Seventh item on the agenda

FOURTH REPORT OF THE PROGRAMME, FINANCIAL AND ADMINISTRATIVE COMMITTEE

1. The Programme, Financial and Administrative Committee of the Governing Body met on 13 and 21 February 1979 under the chairmanship of Mr. H. Chorny Samper, Chairman of the Governing Body. Mr. G. Muhr was Reporter.

In-depth review of international labour standards (further consideration) (Fifth item on the agenda)

2. The Committee had before it the final report of its Working Party on International Labour Standards.1

3. Mr. Polites said that the Employer members supported the recommendations contained in the report. The Working Party had analysed existing labour standards and had indicated an order of priority for promoting their observance. The paper included a classification of standards and proposed areas for further examination in the field of standard setting. The Working Party had felt that a cohesive approach to standard setting was desirable; thus the report grouped its recommendations under various generic headings of activity. The Working Party had produced a useful analytical exercise concerning existing standards; its proposals were self-explanatory and he would recommend their adoption by the Governing Body.

4. Mr. Muhr said that the Workers had carefully examined the various reports of the Working Party; they supported the recommendations contained in the present report. In particular, they welcomed the proposal that a new compilation of the texts of Conventions and Recommendations should be published; it was to be hoped that this would be compact and easy to handle, with the text arranged according to subject-matter rather than in chronological order, so as to facilitate the publication of offprints. The Workers agreed with the classifications in Appendix I; however, many instruments in category 3 retained considerable significance for many countries. The Working Party had estimated that, under existing methodology, it would take 25 years to examine the matters at present contained in categories 2 and 4, and no doubt new problems not yet realised would emerge with the passage of time. In the future work of the Organisation, it was important that standard setting should continue to receive due weight. The Working Party's paper brought together a significant collection of proposals which should be taken into account in the consideration of future agenda items for the Conference. The Working Party had not, however, been able to assign priorities in view of the large number of proposals before it and the limited time at its disposal. It was to be hoped that the report would become a useful working document for the future.

1 GB.209/PFA/5/3.
5. The Mexican Government representative commended the careful analysis of international labour standards covered by the report which gave a very complete picture of the Organisation's valuable work to date and of the tasks that would have to be undertaken in future. The Working Party's recommendations were, in general, useful and positive - particularly that contained in paragraph 5. The Mexican Government placed special emphasis on the recommendation in paragraph 10; where certain Conventions had, over a period of years, become of little more than historic value, having been overtaken by more recent Conventions affording a higher level of protection for workers, then reporting procedures should be simplified to cover only the most recent Conventions. The recommendation in paragraph 39 amounted to a new procedure for supervising the application of standards, and it was therefore not acceptable. It was to be hoped that, when considering the question of publishing such studies, due attention would be given to the need for economy in the use of already scarce resources.

6. The representative of the Government of the Federal Republic of Germany drew the Committee's attention to the need for encouraging a wider popular knowledge of international labour Conventions. Recently the ILO had become better known to the public, owing largely - and unfortunately - to the withdrawal of the United States and the subsequent problems this had entailed for the Organisation. But the very positive aspects of the ILO's work, including particularly the widespread network of Conventions with a social content, should also be brought to public notice, perhaps by some action through the external offices. The ILO publication "Impact of International Labour Conventions and Recommendations" was an excellent example of the type of publication which should be distributed as widely as possible. The speaker supported the recommendation in paragraph 5 which, however, should be applied to all member States, not just to those that had ratified Convention No. 144.

7. The United Kingdom Government representative welcomed the results achieved by the Working Party and supported the various recommendations that had been made. In particular, the category 1 classifications would be of great assistance to governments, although certain Conventions in that category might still be found to require some form of revision in the course of the national tripartite consultations in accordance with Convention No. 144, and consequently might need to find a place in category 2. Turning to the recommendation in paragraph 5, he agreed with the previous speaker that its provisions should apply to all governments, not only to those that had ratified Convention No. 144. While he could support the recommendation as it stood, he would have preferred a redrafting to incorporate the suggestion of the previous speaker.

8. The Indian Government representative agreed that the Working Party's recommendations should be sent forward. However, referring to paragraphs 5 and 32 of the report, he pointed out that while India had ratified Convention No. 144 it had only been able to ratify 16 of the 78 Conventions listed in category 1. As with many developing countries, India's inability to ratify certain Conventions was often due to the very high standards they set and which were unrelated to local conditions. In other cases, national legislation and practice did not conform fully to the terms of a Convention, although its requirements were substantially complied with. The Working Party, when classifying the Conventions into categories, had not perhaps taken sufficient account of the practical difficulties which sometimes precluded ratification. It was interesting to note that even certain advanced industrialised countries had been able to ratify only a limited number of Conventions in category 1. The recommendation in paragraph 39 concerned the general surveys of the Committee of Experts on the Application of Conventions and Recommendations, on which there had been differences of opinion in the Conference Committee, and it would not be desirable to proceed with the implementation of that recommendation at present.

9. The USSR Government representative joined previous speakers in commending the work of the Working Party. The paper provided a useful contribution to a better understanding of this important aspect of the Organisation's work. In general, the ideas put forward were positive, although his Government could not support all of them; in particular he agreed with the opinion expressed by some previous speakers on the recommendation in paragraph 39. Furthermore, the proposal contained in that paragraph touched upon problems connected with the Constitution and the Standing Orders of the Organisation and its supervisory machinery. The recommendation in paragraph 39 had been qualified by the reservations of one of the Government representatives in the Working Party; this underlined the need for a cautious approach to the subject could of course be studied further. Since the proposal in paragraph 39 had been made, then it should receive serious consideration, but it was a very important question which went beyond the matter of publications, and which if necessary should be decided by the principal organs of the ILO which were empowered to propose modifications to the Constitution and the Standing Orders. With these reservations his Government supported the report of the Working Party.
10. The representative of the Government of Thailand expressed his Government's support in general terms for the recommendations made in the report. He agreed with Mr. Muhr that the publication of a new compilation of the texts of Conventions and Recommendations was overdue. He drew the Committee's attention to the observations made in paragraph 51 and fully endorsed the principle of flexibility referred to in paragraphs 41 to 44. Lastly, he requested the Director-General to consider the possibility of printing all the Working Party's reports in one volume for future reference.

11. The Government representative of Pakistan supported the comments made earlier by the Government representative of Mexico in connection with the recommendation contained in paragraph 39. He felt that the ILO should not only focus to a greater extent upon the question of the application of standards and on the implementation of trade union rights, but also the absence of these elements, the nominal ratification of Conventions on paper was of little significance.

12. The Director-General, replying to the discussion, first paid tribute to the results achieved by the Working Party. It was remarkable that, in spite of all the difficulties which had arisen since 1977 when the Working Party had been established, this systematic examination of the enormous problem of international labour standards, together with the identification of objectives and main areas for concentration had been carried out, culminating in a report which would constitute an extremely valuable working document. It would form the basis for proposals to the Governing Body for among other things - new international instruments and the revision of existing ones. While the Working Party had emphasised the undeniably essential question of ratification, the application of international Conventions was perhaps even more important.

13. The Director-General referred to comments made by several speakers in connection with the recommendation contained in paragraph 39. The ILO had published a number of booklets on standards questions, such as that on the Impact of International Labour Conventions and Recommendations and one on freedom of association. This type of publication seemed valuable and should be increasingly used to further the common objective of encouraging the application of international Conventions. He felt that the recommendation in paragraph 39 formed at least the basis for a serious attempt in the future to inform the public of the work of the Committee of Experts on the Application of Conventions and Recommendations by means of material which would be more widely and readily comprehensible; it might, however, need further reflection. The supervision of the application of Conventions should derive from a dialogue between the Organisation and each of its member States; it was not simply a judicial exercise. In this context, he reminded the Committee of the importance he attached to the practice of direct contacts with member States and with employers and workers.

14. The Director-General suggested that a formal decision on the recommendations contained in the report should be postponed to a later sitting when the Chairman of the Working Party would be present. This would also allow time for some reflection on the appropriate wording of the recommendation made in paragraph 5.

15. When the discussion was resumed, Mr. Polites, speaking on behalf of the Employer members, pointed out that paragraph 5 of the Working Party's report called upon all member States to try to ratify and put into effect the instruments listed in category 1. Where member States had ratified Convention No. 144 they should use the tripartite machinery provided for in that Convention; in other cases the means of action would vary according to existing local machinery. It had been suggested that paragraph 39 envisaged an increase in the supervisory processes of the ILO; that was not the case. It merely suggested that, from time to time, the Organisation should publish studies undertaken in the process of supervising the application of international labour standards, for the information of a wider general public.

16. The Canadian Government representative said that the submission of the Working Party's report nearly brought to a close the long and difficult task of reviewing the ILO's international labour standards programme. ILO instruments served as a guide and a target for the governments of member States in formulating their labour laws and policies; developing those standards and supervising their application was one of the fundamental activities of the ILO. Even after almost 60 years, that activity was likely to become more important as a means of inspiring good labour practices and reducing competition based on exploitive labour conditions. For this work to be effective, the ILO needed a clear and comprehensible set of standards. His Government welcomed the opportunity to review the ILO's standard-setting activities. The Working Party had undertaken the considerable task of
reviewing the existing body of ILO instruments in order to determine their relevance to modern needs. This body of international labour standards (a total of 310 instruments) included a number that for one reason or another had lost their original value; some were duplications, some were conspicuously out of date, some had never come into force or had received only a handful of ratifications. The Working Party had identified 78 Conventions and 76 Recommendations, the ratification and application of which should be promoted on a priority basis. This would provide the elements of a modern set of international labour standards. The Working Party had grouped these instruments by subject-matter to facilitate reference and study. It had also considered what new standards were needed to fill existing gaps, what instruments needed to be revised, and how to secure better implementation of ILO standards. There had been general agreement that a campaign of education, information and promotion should be undertaken with regard to category 1 Conventions. The Working Party had recognised the difficulty, within existing Conference machinery, of adopting and revising Conventions on the total of 59 subjects which it had felt should be considered for action by the Conference in order to bring ILO standards up to date. At the normal rate at which this machinery operated it would take almost 50 years to deal with all the proposals made by the Working Party.

17. The Canadian Government felt that the ILO had to face up to the problem of maintaining an up-to-date system of international labour standards, if its standard-setting activities were to have the desired force, stature and credibility. An attempt might be made to set priorities among the 59 proposals for action submitted by the Working Party, which had not felt competent to do so, but perhaps the Committee or the Governing Body itself could consider appropriate machinery for allocating priorities which might guide the Governing Body in its decisions as to the agenda of the Conference. Another possibility to speed up the procedures for adopting and revising ILO instruments might include using a single discussion procedure at the Conference, or setting up a technical revision committee to deal with non-controversial items, or adding protocols to existing Conventions. The Canadian Government further suggested that groups of closely related subjects might be dealt with simultaneously. Perhaps the Governing Body might be able to recommend an approach, possibly through a special session of the Conference along the lines of the Maritime Conference, which would deal exclusively with all questions in a given field, e.g. occupational safety and health, and thus arrive at a comprehensive set of standards in that field. The Canadian Government urged the Office to consider these ideas, perhaps within the framework of the next medium-term plan.

18. Proposals aimed at meeting the special needs of developing countries, submitted by the Canadian Government and other members of the Working Party, were dealt with in paragraphs 41-44 of the report. The Working Party had not adopted any general conclusions on the subject but felt rather that the problem could be dealt with by the Conference on an ad hoc basis. In paragraph 33 it was proposed that a new compilation of the texts of Conventions and Recommendations should be produced, grouped by subject-matter so as to facilitate the publication of offprints. While the proposal that this compilation should be limited to category 1 instruments had been rejected, a more acceptable alternative might be to reproduce all the Conventions and Recommendations except for those Recommendations in category 3 which had been superseded or replaced, or had been designed to deal with a purely transitional situation, for example, the problems resulting from the end of the Second World War. If the Committee could accept that approach, it might consider making a slight change in the recommendation in paragraph 33, which could then read as follows: "The Committee recommends that a new compilation be issued which would in principle include the substantive provisions of all the Conventions and Recommendations, but that the Office be given a discretion to omit certain Recommendations classified in category 3 where they have been replaced or superseded by a more recent Convention or Recommendation or were purely transitional in nature." Finally, the Canadian Government felt that the Working Party had made an important contribution to the Committee's review of the international labour standards programme, which needed to be strengthened with the object of making it more widely known and respected and more of a stimulus to social progress in member countries. He strongly urged that the momentum be maintained; this would require follow-up work by the Office and the integration of the Working Party's proposals into the general programme of work. The Director-General should take account of these proposals in the development of the next medium-term plan and report back at intervals to the Committee on their implementation.

19. Mr. Muhr wished to point out once again that the Working Party's report contained very valuable suggestions for governments as well as employers' and workers' organisations, in that it provided guidance on areas where efforts to achieve social progress should be intensified and also indicated how uniform standards could be achieved in various parts of the world. It contained a large number
of suggestions which would be important for the future work of the Office, and for fixing the agenda of future sessions of the Conference. There were also a number of proposals to speed up the development and adoption of international instruments; to do this was essential if the ILO's credibility was not to be jeopardised, and these proposals should be followed up. The Workers could accept that certain out-dated instruments should be omitted from the new compilation of standards recommended in paragraph 33, and that this might apply particularly to certain Recommendations which had been replaced by more recent instruments. Perhaps an indication might be included in the new compilation as to which instruments had been excluded and why. The Worker members also agreed with the Employers' interpretation of paragraph 5; the present formula seemed to be suitable but perhaps some rewording might be desirable in the interests of clarifying its practical application.

20. The French Government representative, speaking as Chairman of the Working Party, thanked his colleagues on the Working Party and the staff of the Office for their contribution to the results which had been achieved. While there might be room for improvement in the final text, he hoped that at this important stage the Committee would concentrate on the essential elements of the progress which had been made. For various reasons the problems associated with bringing the body of international labour standards up to date were considerable, and he would certainly have occasion to refer to them on later occasions. The Working Party's report should permit further examination of these problems, along the lines suggested by several speakers. He paid tribute to the members of the Working Party who had so greatly facilitated his task.

21. The representative of the Government of Pakistan welcomed the achievements of the Working Party and endorsed the statements made by the Canadian Government representative and Mr. Muhr. His Government had already expressed concern with regard to paragraph 39, as they were not prepared to accept any new obligation to which they were not committed under the Constitution; such studies were unlikely to generate any goodwill and might in fact prove counterproductive.

22. The Swedish Government representative congratulated the Working Party on the conclusion of an important task; its report and proposals would serve as a guide for ILO standard-setting activities for many years to come. Her Government considered the proposals to be, on the whole, well founded and acceptable. It had given particular attention to Appendices I and II which listed the proposed classification of Conventions. Her Government felt that the suggested distribution was correct in general, but wished to suggest a few modifications which might be taken into account. The Maximum Weight Convention (No. 127) and Recommendation (No. 128) on the same subject, might be placed in category 2 (as well as category 1), since separate rules for women often had discriminatory effects; a revision of these two instruments was desirable in order to introduce generally applicable rules based on physical capabilities and training. The Employment (Women with Family Responsibilities) Recommendation (No. 123) should be placed in category 2 (as well as category 3) as presumably the 1980 Conference agenda item "Equal opportunities and equal treatment for men and women workers; women with family responsibilities" would include the revision of that Recommendation. Her Government agreed to the revision of the Night Work (Women) Convention and suggested that the Underground Work Convention should also be placed in category 2 with a view to a general instrument on underground work. The Employment Policy Convention (No. 122) should also have been included in category 2 in view of the decision of the World Employment Conference that that Convention should be revised. The Swedish Government would also have liked to see the Vocational Rehabilitation Recommendation and the Reduction of Hours of Work Recommendation placed in category 2.

23. The representative of the Government of the German Democratic Republic shared the opinion that the Working Party had done a useful task. However, his Government considered that the recommendation in paragraph 39 was open to doubt; its views in that regard were set out in paragraph 39. Given the importance of this matter efforts to reach a consensus on the wording of the recommendation should be continued. Perhaps the various views expressed in the Working Party and in the Committee should be placed before the working party which was to be set up by the Committee on the Application of Conventions and Recommendations at the forthcoming session of the Conference.

24. The Director-General associated himself with the comments which had been made on the remarkable achievement of the Working Party and the value of its report and recommendations. These would certainly be put into effect and taken into account in future work. Turning to the recommendations, he wished to make two or three suggestions which might help the Committee to reach conclusions. With regard
to paragraph 5, there seemed to be general agreement that the recommendation should apply to all member States and not just to those which had ratified Convention No. 144; in order to make the wording more generally applicable, he proposed modifying the text to read as follows: "The Committee recommends that the Governing Body might suggest that, in giving effect to the provisions of Article 5, paragraph 1(c) of the Tripartite Consultative (International Labour Standards) Convention, 1976 (No. 144) and of paragraph 5(d) of the supplementary Recommendation (No. 152), member states should concentrate on the category 1 instruments in undertaking 'the re-examination, at appropriate intervals, of unratified Conventions and Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate.' His wider public would be able to accept the proposed modification. The Canadian Government representative had already proposed changes to the wording of paragraph 33, which appeared to be acceptable to the majority of the members of the Committee. Turning to paragraph 39, he appealed to the Committee not to reject the recommendation contained in it. The ILO, and the Office in particular, had been reproached for not attempting to inform the general public more widely of its activities, especially in the fundamentally important field of international labour standards. He would like to see all the machinery of the ILO - it was simply a matter of disseminating information on certain of the ILO's activities among a wider public. For these reasons, he proposed that the last part of the text of the recommendation in paragraph 39 might be changed to read as follows: "The Committee recommends that the possibility of publishing studies of this kind in appropriate cases should be examined, with the sole object of bringing certain important results of such supervisory machinery to the attention of a wider public in an easily accessible form." He hoped that this proposal would prove generally acceptable and that it would meet the reservations which had been expressed by certain members of the Committee.

25. The USSR Government representative emphasised his Government's view that the recommendation in paragraph 39 would have the effect of broadening the ILO's supervisory machinery if it were adopted. He drew the Committee's attention to the views expressed by the German Democratic Republic in paragraph 15 of the Working Party's report. The broadening of the interpretation of the ILO's tasks to cover basic human rights was not warranted; questions of basic human rights fell within the competence of the United Nations, its Human Rights Commission and the committees of the General Assembly. The ILO's constitutional obligation was to concern itself with the protection of the interests and rights of workers and trade unions. Although no formal decision was required on this paragraph, he nevertheless wished that his Government's reservations should be noted.

26. The Mexican Government representative had heard with interest the comments and explanations concerning paragraphs 5 and 33 and supported the modified texts proposed. However, her Government maintained its reservations with respect to paragraph 39. Studies describing the situation in various countries with respect to individual instruments would be of assistance to governments under Article 19 of the Constitution and the general
surveys made by the Committee of Experts on the basis of those reports. Such studies would therefore be a duplication of the report of the Committee of Experts, and would increase expenditure at a time when resources were very limited and publications in other areas were having to be cut. It should be possible for information of this nature to be made available to the general public at the national level, through the collaboration of all three groups, by means of publications and national seminars. To a certain extent, her Government's reservations might be overcome if the words "in consultation with the governments concerned" were included after "the possibility of publishing" and before the words "International Labour Review".

27. Mr. Muhr stressed the importance the Workers attached to paragraph 39. The value of the ILO lay not only in the standards adopted but also in the supervisory machinery to promote the application of such standards. This encouraged governments to exercise care in the ratification of instruments and in the national supervision of their subsequent application both as regards legislation and practice. The importance of these procedures was such as to justify giving wider publicity to the supervisory machinery itself as well as to the results it achieved. The Workers believed that the recommendation in paragraph 39 should be regarded as one of the principal elements of the report, and they could agree to the modified text proposed by the Director-General.

28. Mr. Polites said that the Employers could accept the changes to the text proposed by the Director-General. However, the modification to paragraph 5 did not really affect the basic recommendation, which simply stated that governments should seek to advance the cause of application and ratification of international labour Conventions by whatever means was appropriate to their institutional arrangements; in countries which had ratified Convention No. 144 this was automatically the tripartite consultation process. Turning to paragraph 39, he maintained that this did not propose any extension of the supervisory procedures of the ILO; it merely recommended that information supplied by governments under the requirements of Article 19 of the Constitution might be used as a basis for studies which would give the general public a better and wider understanding of the ILO's activities in this field. This should not be a cause for concern or objection; indeed there was probably nothing to prevent the publication of such articles in the International Labour Review at the present time, but the Working Party's recommendation proposed the consideration of this subject with a view to arriving at a consensus of opinion; this was the substance of the Director-General's proposal, which the Employers fully supported.

29. Subject to the comments, and reservations reflected in this report, the Committee recommends the Governing Body:

(a) to request member States, in giving effect to the provisions of Article 5, paragraph 1(c) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and of paragraph 5(d) of the supplementary Recommendation (No. 152), to concentrate on the category 1 instruments in undertaking the re-examination, at appropriate intervals, of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate;

(b) to decide that, where a State has ratified both a more recent Convention and an earlier Convention on the same subject which was not automatically denounced, it should be asked to report only on the more recent Convention, and to request the Office to identify the cases in which this procedure should be followed, it being understood that this simplification of the reporting obligation will apply only where the more recent Convention provides a higher level of protection than the earlier Convention so that a single report will indicate whether both Conventions are being applied;

(c) to approve the classification of existing standards and proposals for new standards set out in the appendices to the Working Party's report;

(d) to decide that a new compilation shall be issued which will in principle include the substantive provisions of all the Conventions and Recommendations, but to give the Office discretion to omit certain Recommendations classified in category 3 where they have been replaced or superseded by a more recent Convention or Recommendation or were purely transitional in nature, and to approve the indications concerning the form of this compilation contained in paragraphs 33 and 35 of the Working Party's report.

1 GB.209/PFA/5/3.
(e) to decide that the chart of ratifications should in future omit the Conventions which have not entered into force and are now closed to further ratifications and the Final Articles Revision Conventions (Nos. 80 and 116) which create no substantive obligations, and to instruct the Office to publish occasionally a chart of ratifications covering only the category I instruments and statistics of ratifications of these Conventions in addition to the over-all statistics;

(f) to instruct the Office to study the possibility of publishing in the International Labour Review or elsewhere studies describing the situation in the countries of the world with respect to individual instruments or groups of instruments, based on the reports requested from governments under Article 19 of the Constitution and on the general surveys which the Committee of Experts on the Application of Conventions and Recommendations makes on the basis of these reports, with the sole object of bringing certain important results of this procedure to the attention of a wider public in an easily accessible form; and

(g) to instruct the Office to study further with a view to possible future action the proposal for the addition of protocols to Conventions, to adapt them to changed situations or deal with practical difficulties of application which have emerged after an instrument has been adopted.


POINT FOR DECISION:

Paragraph 29.