Government member of China opposed the amendment as subamended on the grounds that a list of occupational diseases could not include diseases that were simply suspected as being of occupational origin if compensation were at issue.

534. The Government member of Malawi said that the phraseology was not clear. "Suspected" occupational diseases appeared to refer to those which could be considered as new, or "candidates" for inclusion on the established list of occupational diseases. Was this to be the case here? The Government member of Côte d'Ivoire said that it was.

535. The Government member of Romania said that information on cases of disease thought to be caused by workplace factors were normally supplied anonymously, and the resulting records were used to produce statistics on the basis of which a given disease would be included in the established list of occupational diseases. It was therefore appropriate in the context of notification and recording to refer to "cases".

536. The Employer Vice-Chairperson withdrew the subamendment, given that it did not, in the light of intervening comments, appear to be as helpful as hoped.

537. The Government member of Japan opposed the amendment, on the grounds that it did not introduce anything that was not already provided under Japanese law. A separate list for "suspected" occupational diseases appeared unnecessary and could lead to complications. The Government member of Thailand also opposed it as possibly leading to confusion.

538. The Government member of Burkina Faso supported the amendment. It was the established practice in Burkina Faso for suspected cases of occupational diseases to be notified by works' doctors, and these could eventually be defined recognized occupational diseases.

539. In answer to a question from the Government member of Germany, the representative of the Secretary-General said that the Office text already provided the necessary flexibility for countries to establish a separate list of suspected occupational diseases if they so wished, but that the Committee was free to include the possibility explicitly in the Recommendation.

540. The Government member of the Czech Republic opposed the amendment, on the grounds that the matter of a list of suspected occupational diseases was better left to national legislation.

541. The Government member of Ireland said that it was very important to provide a mechanism for dealing with diseases that were suspected of being, but not proven to be, linked to factors in the workplace, in the interests of effective preventive measures. She reminded the Committee that suspicions about the possible role of asbestos in causing cancer had first been raised in the 1920s, but a conclusive link had taken decades to establish. It was vital to provide a mechanism for taking some form of preventive action before conclusive evidence existed, and this would include lists of the kind the amendment sought to introduce which could be passed between the competent authorities as a means of alerting them to the possibility that certain diseases were related to work.

542. The Worker Vice-Chairperson agreed, and said that the Worker members would support the amendment.

543. The amendment was adopted.

544. Paragraph 2 was adopted as amended.

Paragraph 3

545. The Employer Vice-Chairperson introduced an amendment to replace Paragraph 3 with the following text: "The list established in 2(b) should be periodically reviewed and updated through further tripartite meetings of experts or other means approved by the Governing Body of the International Labour Office. Any new list so established should replace the preceding list and shall be communicated to the Members of the International Labour Organization.". With regard to the wording, he proposed that the amendment should be subamended by the deletion of "further", to reflect the wording that had been agreed for Paragraph 2, and of "or other means". The amendment reflected a desire to ensure that experts from relevant scientific and medical fields could come together with governments and representatives of workers and employers to update the list in light of the most up-to-date knowledge available. The amendment would place the discussion regarding the inclusion of different diseases on a scientific footing, would ensure that the ILO could benefit from up-to-date scientific knowledge, and would be in keeping with the ILO's tripartite ethos.

546. The Worker Vice-Chairperson said the amendment was a useful one, but proposed as a subsubamendment that the word "further" be changed to "regular" ("through regular tripartite meetings …"). The Employer Vice-Chairperson suggested that the term "regular" was redundant in view of the fact that the list was to be "periodically reviewed". He pointed out, as a procedural matter, the list produced by such tripartite meetings of experts needed to be approved by the Governing Body.

547. The Worker Vice-Chairperson withdrew his subsubamendment and the Employer Vice-Chairperson introduced a new subsubamendment, which would change Paragraph 3 to "The list established as annexed to this Recommendation should be periodically reviewed and updated through tripartite meetings of experts convened and approved by the Governing Body of the International Labour Office. Any new list so established should replace the preceding list and shall be communicated to the Members of the International Labour Organization.".

548. The Worker Vice-Chairperson expressed strong support for the Employer members' subsubamendment, as it addressed the three aspects of the updating process that the Worker members thought essential: transparency, tripartism, and timeliness. He noted that additions to the list would have to be considered on the basis of strong scientific evidence from laboratory and epidemiological analysis that established a clear pattern of disease

following exposure. Additions to the list would have to be judged at the international level in light of the laws and regulations of a number of countries. The current list (Schedule I of the Employment Injury Benefits Convention, 1964) had last been updated in 1980, reflecting the state of knowledge in the 1970s. Since then, the number of occupational diseases in various countries had increased significantly. (It had been possible to produce a newer list of internationally recognized diseases by informal consultation and annex it to the 1996 code of practice.) The mechanism existing in the Employment Injury Benefits Convention, 1964, to update the list through the International Labour Conference, had only been used once because of the practical difficulties of getting an item onto the agenda of the full Conference and of having every amendment coming from the panel of experts be reviewed in Committee. The proposed subamendment offered a more "agile" way of accomplishing this through an expert group, without taking the updating process out of the ILO's tripartite structure or renouncing the authority of the Office.

549. The representative of the Secretary-General said that one small change was needed in the proposed text to make it conform to ILO usage: the second sentence of the proposed subamendment should have used the words "shall" instead of "should" so that the replacement of a former list would be an automatic legal consequence of the adoption of a new one. He agreed that the existing mechanism had not worked for the previous 22 years, which was why a new approach was advisable. However, it was expensive to convene full Conference committees only for a revision of the list which is why the Governing Body had directed that an updating mechanism be put on the agenda of the 2002 International Labour Conference, along with recording, notification and the list of occupational diseases.

550. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, supported by Japan, agreed in general with the amendment proposed by the Employer members, but differed from them on one major point: he held that the approval of the list had to be done by the International Labour Conference, not by the Governing Body. At one level, questions such as the frequency of updating did have to be dealt with by the Governing Body. A second level dealt with the selection of the experts, who should be selected on the basis of their technical expertise, and not just on their tripartite affiliations. Finally, there was a third level, approval. This level was more appropriate to the International Labour Conference, in which all member States of the Organization were represented, and would ensure good political support for the instrument. Given that the list had to be updated regularly, a maximum term for updating could be set and this could be indicated in the Recommendation so that the Governing Body would place it on the agenda of the Conference at the appropriate intervals. He suggested five years.

551. The Government member of Japan found the term "periodic" to be preferable to the specification of a five-year period. The Worker members felt that the Governing Body should determine when the panel of experts met.

552. The Government member of the United States supported the approach of the Government member of Spain, which he saw as not fundamentally different from that proposed by the Employer members. He asked whether there was any flexibility in the Standing Orders concerning an item having to go to a technical committee before being presented to the Conference.

553. The Chairperson answered that there was no shortcut. If the proposition of the Government members of the Committee Member States of the European Union was adopted, in effect the status quo would be maintained, whereby all changes in the instruments would have to be approved by the Conference.

554. The Government member of the United States wondered if these procedures were based on the ILO Constitution, or just established practice. The Chairperson replied that they followed the Standing Orders of the Conference. Unless the Standing Orders were changed (a very cumbersome procedure) it was not possible to modify ILO instruments without going through a committee.

555. The Government member of Hungary asked the European members to clarify whether, in their view, having the list approved by the Governing Body or the ILC changed the status of the list given the fact that it was appended to a Recommendation. The Government member of Spain responded that it was not a question of status, but that if only a few countries were involved in the approval of the list, those who had not participated would have no incentive to implement it. The Employment Injury Benefits Convention, 1964, was a case in point, having been ratified by only 23 countries: the updated Schedule I had been ratified by only 10. Lists involved public expenditure, so if countries were not involved in their preparation, they would be less likely to want to pay for their implementation.

556. The Government member of Côte d'Ivoire said that the amendment as subamended would not be acceptable to his country. There might be problems finding suitably qualified people from developing countries to participate in tripartite meetings. He supported the Office text as sufficiently flexible.

557. The representative of the Secretary-General reminded the Committee that the only mechanism for dealing with instruments of this kind was a standard-setting procedure, involving either a single or a double discussion by the Conference. He added that the agenda of the Conference was set by the Governing Body, and that putting items such as the list of occupational diseases on the agenda did not usually have a high priority.

558. The Government member of Hungary noted that a footnote in the 1996 code of practice said that the proposed list in Annex B of that document was based on an informal consultation. He wanted to know whether that list had gone through a Conference standard-setting procedure, such as this one, or a different procedure.

559. An adviser to the Employer members stated that the informal consultations referred to had not been convened by the Governing Body, nor had its findings been presented to it.

560. The Government member of China, referring to the earlier discussion on the Preamble, agreed that a simplified procedure to reduce the period of review of the list was desirable and supported the proposal of the Government members of the Committee Member States of the European Union regarding the amendment submitted by the Employer members.

561. The Government member of Argentina, speaking on behalf of the Government members of the MERCOSUR countries, told Committee members that the Government member of Chile was proposing a subsubamendment to replace the term "regularly" by "every five years", which he supported. The subsubamendment was not adopted.

562. The Government member of Spain expressed concern that the way he understood the amendment under consideration, as subamended, was that the list might be prepared by experts, and would not even need the approval of the Governing Body, let alone the Conference. This would produce even more problems for governments concerning the status of the list, and reduce the chances of its implementation. He did not pursue his earlier formulation, but suggested "the composition of and the conclusions of the meeting of experts must be approved by the Governing Body of the International Labour Office". The Government members of Greece and Spain wished it to be recorded that they did not

believe it to be a good idea for the list to be approved only by the Governing Body – it should be approved by the International Labour Conference.

563. The Employer Vice-Chairperson proposed a consensus subamendment to respond to the concerns of the Government members of Greece and Spain: "The list as annexed to this Recommendation should be regularly reviewed and updated through tripartite meetings of experts convened by the Governing Body of the International Labour Office. Any new list so established shall be submitted to the Governing Body for its approval, and upon approval shall replace the preceding list and shall be communicated to the Members of the International Labour Organization.".

564. The Worker Vice-Chairperson supported this subamendment and the amendment was adopted as subamended.

565. The Government member of Japan, in light of the foregoing, withdrew an amendment to insert "reviewed and" before "updated". Nevertheless, he wished to put on record his preference for the International Labour Conference to approve the reviewed list.

566. The Worker Vice-Chairperson withdrew an amendment to delete the words "or other means" from Paragraph 3.

567. The Government member of France withdrew an amendment, supported by the Government members of Belgium and Sweden, which would have replaced the words "or other means" in Paragraph 3 with the words "whose conclusions shall be".

568. The Worker Vice-Chairperson withdrew an amendment that would have replaced the word "periodically" in Paragraph 3 with the word "regularly".

569. The Government member of Côte d'Ivoire, seconded by the Government member of France, introduced an amendment to add a sentence at the end of Paragraph 3 as follows: "It shall include a section entitled: 'Suspected occupational diseases'". He referred to the International Hazard Alert System, which required member States of the International Labour Organization to alert the Organization, and through it other member States, to any suspicion of hazards related to the use of chemicals. He believed that by analogy, a list of suspected occupational diseases (not subject to compensation) would be a good resource for member States and the ILO/WHO Joint Committee and further, that it was consistent with Paragraph 2, already amended by a similar proposal.

570. The Worker members opposed this amendment. It seemed to be an attempt to achieve what had been rejected earlier. In response to a question from the Government member of France, the Chairperson confirmed that the Committee had in fact adopted an amendment to recognize lists of suspected occupational diseases in Paragraph 2.

571. The Employer Vice-Chairperson supported the intent of the amendment but believed it to be inappropriate at this point. He suggested that the proposed meeting of experts could create a list of suspected occupational diseases.

572. The Government member of Argentina said that the Committee was examining national lists in Paragraph 3 and stated that what had been agreed upon earlier was sufficient with regard to national lists.

573. The Government member of Spain said that the Government members of the Committee Member States of the European Union did not have a united position on the amendment.

Four Government members (France, Italy, Spain and Sweden) supported it, while the others opposed it.

574. The Government member of Kenya, speaking on behalf of the Africa group, acknowledged the intent of the amendment but felt the issue would be best handled by the meeting of experts and hence, opposed the amendment.

575. The Government member of Côte d'Ivoire withdrew the amendment and requested that this matter would be dealt with by the meeting of experts.

576. Paragraph 3, as amended, was adopted.

Paragraph 4

577. The Employer Vice-Chairperson withdrew an amendment that would have replaced the words "with due regard to" in Paragraph 4 with the words "periodically taking into consideration". He said that the amendment submitted by Japan, to be discussed next, was much better phrased.

578. The Government member of Japan proposed an amendment, seconded by the Employer Vice-Chairperson, inserting the words "by the method appropriate to national conditions and practices and" before the phrase "with due regard to" in Paragraph 4. He referred to the issue of flexibility and the fact that the list could be different for each country depending on the situation in that country and therefore, it was not appropriate to ask that updating be done only with regard to the most up-to-date list.

579. The Employer Vice-Chairperson said that the amendment referred sensibly to the need of national governments to take account of the local situation and enjoy the freedom to produce their own lists, and not just receive wisdom and knowledge from the International Labour Office.

580. The Worker Vice-Chairperson recalled the flexibility present throughout the Recommendation. He said that to specify this flexibility in Paragraph 4 would imply incorrectly that it was lacking elsewhere, so he preferred the Office text.

581. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, opposed the amendment. He saw the amendment as restrictive, given that the Office text allowed governments to update their national lists as they wished in terms of method and timing, and was therefore sufficiently flexible. The Government member of Argentina, speaking on behalf of the Government members of the MERCOSUR countries, opposed the amendment on the grounds that, because a Recommendation was not binding, it was hardly necessary to further qualify its statements. The Government member of Kenya, speaking on behalf of the Africa group, opposed the amendment because the flexibility provided in Paragraph 2 was quite adequate.

582. The Employer Vice-Chairperson recognized the points made by the other Committee members, and withdrew his support of the amendment.

583. The Government member of Japan withdrew the amendment, while stating for the record that his country felt that a reference to flexibility should have been made here.

584. The Worker Vice-Chairperson introduced an amendment to insert the words "and taking into account new scientific knowledge" after the word "above" in Paragraph 4.

585. The Employer Vice-Chairperson believed that the amendment was appropriate and introduced a subamendment with the additional words "taking into account the latest internationally recognized scientific knowledge" in order to prevent the Office paying attention to spurious research.

586. The Government member of Spain, speaking on behalf of the Government members of the Committee Member States of the European Union, noted that many States of the European Union thought the amendment was perfectly acceptable, but wondered if it would not be more appropriate to put it in the Paragraph dealing with the updating of the ILO list.

587. The Government member of Japan opposed the amendment, saying that national governments would do this anyway.

588. The Government member of Kenya, speaking on behalf of the Africa group, supported the subamendment.

589. The Worker Vice-Chairperson, seeing a lack of consensus, withdrew the amendment.

590. Paragraph 4 was adopted without change.

Paragraph 5

591. The Government member of Japan, seconded by the Government member of Thailand, introduced an amendment to replace the existing Office text of Paragraph 5 with the following text: "The International Labour Office may request the member States to communicate the information on their establishments and amendments of their national lists of occupational diseases so that the International Labour Office can facilitate the regular review and updating of the list of occupational diseases as annexed to this Recommendation.". The amendment was prompted by a concern that the Office text placed the onus of responsibility for providing information on member States, which could create difficulties, whereas in the view of his Government it should be the responsibility of the Office to request such information.

592. The Worker Vice-Chairperson said that the Office text reflected normal established practice, and should not be changed. The view was shared by the Employer Vice-Chairperson.

593. The Government member of Thailand said that despite the fact that he had seconded the amendment, he favoured the Office text.

594. The Government members of Argentina (speaking on behalf of the Government members of MERCOSUR), Kenya (speaking on behalf of the Africa group) and Spain (speaking on behalf of the Government members of the Committee Member States of the European Union), all supported the Office text.

595. The Government member of Japan, noting the general lack of support, withdrew the amendment.

596. The Employer Vice-Chairperson introduced an amendment to delete the rest of the text after "revised" in Paragraph 5, on the grounds that it was superfluous.

597. Support for the Office text was expressed by the Worker Vice-Chairperson and by the Government members of Argentina (speaking on behalf of the Government members of MERCOSUR), Kenya (speaking on behalf of the Africa group) and Spain (speaking on

behalf of the Government members of the Committee Member States of the European Union).

598. In the light of the general lack of support for the amendment, the Employer Vice-Chairperson withdrew it.

599. Paragraph 5 was adopted without change.

Paragraph 6

600. The Government member of Spain (speaking also on behalf of the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands and Sweden) withdrew an amendment deleting Paragraph 6, since it was dependent on an earlier amendment to the Protocol that had not been adopted.

601. The Government member of Japan, seconded by the Government member of the Republic of Korea, introduced an amendment to replace the Paragraph with the following text: "The International Labour Office may request the member States to furnish the information to the International Labour Office on their comprehensive statistics on occupational accidents and diseases and, as appropriate, dangerous occurrences and commuting accidents with a view to facilitating the international exchange and comparison of these statistics.". The amendment marked a shift in emphasis, by placing the onus of responsibility on the ILO to request the relevant information when the need for it arose, rather than requiring member States to provide it automatically. It was felt that it was very important not to increase unduly the reporting burden of member States.

602. The Worker Vice-Chairperson noted that the amendment was very similar to a previous amendment that had already been withdrawn. He preferred the Office text.

603. The Employer Vice-Chairperson agreed, and said that the amendment appeared to be at variance with conclusions which the Committee had already reached regarding the ability of member States to provide information.

604. The Government members of Côte d'Ivoire and the Democratic Republic of the Congo also supported the Office text and the Government member of Japan withdrew the amendment.

605. The Employer members submitted an amendment to delete the words "and, as appropriate, dangerous occurrences and commuting accidents" for the sake of consistency with earlier decisions. The Worker Vice-Chairperson opposed the amendment, contending that the Committee had in fact retained provisions for the communication of information on dangerous occurrences and commuting accidents to the ILO in the event that it was collected. The Office text was likewise preferred by the Government members of the Committee Member States of the European Union and the Committee Member States of MERCOSUR, as well as by the Government members of those African States that had authorized the Government member of Kenya to speak on their behalf. The Employer Vice-Chairperson withdrew the amendment.

606. An amendment submitted by the Government member of Chile to insert "incidents" after "dangerous occurrences" was not seconded.

607. Paragraph 6 was adopted without change

608. The Recommendation was adopted as amended

Annex

List of occupational diseases

609. The Employer members submitted numerous amendments to the list of occupational diseases annexed to the proposed Recommendation. The Employer Vice-Chairperson offered to withdraw them if the concerns that they reflected could be dealt with by the future tripartite meeting of experts that would be convened to update the list in accordance with Paragraph 3 of the proposed Recommendation. He suggested that the desire of the Committee for the meeting of experts to take place as soon as possible be communicated to the Governing Body at its June 2002 meeting, in order to enable wide-ranging consultation to take place before the November 2002 meeting of the Governing Body; in November, the Governing Body could approve the membership and terms of reference of the expert meeting with a view to its being convened in early 2003. Because 11 years had already elapsed since the establishment of the list in the Annex, there was no time to be lost. The Employer Vice-Chairperson stressed that the meeting would be successful only if the assembled experts were as broadly representative as possible, and only if they confined themselves to listing diseases whose occupational nature had been established scientifically and recognized by several countries.

610. The medical adviser of the Employer members noted that there was a general international consensus on what was required for a disease to be recognized as occupational: a risk factor had to be present in a workplace; workers in that workplace had to be demonstrably exposed to the risk factor; the disease caused by the risk factor had to be more prevalent in that workplace than in the general population.

611. The Worker Vice-Chairperson agreed with the advisability of leaving the revision of the list to an expert panel. He was confident that the constitution of the expert group would be inclusive, and that consultation papers would be prepared to enable governments, employers and workers to give full consideration to the issues and relevant data that their experts would be called upon to judge.

612. Pursuant to the consensus achieved, the Employer and Worker members withdrew their remaining amendments.

613. The Government members of China and Côte d'Ivoire, agreeing with the Employer and Worker members that a meeting of the most representative experts was the best way to update the list annexed to the proposed Recommendation, withdrew the remaining amendments that they had submitted.

614. The Annex was adopted without change.

615. The Committee members agreed on the following statement of their expectations regarding a meeting of experts to update the list of occupational diseases in the Annex:

> The Committee requests the Governing Body of the International Labour Office to convene the first of the tripartite meetings of experts referred to in Paragraph 3 of the Recommendation as a matter of priority.
>
> In addition to examining the Annex to the Recommendation together with existing national and other lists of occupational diseases, as well as comments received from member States, the meeting should consider all the amendments submitted on the Annex to the Conference Committee.

Adoption of the report and the proposed Protocol and Recommendation

616. At its 12th sitting, the Committee examined paragraphs 1 to 615 of its draft report. The Government members of Australia, China, Côte d'Ivoire, Germany, New Zealand, Spain, Sri Lanka and Sweden submitted corrections or clarifications. On the understanding that appropriate modifications would be incorporated in the published report, the report was adopted unanimously.

617. The proposed Protocol was adopted unanimously.

618. The Reporter informed the Committee that the Drafting Committee had made a change in the text of Paragraph 2 of the proposed Recommendation in addition to the ones resulting from the amendments and specific interventions noted in the report. As noted in paragraphs 495-503 above, the Committee had adopted an amendment of the Employer members as subamended by the Government member of France. Following the adoption of this amendment, the proposed Recommendation stated that the national list of occupational diseases should be established, for the purpose of compensation, only "if applicable". The Legal Adviser had observed that, since this limitation was placed in the first sentence of Paragraph 2, it could be read as applying to all three clauses (a), (b) and (c). Clause (a), however, referred to the 1980 list of occupational diseases annexed to the Employment Injury Benefits Convention, 1964, which had been specifically established for compensation purposes, and which was binding for the States that had ratified that Convention, and has the value of a Recommendation for those who had not. The Drafting Committee believed that the Committee, by inserting the words "if applicable", had not intended to limit the use of the national list for compensation purposes with respect to recognized occupational diseases, but only with respect to occupational diseases that were not fully recognized, in particular those whose occupational nature was only suspected. This appeared clearly from the statement of the Employer Vice-Chairperson in paragraph 499 of the report. As the Drafting Committee had felt that it could not touch the amended text itself, it had decided to add, at the beginning of clause (a), the words "for the purposes of prevention, recording, notification and compensation." This wording clarified that compensation should be on an equal footing with the other mentioned purposes with respect to the diseases contained in the list annexed to the Employment Injury Benefits Convention, 1964. The Government member of China asked if the formulation ensured that recognized and suspected occupational diseases could be treated differently for the purposes of compensation with respect to the list cited in (b). He was reassured by the Legal Adviser that the current formulation permitted that; the addition to clause (a) was intended solely to maintain the status of the diseases compensable according to the Employment Injury Benefits Convention, 1964.

619. The proposed Recommendation was adopted unanimously.

620. On the understanding by all members of the Committee that the list of occupational diseases annexed to the Recommendation was to be updated as soon as possible by a meeting of experts, the Annex was adopted unanimously.

621. The Secretary-General of the Conference, Mr. Juan Somavia, took the floor to congratulate the Committee on the successful completion of its work. He thanked the delegates, the secretariat and the interpreters for the efforts that had made that success possible. He stressed the importance of flexible and practical instruments for both developed and developing countries and hoped the Protocol and Recommendation would be landmark instruments for the recording and notification of occupational accidents and diseases.

622. The Worker Vice-Chairperson observed that the Committee had taken great pains over a very small text, but that the process had been crowned with success. The few changes that had been made introduced greater flexibility, new guarantees of confidentiality and protection against discrimination. He saluted the quality of the Office text that had required so little modification. He praised the engagement, flexibility and pragmatism of the Government members, and noted how many successful amendments were theirs. He thanked the Employer members, particularly the Vice-Chairperson, for the good relations that had been maintained, even when compromise had not been possible. It was important to note that there had been no winners and losers, only winners. His fellow Worker members, especially the secretary, deserved recognition for their skill and experience, as did their counterparts in the ILO's Bureau for Workers' Activities.

623. The Employer Vice-Chairperson likewise thanked the Employer members for the support and professional expertise he received from those sitting with him. He was also grateful for the help and guidance provided by the ILO's Bureau for Employers' Activities. He felt privileged and fortunate to have the Worker Vice-Chairperson as his opposite number. Consensus meant bridging gaps, not papering over differences, their commitment to the overall objective made a bridge nevertheless. He still felt that a Recommendation would have been more effective than a Protocol, but this was not a decision for them alone to take, and the Employers were absolutely committed to the outcome. It had been heartening to see the Government members' support for the Employer members' initiatives. He thanked the secretariat for its role; the fact that few of the proposed amendments survived was a tribute to the strength and durability of the Office text. He, too, paid tribute to the interpreters. He saluted the Chairperson for his untiring and good-humoured pursuit of consensus. As a result, health and safety had been the winners in the Committee's give-and-take.

624. The Government member of the Syrian Arab Republic thanked the Chairperson for his leadership of the Committee. He saluted the collaborative spirit of the Employer, Worker and Government members that had produced such excellent results. The few reservations expressed regarding the Office text during the Committee's work did not detract from its high quality. His Government fully supported the conclusions of the Committee; a substantial part of the Protocol was already reflected in their national law. The Government member of El Salvador thanked the representative of the Secretary-General and the behind-the-scenes team for their contribution to the successful outcome.

625. The Chairperson paid tribute to the two Vice-Chairpersons, noting how fortunate the Committee had been to have Vice-Chairpersons who were prepared to compromise, to put forward their arguments clearly, and who had a commitment to consensus. He felt that this had put occupational safety and health centre stage and was a great achievement. He expressed thanks to the delegates for the cordial atmosphere that they had maintained, the Office secretariat, particularly the Legal Adviser, for their support and the interpreters for their own demonstration of flexibility.

626. The representative of the Secretary-General added his congratulations to the Committee and thanked all those who had devoted such energy and good will to bringing the Committee's work to a successful conclusion.

627. The Report of the Committee and the texts of the proposed Protocol and the proposed Recommendation are submitted to the Conference for consideration.

Geneva, 17 June 2002. *(Signed)* C.H.G. Schlettwein,
Chairperson.

A. Coşeru,
Reporter.

A. Proposed Protocol to the Occupational Safety and Health Convention, 1981

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 90th Session on 3 June 2002, and

Noting the provisions of Article 11 of the Occupational Safety and Health Convention, 1981, which states in particular that:

> To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:
>
> …
>
> (c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
>
> …
>
> (e) the publication, annually, of information on measures taken in pursuance of the policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work

and

Having regard to the need to strengthen recording and notification procedures for occupational accidents and diseases and to promote the harmonization of recording and notification systems with the aim of identifying their causes and establishing preventive measures, and

Having decided upon the adoption of certain proposals with regard to the recording and notification of occupational accidents and diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a protocol to the Occupational Safety and Health Convention, 1981;

adopts this day of June two thousand and two the following protocol, which may be cited as the Protocol of 2002 to the Occupational Safety and Health Convention, 1981.

I. DEFINITIONS

Article 1

For the purpose of this Protocol:

(a) the term "occupational accident" covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;

(b) the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activity;

(c) the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;

(d) the term “commuting accident” covers an accident occurring on the direct way between the place of work and:

(i) the worker’s principal or secondary residence; or

(ii) the place where the worker usually takes a meal; or

(iii) the place where the worker usually receives their remuneration,

and which results in death or personal injury.

II. Systems for recording and notification

Article 2

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

(a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and

(b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

Article 3

The requirements and procedures for recording shall determine:

(a) the responsibility of employers:

(i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;

(ii) to provide appropriate information to workers and their representatives concerning the recording system;

(iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and

(iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;

(b) the information to be recorded;

(c) the duration for maintaining these records; and

(d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

Article 4

The requirements and procedures for the notification shall determine:

(a) the responsibility of employers:

(i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and

(ii) to provide appropriate information to workers and their representatives concerning the notified cases;

(b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;

(c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and

(d) the time limits for notification.

Article 5

The notification shall include data on:

(a) the enterprise, establishment and employer;

(b) if applicable, the injured persons and the nature of the injuries or disease; and

(c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

III. National Statistics

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

B. Proposed Recommendation concerning the list of occupational diseases and the recording and notification of occupational accidents and diseases

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its 90th Session on 3 June 2002, and

Noting the provisions of the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985, and

Noting also the list of occupational diseases as amended in 1980 appended to the Employment Injury Benefits Convention, 1964, and

Having regard to the need to strengthen identification, recording and notification procedures for occupational accidents and diseases, with the aim of identifying their causes, establishing preventive measures, promoting the harmonization of recording and notification systems, and improving the compensation process in the case of occupational accidents and occupational diseases, and

Having regard to the need for a simplified procedure for updating a list of occupational diseases, and

Having decided upon the adoption of certain proposals with regard to the recording and notification of occupational accidents and diseases, and to the regular review and updating of a list of occupational diseases, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this day of June of the year two thousand and two the following Recommendation, which may be cited as the List of Occupational Diseases Recommendation, 2002.

1. In the establishment, review and application of systems for the recording and notification of occupational accidents and diseases, the competent authority should take account of the 1996 Code of practice on the recording and notification of occupational accidents and diseases, and other codes of practice or guides relating to this subject that are approved in the future by the International Labour Organization.

2. A national list of occupational diseases for the purposes of prevention, recording, notification and, if applicable, compensation should be established by the competent authority, in consultation with the most representative organizations of employers and

workers, by methods appropriate to national conditions and practice, and by stages as necessary. This list should:

(a) for the purposes of prevention, recording, notification and compensation comprise, at the least, the diseases enumerated in Schedule I of the Employment Injury Benefits Convention, 1964, as amended in 1980;

(b) comprise, to the extent possible, other diseases contained in the list of occupational diseases as annexed to this Recommendation; and

(c) comprise, to the extent possible, a section entitled "Suspected occupational diseases".

3. The list as annexed to this Recommendation should be regularly reviewed and updated through tripartite meetings of experts convened by the Governing Body of the International Labour Office. Any new list so established shall be submitted to the Governing Body for its approval, and upon approval shall replace the preceding list and shall be communicated to the members of the International Labour Organization.

4. The national list of occupational diseases should be reviewed and updated with due regard to the most up-to-date list established in accordance with Paragraph 3 above.

5. Each Member should communicate its national list of occupational diseases to the International Labour Office as soon as it is established or revised, with a view to facilitating the regular review and updating of the list of occupational diseases annexed to this Recommendation.

6. Each Member should furnish annually to the International Labour Office comprehensive statistics on occupational accidents and diseases and, as appropriate, dangerous occurrences and commuting accidents with a view to facilitating the international exchange and comparison of these statistics.

Annex

List of occupational diseases

1.	Diseases caused by agents
1.1.	*Diseases caused by chemical agents*
1.1.1.	Diseases caused by beryllium or its toxic compounds
1.1.2.	Diseases caused by cadmium or its toxic compounds
1.1.3.	Diseases caused by phosphorus or its toxic compounds
1.1.4.	Diseases caused by chromium or its toxic compounds
1.1.5.	Diseases caused by manganese or its toxic compounds
1.1.6.	Diseases caused by arsenic or its toxic compounds
1.1.7.	Diseases caused by mercury or its toxic compounds
1.1.8.	Diseases caused by lead or its toxic compounds
1.1.9.	Diseases caused by fluorine or its toxic compounds
1.1.10.	Diseases caused by carbon disulphide
1.1.11.	Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons
1.1.12.	Diseases caused by benzene or its toxic homologues
1.1.13.	Diseases caused by toxic nitro- and amino-derivatives of benzene or its homologues
1.1.14.	Diseases caused by nitroglycerine or other nitric acid esters
1.1.15.	Diseases caused by alcohols, glycols or ketones
1.1.16.	Diseases caused by asphyxiants: carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide
1.1.17.	Diseases caused by acrylonitrile
1.1.18.	Diseases caused by oxides of nitrogen
1.1.19.	Diseases caused by vanadium or its toxic compounds
1.1.20.	Diseases caused by antimony or its toxic compounds
1.1.21.	Diseases caused by hexane
1.1.22.	Diseases of teeth caused by mineral acids
1.1.23.	Diseases caused by pharmaceutical agents
1.1.24.	Diseases caused by thallium or its compounds

1.1.25. Diseases caused by osmium or its compounds

1.1.26. Diseases caused by selenium or its compounds

1.1.27. Diseases caused by copper or its compounds

1.1.28. Diseases caused by tin or its compounds

1.1.29. Diseases caused by zinc or its compounds

1.1.30. Diseases caused by ozone, phosgene

1.1.31. Diseases caused by irritants: benzoquinone and other corneal irritants

1.1.32. Diseases caused by any other chemical agents not mentioned in the preceding items 1.1.1 to 1.1.31, where a link between the exposure of a worker to these chemical agents and the diseases suffered is established

1.2. *Diseases caused by physical agents*

1.2.1. Hearing impairment caused by noise

1.2.2. Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)

1.2.3. Diseases caused by work in compressed air

1.2.4. Diseases caused by ionizing radiations

1.2.5. Diseases caused by heat radiation

1.2.6. Diseases caused by ultraviolet radiation

1.2.7. Diseases caused by extreme temperature (e.g. sunstroke, frostbite)

1.2.8. Diseases caused by any other physical agents not mentioned in the preceding items 1.2.1 to 1.2.7, where a direct link between the exposure of a worker to these physical agents and the diseases suffered is established

1.3. *Diseases caused by biological agents*

1.3.1. Infectious or parasitic diseases contracted in an occupation where there is a particular risk of contamination

2. Diseases by target organ systems

2.1. *Occupational respiratory diseases*

2.1.1. Pneumoconioses caused by sclerogenic mineral dust (silicosis, anthraco-silicosis, asbestosis) and silicotuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death

2.1.2. Bronchopulmonary diseases caused by hard-metal dust

2.1.3. Bronchopulmonary diseases caused by cotton, flax, hemp or sisal dust (byssinosis)

2.1.4. Occupational asthma caused by recognized ensitizing agents or irritants inherent to the work process

2.1.5. Extrinsic allergic alveolitis caused by the inhalation of organic dusts, as prescribed by national legislation

2.1.6. Siderosis

2.1.7. Chronic obstructive pulmonary diseases

2.1.8. Diseases of the lung caused by aluminium

2.1.9. Upper airways disorders caused by recognized sensitizing agents or irritants inherent to the work process

2.1.10. Any other respiratory disease not mentioned in the preceding items 2.1.1 to 2.1.9, caused by an agent where a direct link between the exposure of a worker to this agent and the disease suffered is established

2.2. *Occupational skin diseases*

2.2.1. Skin diseases caused by physical, chemical or biological agents not included under other items

2.2.2. Occupational vitiligo

2.3. *Occupational musculo-skeletal disorders*

2.3.1. Musculo-skeletal diseases caused by specific work activities or work environment where particular risk factors are present

Examples of such activities or environment include:

(a) rapid or repetitive motion

(b) forceful exertion

(c) excessive mechanical force concentration

(d) awkward or non-neutral postures

(e) vibration

Local or environmental cold may increase risk

3. Occupational cancer

3.1. *Cancer caused by the following agents*

3.1.1. Asbestos

3.1.2. Benzidine and its salts

3.1.3. Bis chloromethyl ether (BCME)

3.1.4. Chromium and chromium compounds

3.1.5. Coal tars, coal tar pitches or soots

3.1.6. Beta-naphthylamine

3.1.7. Vinyl chloride

3.1.8. Benzene or its toxic homologues

3.1.9. Toxic nitro- and amino-derivatives of benzene or its homologues

3.1.10. Ionizing radiations

3.1.11. Tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances

3.1.12. Coke oven emissions

3.1.13. Compounds of nickel

3.1.14. Wood dust

3.1.15. Cancer caused by any other agents not mentioned in the preceding items 3.1.1 to 3.1.14, where a direct link between the exposure of a worker to this agent and the cancer suffered is established

4. Other diseases

4.1. *Miners' nystagmus*

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