NINTH ITEM ON THE AGENDA

Reports of the Committee on Legal Issues and International Labour Standards

Second report: International labour standards and human rights

Standard-setting policy: The revision of international labour standards and other related issues
(Third item on the agenda)

1. The Committee on Legal Issues and International Labour Standards met to examine the items on its agenda relating to international labour standards and human rights on 28, 29 and 30 March 1994 and was chaired by Mrs. L. Caron (Government, Canada). The Employer and Worker Vice-Chairmen were Miss C. Hak and Mr. J C. Parrot respectively.

2. The Employer members considered that the paper submitted on this item was very interesting, contained a large amount of information and provided food for thought, and appreciated that it had been drafted with caution. They noted that the previous paper prepared for the November 1994 session (GB.261/LILS/3/1) was also interesting, but gave no clear indication as to the direction that should be taken. They were pleased that the Director-General had encouraged all those with views on the future of standards to make their positions known.

3. The Employer members stated that they entered the discussions with an open mind. While it was true that there existed differences of opinion between the three groups, they also felt that with good will a consensus was possible. At the previous meeting of the Committee, while emphasizing the importance of standard setting they had also recognized that some criticism of the current system was appropriate. Although they sometimes found problems with existing standards, they were not against standard setting either through revision or the establishment of new standards, and hoped that the Committee would be able to retain the

1 GB.262/LILS/3.
momentum established by the progress made at the previous meeting. They recommended that discussions on this item be finalized prior to the election of a new Governing Body in June 1996. In order to expedite the process, they suggested that it would be appropriate to establish a working party, to hold meetings of the Officers of the Committee and to have informal discussions among the three groups.

4. The Employer members noted a focus in the paper on the need to update international labour standards, facilitate the ratification and implementation of Conventions, and to consolidate the standard-setting system and make it coherent. In order to avoid low levels of ratification, it was necessary to avoid rigidity, complexity and ambiguity in Conventions. Ratification was the ultimate goal, and the rate of ratification was an indication of the success of both revised and new standards. They agreed that the considerable drop in the rate of ratifications since the end of the 1970s had been caused by the factors set out in the IMEC paper referred to in paragraph 28 of the Office paper, with the exception of the statement that governments were left in the role of spectators at a tennis match with respect to the adoption of standards at the Conference. They stressed that governments almost always voted in favour of the adoption of standards, and were certainly aware of what they were voting for, which contradicted the notion that they were spectators. While recognizing that the ILO did not impose an obligation to ratify Conventions adopted by the Conference, a positive vote for the adoption of standards implied a moral obligation to ratify them and then seek proper implementation at the national level. In view of the objective nature of the supervisory system, there was no justification for fears that the "mobilization of shame" aspect of the supervisory system might have a chilling effect on further ratification.

5. Complaints made to ILO supervisory bodies indicated that governments that had ratified a particular Convention sometimes amended legislation because of changes in national circumstances, so that the legislation no longer was in compliance with the Convention. The Employer members maintained that, prior to ratifying Conventions, governments must be certain that they were compatible with the national situation, although they noted that such amendments to legislation might sometimes be necessary in cases where Conventions had become outdated due to changes in the economic situation of a country. They also stressed that the universality of standards should be emphasized to enhance ratifications, and considered that the influence of many other international or regional instruments was a reason for serious concern, as their detailed provisions often served as a model for ILO standards, thus undermining their universality. Differences in the various regions of the world meant that what was acceptable in some places might not be acceptable elsewhere.

6. With regard to the updating of standards (paragraphs 14-21 of the paper), the Employer members noted that, while the ILO had a good record on updating, and systematic efforts had been made to carry out formal or informal revisions, other approaches such as partial revision, amendments, and additional protocols should be encouraged. Greater priority should be given by the Governing Body to inclusion of the latter kinds of revisions on the Conference agenda, and the
revision of recent Conventions that were likely to receive few ratifications should be encouraged.

7. As regards paragraphs 22 to 34 of the paper, the Employer members noted that although the overall rate of ratification remained high, this rate had slowed with regard to recently adopted Conventions. There were differences in the rate of ratification in different regions and differences dependent on the subject-matter of the Conventions in question. They also noted there had been a lower rate of ratification than expected of instruments described as priority Conventions in the Ventejol Report, and that this had given reason for "alarming concern". With regard to denunciation, lengthy periods when denunciation was not possible were seen as discouraging ratification. They agreed that the duration of the "third period" during which a Convention continued to be in force if not denounced should be re-examined, although not with respect to basic human rights Conventions. Other international organizations had different methods for denunciation of their instruments: the Council of Europe permitted denunciation by member States five years after the date of ratification. Such an approach might accommodate the difficulties that arose for ILO member States when they were confronted with new and seemingly permanent national situations.

8. With reference to the indication in paragraphs 32 to 43 of the paper that revised Conventions received fewer ratifications than unrevised Conventions, the Employer members asked whether this might not occur because revisions had been too detailed, and not in accordance with proper criteria, in that they had been too rigid, complex and ambiguous, and not sufficiently universal in their application. They noted the inconsistency between Conventions Nos. 107 and 169 and the overlapping of Conventions on the same subject-matter, and supported the proposal in paragraph 42 of the paper that the work of the Ventejol party be continued, including an examination of the question of abrogation.

9. The Employer members considered paragraphs 44 to 58 of the paper an interesting description of the legal and practical possibilities for enhancing the application of ILO instruments. At a Conference in the past it had been shown that there were a large number of cases in which Conventions had not been ratified by members whose Government delegates had voted for adoption. The amendments to article 19 of the Constitution described in paragraph 51 of the paper had been a step forward, but it was clear from paragraph 57 that the major objectives of these amendments had not been met. They supported the proposal in paragraph 58 for an examination of whether and how the evaluation of standards should be extended and strengthened, and agreed that this evaluation should be entrusted to the Committee, with the aim of introducing a system to monitor the relevance of existing ILO instruments.

10. Commenting on paragraphs 59 to 61, the Employer members noted that Conventions had provided for the effect of total or partial revision of initial Conventions by closing them to further ratification. Exceptions had been made, however: 20 initial Conventions remained open to ratification notwithstanding the coming into force of a revised Convention, and this resulted in inconsistency. They pointed out that although some Conventions contained provisions simplifying the revision of their provisions, such provisions were seldom applied. They
suggested that questions regarding the provisions referred to under paragraphs 59 to 61 of the paper be re-examined.

11. The Employer members considered that the provision of article 14(2) of the Constitution granting the Governing Body the possibility of organizing a preparatory technical conference prior to the adoption of a Convention or Recommendation by the Conference was interesting, and noted that examples of this approach were the tripartite conferences held in the maritime sector.

12. With respect to the concluding remarks in the paper, the Employer members agreed with the first proposal on the condition that the sixth proposal was also taken into account; with the second proposal if this meant the involvement of the Committee: with the third, fourth and fifth proposals; and with the sixth, which also underlined the need for criteria on the revision of standards.

13. The Worker members recalled their position taken at the previous meeting of the Committee with regard to the need for confidence and trust between the groups and for examination of revision of standards to be undertaken with the accepted goal of making the protection they guaranteed to workers more effective. Revision should on no account be a pretext for weakening such protection, and the Worker members insisted that they would not be party to the dismantling of standards in this process. They engaged in the examination of prospects for revision on the clear understanding that the question of setting new standards would also be examined by the Committee early in the standards review process.

14. The Worker members stated that the paper provided much important information which should be studied carefully by the Committee. A review of the history of ILO standard setting showed that, far from being a new concern, the revision of standards had been the subject of debate and action from the very beginning of the ILO, and varying attempts had been made to deal with what had always been a difficult question. The summary in paragraph 3 of the paper on the initiatives taken by the ILO in this regard indicated that the ILO was neither breaking new ground nor facing problems which could be held to result entirely from alleged deficiencies in recently adopted standards, from Conference practice in the past few years, or a “saturation effect” resulting from an excessive number of standards. The ILO had made great progress in this area, in that 48 of the 175 Conventions had been revised since the first revision in 1932 (some more than once), and 39 Conventions had been revised of the 67 adopted before 1945. Moreover, 14 of the 25 instruments that the Ventejol Working Party of 1987 had recommended should be revised had in fact been revised, and there were plans to revise five more of these instruments in the near future.

15. In their view there were several conclusions to be drawn from the paper. First, the facts did not reflect the idea that the ILO had neglected the revision of instruments in favour of the adoption of new ones, and there was no systematic neglect by the ILO of the need to revise its instruments. Secondly, an evaluation of revision needs could only be carried out on a case-by-case basis and on the basis of an in-depth examination, for which no general criteria could be established. Thirdly, consistent with their position at the previous Governing Body session of November 1994 with regard to the need for a climate of trust between the groups, they stressed that such an in-depth evaluation should be the basis for
building the necessary consensus on the instruments to be revised. The difficulties
in reaching agreement on the revision of the Conventions on hours of work were
largely the consequence of a lack of such a political consensus.

16. With regard to the three possible objectives set out in paragraphs 9 to
12 of the paper, namely the updating of instruments, facilitating ratification, and
the improvement of consistency in the overall body of ILO standards, it was clear
that the overwhelming priority was to revise Conventions that no longer
effectively provided the protection that they were designed to give workers in the
first place. This would involve the adaptation of Conventions to improve their
effectiveness rather than to weaken them. The objective of facilitating ratification
needed to be addressed with a number of considerations in mind. Levels of
ratification were important, but they were not the only measure of the value of
Conventions, and relatively low levels of ratification of Conventions did not alone
justify their revision. On the other hand, revision was justified when there was
a clear consensus that a specific technical provision was a major obstacle to
ratification, and in such a case there was a need to determine the most appropriate
means of carrying out the revision. Finally, with regard to the objective of
consistency, they stressed that past revisions had been a major cause of existing
problems, and that without a change in approach there was little reason to believe
that future revisions would not have the same effect. The process of revision and
adoption of new standards overlapping an area covered by existing ones without
formally revising them ("informal revisions") had given rise to problems of
coherence, and problems were compounded when old and new Conventions
covering the same subject-matter or overlapping contained different or even
contradictory approaches, as was the case for Conventions Nos. 107 and 169. In
their view the real questions to ask were whether this inconsistency mattered, and
whether it involved a mere formal lack of clarity, or led to genuine incoherence
in the overall International Labour Code. Although the arguments set out in
paragraph 37 deserved further attention, it was clear from past experience that
solutions were not easy to find.

17. The Worker members maintained that one of the most important aspects
of the paper was the light that it shed on the evolution of ratifications, which to
a considerable extent responded to the need already identified by the Workers'
group for a detailed analysis of the real situation. The overwhelming conclusion
in this area was that the situation was complex and could not be characterized by
simplistic formulations concerning the stagnation of ratifications. The table on
the evolution of ratifications since 1945 indicated that aggregate rates of ratification
were remarkably consistent when considered decade by decade. The analysis in
paragraphs 24 to 26 of the paper was interesting, but raised more questions than
it answered, and the fact that ratifications had fallen in a previous period of
recession placed a useful perspective on current trends. This suggested that,
whatever difficulties existed, they did not necessarily result from the content of
Conventions. The marked regional differences were cause for further investigation
and for concern, in particular with respect to Africa and Asia. They stressed that
the low level of ratification in those regions had no bearing on the universal
validity of standards, and issues deserving further attention were the alleged
problems relating to recently adopted standards and the failure to significantly
improve the level of ratification of instruments identified as "priority standards"
in the 1987 Ventejol Report. However, the complexity of the situation added to the doubts that the Workers' group would in any event have had about some of the reasons given in paragraph 28 of the paper (notably derived from the IMEC paper) for the "considerable drop" in ratifications since the 1970s. It was very difficult to accept criticism of Conference practice by those who were fully involved parties to it, and they could not agree that the efficacy of the supervisory system in the "mobilization of shame" was a legitimate point for criticism, as this was basically its only means of exerting pressure on member States to apply Conventions.

18. With regard to denunciations, it was emphasized by the Worker members that only 76 "pure" denunciations (those not resulting automatically from the ratification of revised Conventions) had taken place throughout the history of the ILO, and that 15 of these were of Convention No. 89, relating to the night work of women. This indicated that governments had generally not needed to use the denunciation opportunities under the existing system, and that the case for increasing such opportunities was therefore very weak. It was also obvious to the Worker members that revisions had failed to meet the objective of facilitating ratification. Indeed, it could be argued that they had had the reverse effect, for revised Conventions had on the whole been less ratified than the initial Conventions, and where initial Conventions remained open to ratification they continued to receive more new ratifications than the supposedly updated instruments. This should be kept in mind by those who focused exclusively on the allegedly poor ratification rates of new instruments without reference to the obvious difficulties faced by revised Conventions.

19. The Worker members favoured the approach provided for in paragraph 10 of ad hoc, case-by-case and in-depth assessments of the need to revise instruments, as in their opinion, and as stated in the Office paper, general criteria were not applicable. Article 19 general surveys were one method of carrying out such assessments, but the Worker members were inclined to agree with paragraph 44 of the paper and the Government members' assessments in paragraphs 45 to 47 that these surveys were not ideal for this purpose. The surveys received limited attention at the Conference, and did not generally lead to firm conclusions regarding revisions; only one or two instruments were dealt with each year; and the Committee of Experts' adherence to their mandate inhibited them from making inevitably political judgments about the adequacy of standards. For these reasons, either the article 19 procedures would need to be adapted for the purpose of better assessing the need for revisions, or other evaluation mechanisms should be established. Although there was a suggestion in paragraph 58 of the paper that such evaluation mechanisms might be administered by the Committee, this was somewhat unclear, and before taking such a step substantial clarification and preparation would be needed.

20. With regard to revision procedures, the Worker members noted that, when it had carried out its first revision, the ILO had made a fundamental decision to revise instruments totally rather than to make partial or technical revisions or to institute reservations procedures, and this approach had continued to predominate. In this regard, the possibility of mechanisms for partial or technical revisions could be of interest and examined further. Likewise, the
proposal made by the Director-General to the Conference in 1963, approved by
the Governing Body in 1964, that "a standing technical revision committee" be
established to deal rapidly with uncontroversial and straightforward revisions
could be further examined. However, these were essentially matters of technical
efficiency that should not touch upon the other more delicate political issues.

21. With regard to the first proposal in the concluding remarks of the paper,
the Worker members were in favour of a renewed assessment of actual revision
needs on a case-by-case and in-depth basis, and the classification under the
Ventejol Report might be an appropriate point of departure. This renewed
assessment of needs could be carried out in the Committee. However, the second
proposal was unclear and seemed to duplicate the first proposal, and it therefore
seemed inadvisable to proceed with it. Under the third proposal, they agreed that
there should be further investigation of a diversification of the revision procedure,
on the clear understanding that revision remained the exclusive prerogative of the
Conference. The fourth and sixth proposals could be examined together in an
attempt to improve the coherence and consistency of the overall body of
standards. However, due recognition should be given to the complexity and
difficulties that this would involve. Under the fifth proposal, the detailed analysis
of the evolution of ratifications that had been so usefully begun in the paper could
be pursued, but the size of the task inevitably made it a medium-term goal. There
would be a clear need to establish priorities on a step-by-step approach.

22. The representative of the Government of the United Kingdom, speaking
on behalf of the Government members, observed that the groups were all in
agreement that, if there were to be revisions in the future, they would have to be
carried out somewhat differently than in the past. They recalled their statement
at the previous meeting of the Committee on the IMEC paper, which made it
clear that far more priority should be given to revising existing standards and to
making them more flexible so as to encourage wider ratification, and that there
should be fewer new standards, drafted in broader and more flexible terms, and
based on a broad consensus between the groups on the importance of the topic.
At that meeting they had expressed strong support for the conclusions of the
Chairperson in which the Office was asked to prepare a paper that would focus
on revision and enable a discussion to begin on a set of criteria and parameters
that would include consideration of an evaluation of denunciation and abrogation,
in order to establish a conceptual framework that could apply to both revisions
and the drafting of new standards. The IMEC paper provided a concise summary
of their position, and gave clear pointers on the kinds of criteria and parameters
that they would like to see. On this basis they read the Office paper with interest,
and noted that, as expected, it was scrupulous, detailed and contained many facts
and important historical perspectives, for which they were particularly grateful.

23. The Government members appreciated the caution taken by the Office
in the preparation of the paper. Over the years, the question of standards had been
subject to great political difficulties, and, until recently differences between
various geographical and political groups of countries, and they understood that
the Office did not want to be seen to be taking sides. Nevertheless, they were
somewhat disappointed that the paper was so cautious. Although it contained
many elements of the technical framework for considering revisions, they had
hoped to see a more fully developed conceptual framework with criteria and parameters. As the groups were all aware, due to the enormous political changes that had occurred in recent years, the kinds of constraints that existed when the 1987 Ventejol Report had been prepared no longer applied. Although constraints remained, the landscape was now entirely different. There was no need for the paper to be so cautious, and they encouraged the Office to become bolder in its approach. While there had been considerable accomplishment in the area of revision, much of what had been done before might be approached differently today. The reforms made to the reporting process indicated that the Office could afford to act more boldly in some matters. Together with the Employer members, they considered that during this session of the Governing Body it would be advantageous to complete a conceptual framework for the revision of standards in order to proceed with this urgent work so that Conventions would be relevant to current and future needs and ratified by many countries. Such a framework could also apply to the drafting of new Conventions. In this area they also attached importance to other factors, such as the need to have more in-depth discussions prior to establishing new standards, so that problems could be resolved and a maximum number of ratifications attained.

24. With regard to the first proposal in the concluding remarks of the Office paper, if it proved impossible to establish a conceptual framework by the end of the Committee's meeting, they would support the establishment of a working party to complete this task. It was necessary to agree on the order in which matters should be addressed. In this respect the Office might put forward suggestions, but could also be assisted by a questionnaire seeking views on the main obstacles and key priorities for ILO constituents. As regards the second proposal, they agreed that an extension of evaluation methods was needed. Having agreed upon its terms of reference, a working party would need to have some way both of selecting which Conventions to revise and deciding which revisions should have priority. Article 19 general surveys were not working as well as they should at the moment: one possible method of identifying obstacles would be to have a simple checklist questionnaire asking what the priorities should be. The Office could also make suggestions as to what should be most urgently tackled. With respect to the third proposal, there was general agreement among the Government members that various methods of revision were needed. The problem of overlapping and contradictory Conventions addressed under the fourth proposal was also important, although abrogating obsolete Conventions might be less urgent than revising useable ones. This could also be referred to the working party. With regard to ratifications under the fifth proposal, the Governments had made clear in the IMEC paper the nature of the main problems, and a prolonged in-depth study of this matter might not be needed. However, it would be useful to commission a paper on this subject as background for the first meeting of a working party, and to query the groups on the views of Governments. The ratification of revised Conventions addressed under proposal six was not a major problem. Possible reasons were the timing of revisions, or that sometimes revision resulted in diminished quality. In this regard Governments were as much to blame as the other groups. If the problems were identified with regard to revisions, they would be in a better position in the future not to encounter the same difficulties. Finally, although they noted several references to the question
of denunciations in the paper, no reference was made to this subject in the concluding remarks. They urged that this matter be addressed as a priority.

25. She pointed out that, while the view of the Employer members that there should be a moral obligation on member States to ratify Conventions in respect of which they had voted for adoption was interesting, some other factors than prospects of ratification could be at play. For example, the United Kingdom Government sometimes voted for adoption of a Convention on the basis that it was appropriate for ratification by other member States, and for this reason there could be no set rule in this regard. With respect to the Worker members’ position that no general criteria should be established, they stressed that a broad framework of criteria was needed for any progress to be made concerning revisions.

26. The representative of the Government of India, speaking on behalf of the Asian Government members, stressed that the issue of the revision, updating and consolidation of standards was important, as problems that had occurred in the past could be avoided in the future. They were particularly concerned at the low levels of ratification, and considered that any revisions should have the primary aim of increasing ratifications. Revisions should involve reorienting standards to make them relevant to as broad a spectrum of countries as possible. Causes of non-ratification must be carefully examined before a decision could be made as to how and when to revise. They suggested that possible causes were the relevance of a Convention to only a specific group of countries; excessively detailed clauses, making them ratifiable by only a few countries; unrealistic levels of standards without regard to article 19(3) of the Constitution, which required recognition of the different stages of development of member States; dynamic changes fundamentally altering the basis for the Convention; cost considerations in respect of implementation; and the extent of technical cooperation to promote their application. In their view, revisions should strengthen and not weaken standards, and should be undertaken where they were obsolete, to consolidate, to avoid overlapping, and to eliminate unnecessary details and concentrate on core issues. They expressed full support for the position of other Government members.

27. The representative of the Government of France was quite satisfied with the paper submitted to the Committee and supported the position of the Government members, in particular with regard to the need for a working group: the proposals set out in paragraph 67 of the paper should be supplemented in respect of the periods for denunciation, a matter raised in paragraph 30 that must be answered. In general, the Government members should be conscious that one purpose of standard setting was to establish effective legal instruments rather than beautiful useless objects. This in some cases might involve abstaining from or opposing the adoption of instruments where it was clear that real difficulties would be posed in their application.

28. The Chairperson summarized the positions that had been taken by the three groups to provide a basis for and a means of focusing the remaining deliberations of the Committee with a view to reaching meaningful conclusions. Revision of existing Conventions was clearly a priority for both the Employer and the Government members. Although the Worker members were not against
revisions, they stressed that revisions should not weaken the protection of workers. They favoured a case by case approach to revision of standards and expressed the view that no general criteria for revisions should be applied. Both the Employer members and the Government members disagreed with this view and both emphasized the need for a conceptual framework which would apply to both revisions and to the development of new standards. The criteria mentioned in this regard included avoiding rigidity, complexity and ambiguity focusing on broad general principles of universal application, greater flexibility of implementation, avoiding the detailed requirements which in the view of the Employers undermined the principle of universality. She recalled that the Asian group had stressed the importance of Conventions being relevant to as broad a spectrum of countries as possible, and that the Government members believed that while the above stated criteria should apply to both existing and new standards, additional criteria such as topicality of subject-matter should also apply to new standards. On the question of ratification, the Worker members had stated that ratification levels were not an indication of the value of Conventions, and that low rates of ratification were not enough to justify revision. They had referred to paragraph 34 of the Office paper which indicated that revisions had not led to increased ratifications. On this point, the Government members had pointed out that many of the reasons for non-ratification outlined in the IMEC paper and elsewhere which had led to non-ratification would also apply to the revised versions particularly, as stated by the Asian group, if the same mistakes were made in the revised versions in terms, for instance, of too many details and unrealistic levels of requirements. The Asian group had emphasized the need to effectively diagnose disease before attempting to find a cure. With regard to the abrogation of non-operational Conventions, the Employer and Government members proposed that a means of eliminating them from the International Labour Code should be found, since to say that the Code was composed of 175 Conventions was misleading given the fact that a substantial number were no longer “alive”. Both the Employer and Government members had stressed the need to review the denunciation period and the Employer members had referred, in this regard, to the practice in the Council of Europe. The Worker members, on the other hand, considered that the justification for doing so was very weak. All these groups had stated that the problems of overlapping and inconsistency among standards should be addressed, and that it would be useful to look at ways of making partial, technical revisions. On the question of votes relating to the adoption of Conventions by the Conference, the Employer members had expressed the view that there should be a moral obligation of member States to ratify Conventions when they had voted for their adoption, and while the Government members had not taken a position on this question, the United Kingdom representative had indicated that a vote for adoption of a Convention could mean that although it was not ratifiable for that member State it was ratifiable by others. Finally, the Chairperson stated that the Committee seemed to be moving towards a consensus that a Working Party should be established.

29. The representative of the Government of Italy supported the statement by the Government members, and appreciated the quality of the Office paper, which provided a thorough analysis and options for the Committee. He emphasized the need for revisions to ensure clarity of existing Conventions, and
was in favour of a case-by-case approach following general guidelines. The main impediment to the ratification of revised Conventions was when points of importance to countries were not addressed in the instrument in question. He supported the proposal that a working party be formed. Finally, he attached particular importance to ratification levels, while noting that Italy was among the member States with the highest number of ratifications.

30. The representative of the Government of Norway fully supported the position of the other Government members. The proposals in paragraph 67 of the report provided a good basis for the work of the Committee. Conventions must meet current needs. The number of new Conventions should be restricted and proposals for new standards should be examined carefully. The objective of revisions should be to update and to remove obstacles to ratification. Removing excessively detailed provisions did not decrease protection for workers. Overly detailed Conventions provided very little protection if only ratified by a few countries, and the low rate of ratification of revised Conventions might be caused by a focus on other considerations during the revision process, rather than on the removal of obstacles to ratification. Priority should be given to the revision of existing Conventions, and a reasonably small working party should be formed, and its work based on a set of criteria. He gave several examples of situations in which it would be appropriate to revise Conventions, and supported the use, beginning in 1996 or 1997, of the simplified procedure proposed in 1965. With regard to the time period for denunciations, the Office should investigate the denunciation procedures applying to obligations under instruments of other organizations in the United Nations system.

31. The representative of the Government of Spain supported the statement by the Government members, and outlined the problems raised in the debate. The Office paper set forth a new philosophy for international labour standards, but the proposals for pursuing the debate were limited to those in paragraphs 67 and 68 of the paper. The questions that should be dealt with could not be limited to those listed in paragraph 67: although the revision of standards was a matter of priority, there were no general criteria for the creation of new standards. It was necessary to identify the appropriate rate at which social problems that arose should be addressed by new standards. On the other hand, there were a large number of Conventions that could be revised. Nevertheless, the Governing Body could, when establishing the agenda of the Conference, select Conventions to be revised, possibly giving priority to new standards when their subject-matter required that they be dealt with on an urgent basis by the Organization. It was also possible to question the structure of the instruments adopted: each instrument had its own structure, depending on its content and the subject-matter that it covered. The necessary universality of standards could not be confused with their general nature. Standards should continue to be universally applicable, but this did not prevent the preparation of more precise instruments in certain cases. The preparatory reports should take into account these questions, but the members of Conference committees were responsible for the texts adopted. In any event, ambiguities and excessive details should be eliminated, but this was no obstacle to precision.
32. With respect to the question of ratification, he recalled that not every ratification meant that a Convention would be applied, and a failure to ratify did not mean that the provisions of the Convention were not implemented. He emphasized the importance of the obligation to submit instruments adopted by the Conference to national legislative bodies, and that it was very difficult to identify the exact reasons for non-ratification. It would take a great deal of time to find out what were the exact reasons for non-ratification and to obtain in-depth knowledge of the reasons for not ratifying Conventions that revised previous ones.

33. Turning to the suggestion in the second proposal of the concluding remarks of the paper concerning an appropriate procedure which could supplement the work of the Committee of Experts and allow the constituents to explain their difficulties in the area of ratification or to propose the revision of certain standards, he asked whether it would be possible to pursue this proposal fully within a working group or a permanent advisory committee, which would take account of its relation to the Committee of Experts and the viability of a tripartite approach to this matter.

34. The representative of the Government of Cuba supported the position of the Government group. She emphasized the need for revision of standards in a way that would preserve and strengthen their future value. In her view, it was appropriate to carry out an analysis of the reasons for the lack of ratifications so that a real policy could be established by the Organization with regard to ratifications. There was a relationship between the decisions of the supervisory bodies and the low rate of ratifications, and selective criteria were applied when dealing with cases before the Conference Committee on the Application of Standards. These cases were not always selected on the basis of the seriousness of the problems involved, and did not always help resolve the practical difficulties relating to the application of the Convention, and often gave rise to discussions on questions unrelated to the Conventions themselves.

35. When revising standards, article 19(3) of the Constitution should be taken into account so that there could be true participation by developing countries. The Office should issue questionnaires to governments that would permit them to set out objectively their problems with respect to the items on the Conference agenda.

36. The representative of the Government of New Zealand fully supported the statements made by the other Government members. He underlined the importance of updating to promote broader adherence to standards, and considered that revisions should be given priority. He suggested that a work programme be prepared for a working party, and considered that a conceptual framework should be established for future work to avoid repeating past mistakes.

37. The representative of the Government of India noted that the overall rate of ratification of Conventions was 20 per cent, and that revisions were needed in view of the contradictions, inconsistencies and technical difficulties found in existing Conventions. He pointed out the difficulties that developing countries had in ratifying and implementing Conventions, often because the political will to ratify Conventions in such countries was lacking because the Conventions would impose increased operating costs on employers and on the governments that administered them, and would sometimes result in higher unemployment.
Concurrent with the revision process, it should be determined why countries could not ratify Conventions, so as to promote standards in developing countries.

38. The representative of the Government of Chile considered that the Office had presented a very useful document. The complexity of the problem was well established, and the seriousness and caution with which it was appropriate to proceed were understood. The usefulness of revising standards in order to modernize them and give them coherence by eliminating overlaps between instruments was also understood. It was possible to engage in a process of revision and updating while also revising procedures for the denunciation of ratified Conventions. In this respect, it was also appropriate to increase the promotion of ratifications. He supported the proposed solution in paragraph 40 of the document with respect to the legal termination of standards, as provided for in Article 54 of the Vienna Convention on the Law of Treaties.

39. The representative of the Government of Germany supported the position of the Government group, and considered that the Office paper was useful but only made cautious proposals. He would have appreciated more boldness on the part of the Office. It was appropriate to ensure that in the future the adoption of new standards would respond to actual needs, and that priority was given to the revision of existing ones to simplify them and to abrogate obsolete provisions. Often, very detailed provisions in Conventions imposed too onerous a burden which posed an obstacle to ratification; such provisions were better suited for inclusion in Recommendations. In order to have standards of high quality, it was important to concentrate on fundamental provisions of a universal nature. The working party could prepare a list of criteria for this purpose.

40. The representative of the Government of Japan fully supported the statements made by the Government members. In view of the fact that the 175 existing Conventions covered almost all labour issues, it was natural that revision, rather than the adoption of new standards, should be emphasized so that ILO instruments would be adapted to economic and social change. In order to increase the rate of ratification, these instruments must be adapted to the situations of developing countries. Although it might be difficult to revise for the purpose of increasing the rate of ratification, Conventions were only meaningful if ratified by a large number of countries. If the present level of standards was maintained, the rate of ratification would not improve. He supported the proposal that a working party be established to review existing Conventions, and noted that, even when examining the possibility of revision on a case-by-case basis, some criteria must be established in order to carry out the examination.

41. The representative of the Government of Nicaragua commended the Office or the paper dealing with the necessary adaptation of standards to social development. Revisions should be adapted to economic development, and there should be flexibility to ensure that development was in harmony with the globalization of the economy and of markets, without abandoning the protection of workers. Obsolete Conventions should be revised when they were not in accordance with present economic development or when they were left behind by developments regarding the benefits guaranteed to workers. Employers, workers and governments should take an active role and be consulted on what Conventions should be revised. In such a case, it would be appropriate to ask what
Conventions would be ratified and to identify the criteria that would be followed to revise Conventions. Like the representative of the Government of Japan, he questioned the significance of the number of 175 Conventions, and thought new Conventions were needed that truly addressed new labour and social security matters. It was necessary to identify what Conventions would be of interest to constituents, and to determine what Conventions governments would be in a position to ratify and implement under national legislation. Many Conventions had fallen into disuse, and coherence in the standard-setting system was needed. The ILO should ensure a balance between the interests involved. It was appropriate to send questionnaires to governments to determine whether or not it was appropriate to revise certain Conventions, and the three groups should be involved in this process. It was most important that Conventions be adopted that would be ratified, given the approach by some countries in favour of the imposition of social clauses relating to Conventions which they themselves had not ratified. The Central American countries had declared that they were in favour of the ratification and the implementation of international labour standards.

42. The representative of the Government of Egypt indicated that his country had ratified more than 60 Conventions. Difficulties in the application of these Conventions were the result of the insufficient flexibility of the ILO supervisory system, which applied them too strictly. In this regard, the Government of Egypt had made proposals at the last session of the Conference to the effect that the provisions of Conventions should be more general in nature and that more detailed provisions should be reserved for Recommendations.

43. The representative of the Government of Tunisia recalled that his country had ratified 55 Conventions, including the six fundamental human rights Conventions. Standard-setting activity was at the core of the mandate of the ILO, and must be pursued. In this regard, the revision of international labour standards as well as national legislation responded to a need for coherence and adaptation to the development of economic and social conditions. The cautiousness of the Office paper was understandable and commendable. The information was presented with concern for neutrality and objectivity, and was useful. The best way to undertake an in-depth examination of the proposals in paragraph 67 of the paper was to establish, on the basis of the Ventejol model, a working group that would submit precise conclusions to the Committee. The Conference could then establish a technical revision committee in compliance with the procedure set out in 1965. It was best to anticipate rather than to cure, to use the lessons of the past in the future, and to avoid new Conventions that had the same faults as the old ones or which included excessively detailed provisions that did not take account of the actual circumstances of member States.

44. The representative of the Government of Venezuela emphasized that international labour standards were at the heart of the ILO. He recalled the work of Wilfred Jenks and Nicolas Valticos, who had promoted the International Labour Code. Nevertheless, at present the validity of standards was questioned, and it was stressed that some instruments were obsolete. It should be recognized that there were deficiencies and gaps, and that it was appropriate to proceed quickly, as required by current circumstances and as attested by the multilateral diplomacy practised in the World Trade Organization. In a changing world
dominated by the struggle for markets, standards should be adapted, and in the interests of social justice the ILO should also adapt its methods of preparing them. As had occurred in Latin America, the ILO should have a fundamental role in strengthening social justice in the world, without abandoning tripartism.

45. The representative of the Government of Mexico recalled the provisions of the Preamble to the ILO Constitution, which read "... lasting peace can be established only if it is based upon social justice ...". The Office paper had tried to establish the basis for standard-setting policy in the twenty-first century. He endorsed the statements by the Government members, and supported the setting up of a working party that would take into account the paper presented by the Office in November 1994. He commended the International Labour Standards Department, and in particular the Director of the Department, for their contribution, for the constructive nature and content of the Office paper, which should permit the establishment of new bases for ILO standard-setting policy.

46. The representative of the Government of Sudan indicated his support for the position stated by the Government members. The conceptual framework and the criteria to be established should take into account religious, cultural and geographic differences that could have an effect on the rate of ratifications. With regard to problems in applying Conventions in developing countries, more technical assistance was needed. The proposals in paragraph 67 of the paper provided an excellent basis for establishing a working group.

47. The Worker members considered that the Committee's discussion had largely failed to address several important points raised in the paper. The Government members had primarily ignored the issues and simply reiterated well-known positions. There was an apparent lack of willingness on the part of the Government members to listen to the Worker members, including member States such as the Nordic countries which usually had constructive viewpoints on such matters. They considered that the desire of the Employer members and Government members to establish an unrealistic timetable was an attempt to force decisions through quickly at a time when crucial issues were at stake. This was unhelpful and not conducive to building trust and cooperation. The completion of the Ventejol Report had required a considerable amount of time, and there was no reason for the Committee to believe that it could, or should work at a much quicker pace. It needed to act with respect for the matters before it. With regard to the summary made by the Chairperson, no comment had been made on the positive reaction of the Workers' group concerning the six proposals in the concluding remarks of the paper. They were surprised to hear that there was a growing consensus on the need for a working party in view of the fact that they had not commented on this point, it had not been dealt with in the paper, and as a proposal it remained unclear. Finally, although they had emphasized that discussions should begin on the setting of new standards, the Chairperson had not mentioned this point, despite the importance that the Worker members had attached to it, and its established link to the question of revision. The Worker members noted that a number of governments had argued for further examination of the reasons for non-ratification of Conventions. They felt that this would fit well under point 5 of the concluding remarks in the Office paper.
48. The Employer members stated that they continued to have an open mind and were willing to engage in constructive debate. They stressed that the only means of reaching a consensus on this matter would be for the groups to trust each other and to allow each group to express its own opinions.

49. The representative of the Government of the United Kingdom, speaking on behalf of the Government members, agreed with the Employer members. She pointed out that, although she had not attacked the views of the Worker members, the Governments' own points of view had been attacked by the Worker members, and she regretted in particular that particular geographical groups had been singled out in this regard. It would be possible to provide terms of reference to a working party that could establish broad criteria for the revision of standards, although the revision of individual standards could only be carried out on a case-by-case basis. Moreover, she stressed that no Government member had suggested that revisions should be made to reduce the protection of workers and there was a need for trust between the groups.

50. The Chairperson acknowledged that her summary had failed to mention that the Worker members were of the view that the preparation of new standards was as important as revisions. With regard to the setting up of a working party, the summary had not stated that a decision had been reached on this point, but had noted the growing consensus, based on the interventions so far, in favour of such a working party. This was justified in that the Employer members and Government members had supported this idea. The Chairperson noted that although the suggestion for a working party was not in the Office paper, Committees of the Governing Body were not restricted to addressing matters referred to in papers prepared for them by the Office.

51. Following an adjournment, the Chairperson presented a proposal on the establishment of a working party on the revision of standards.

52. After a discussion, the Committee took the following decisions:

— in the light of the views expressed at the Committee's meeting during the present session of the Governing Body, the Committee decided to set up a working party;

— the Working Party was instructed to examine the questions regarding the revision of standards raised in document GB.262/LILS/3, in particular in paragraph 67, and to make recommendations to the Committee on them;

— the Working Party should also examine the question of the criteria that could be applied to the revision of standards;

— in view of the mandate foreseen for the Working Party and the considerations mentioned in the previous paragraph, the Working Party should comprise 16 Government members (four from each region), eight Employer members and eight Worker members;

— the Working Party would be chaired by a Government representative;

— meetings of the Working Party would be private.

53. The Committee requests the Governing Body to take note of the discussions on this item and to approve the establishment of the Working Party on Policy regarding the Revision of Standards referred to in paragraph
52 above, and requests the Office to assist the Working Party to carry out its mandate.

**Standard-setting policy: The promotion of basic human rights Conventions**

(Fourth item on the agenda)

54. In response to a request made by the Committee at its previous session, the Committee had before it a paper prepared by the Office.  

55. The Chairperson noted that the Committee did not have time to discuss the paper in substance at the present session. In order to avoid giving the impression that it did not attach great importance to the subject, it was proposed to hold a brief discussion of principle without entering into the substance. A full discussion would be held at the Committee's next meeting, in November 1995. Finally, she noted that related topics were being discussed elsewhere at the present session of the Governing Body in relation to the World Social Summit and the Working Party on the Social Dimensions of the Liberalization of International Trade.

56. The Employer members noted also that related subjects were being discussed elsewhere, but felt that the issue should be discussed fully at the present meeting. The subject would be discussed in detail at the next session, and possibly in a pre-sessional working party if one was created. The Employers intended to submit a document in November on the promotion of basic human rights, and on the possibility of giving assistance to governments encountering difficulties in implementing those rights, whether or not they had ratified the relevant instruments. They felt that the Office should go ahead with promotional activities without waiting for the full discussion. They did not like the term “campaign” in this connection, and emphasized the need to exercise strong coordination between headquarters and the multidisciplinary teams, recalling the discussion held in November 1994 which had indicated that the MDTs were not yet fully operative.

57. The Worker members considered that it was difficult not to discuss the substance of the paper, but gave their general impressions on it, voicing in particular their disappointment at its cautious approach. They supported the proposed Office campaign to promote the fundamental human rights Conventions that were within the mandate of the ILO. The Governing Body should give support to the creation of supervisory machinery in relation to these Conventions, analogous to the existing Committee on Freedom of Association. Paragraphs 1 to 3 of the paper unfortunately only recalled very generally the history of the debate. As to the key paragraphs 11 to 13, they did not represent an adequate response to the request made to the Director-General to put forth his views on the subject. The Workers were particularly disappointed that one of their proposals for promoting the fundamental human rights Conventions — that of a “World Charter of Workers’ Rights” — had been totally ignored in the paper. Referring to paragraph 11, they considered that the campaign should not be a low-key affair, but should have a high profile, adequate resources and a major public

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2 GB.262/LILS/4.
information effort. It was with this in mind that the Worker members had proposed, during the discussion of the draft Programme and Budget for 1996-97, an action programme for the promotion of human rights, and the campaign also fitted well with the parallel discussions in the Governing Body on follow-up action on the Social Summit.

58. The representative of the Government of the United Kingdom, speaking on behalf of the Government group and apologizing for not having been in a position to contact all the group's members on this matter, stated that governments attached great importance to the basic human rights Conventions, but given the tight timetable, it was impossible to enter into a full discussion of the paper at the present session. They nevertheless pointed out that the issues were also of interest to the Working Party on the Social Dimensions of the Liberalization of International Trade and in the context of the discussion concerning the follow-up on the World Social Summit.

59. The representative of the Government of Tunisia pointed out an error in the appendix to the paper: his country had in fact ratified Convention No. 29.

60. The Chairperson thanked the Committee for having progressed at least with initial statements on this item.

Cooperation with the United Nations in the field of human rights
(Fifth item on the agenda)

61. The Committee agreed to defer to the following session discussion of the paper which had been submitted, as it did not have time to discuss it at the present session.

The ILO and the Fourth World Conference on Women
(Sixth item on the agenda)

62. The Committee had before it a paper concerning the ILO and the Fourth World Conference on Women. The first part dealt with developments in the Office's preparatory activities since November 1994 and the second part with tentative elements for the ILO's interventions at the World Conference.

63. A representative of the Director-General (Ms. Zhang, Special Adviser on Women Workers' Questions) informed the Committee of developments that had occurred since the preparation of the paper. In particular, she drew attention to the ILO's participation in the recent session of the UN Commission on the Status of Women in New York, which had discussed the draft Platform for Action, to be adopted by the Fourth World Conference in Beijing. The Office had provided extensive comments on the draft with a view to ensuring the incorporation of the ILO's concerns. Copies of these comments had, for example, been circulated to a number of Government delegations at the Commission's session, who had referred to them in their interventions. The draft Platform would be finalized in Beijing. She also drew attention to the inter-agency collaborative efforts to organize special events together at the World Conference. The ILO, for

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3 GB.262/LILS/5.
4 GB.262/LILS/6.
example, would lead the inter-agency special event on rural women and would also participate in the events on human rights and women in the economy. Finally, she provided information on the recently approved ILO project, funded by the Government of the Netherlands, to train and disseminate information on women workers’ rights.

64. The spokesman for the Employer members regretted the fact that the draft Platform for Action and the Office’s comments on it had not been circulated to the Governing Body for examination. In this context, she referred to the request made at the last session of the Committee (in November 1994). The Office should follow the same procedure that had been adopted with respect to the World Social Summit in preparing its submission to the Fourth World Conference on Women. In the absence of this, ILO officials attending the UN preparatory meetings could not present the views of the Organization, but only of the Office. Regarding the document before the Committee, the Employer members agreed with most of the ILO’s preparatory activities described in section I. She requested information on whether the social partners had been among the participants in the training of trainers’ workshop on gender issues that had been organized in December 1994. Her group also wanted information on the ILO’s delegation to the World Conference. She queried the ILO’s planned involvement in the NGO fora, and wanted to know whether the social partners would be invited to such fora. In relation to paragraph 11, which highlighted some of the critical areas of concern in the draft Platform for Action, she was of the view that violence against women did not fall within the ILO’s mandate. Much of the document was too negative and did not adequately highlight the positive developments that had been achieved. She referred in particular to a statement in paragraph 13 that “… the issue of gender equality and the promotion of equality of opportunity and treatment between men and women in the world of work was as relevant today as it was ten years ago”: this might give the impression that in these ten years no progress whatsoever had been achieved; the first sentence in paragraph 16 that “equality of opportunity and treatment for women in employment has yet to be achieved anywhere”; the observation in paragraph 16 that women continued to be concentrated in a narrow range of occupations, skills and sectors; and the reference in paragraph 24 to the “deterioration of women’s working conditions” was also too negative and not in line with reality. She reiterated the Employer members’ criticism of affirmative action, mentioned in paragraphs 13 and 22 since men and women should be appointed only on the basis of merit. Regarding the last sentence of paragraph 15 on sexual harassment, she stated that employers should be added to the list of bodies that had taken action to address this problem. As regards the integrated strategy described in paragraph 19, the specific paragraph provided too long an agenda, and the ILO needed to focus on a few priority areas. With respect to the last sentence of that paragraph, regarding the strengthening of the roles of the relevant actors, she stressed that the ILO should confine itself to its constituents. Concerning “fuller democracy, poverty alleviation and improvement of working conditions and workers’ protection”, she thought that these objectives of the programme and budget were not specifically for women but were applicable to all groups; for instance poverty alleviation, which was examined in paragraph 23, was not peculiar to women. Legal measures alone could not change the world. Concerning follow-up on the Fourth World
Conference on Women (paragraph 12), she repeated her group's view that the ILO's role in follow-up on the World Conference should only be determined after the Governing Body had examined its results. She envisaged that most of the follow-up should be done at the national level, as had been observed with regard to follow up on the Social Summit.

65. The spokesman for the Worker members also expressed a wish for more information on the draft Platform for Action. Unfortunately, it did not seem that the ILO had been able to have much impact on the content of this draft. Freedom of association, health, safety and working conditions were elements missing from the draft Platform. In addition, of the 11 major topics, only one related directly to the world of work. Furthermore, he referred to Convention Nos. 100 and 111 and the information earlier provided by Ms. Zhang that these Conventions would be included in the revised draft Platform for Action. Regarding the document as a whole, especially paragraphs 10-26, the Office would not be able to cover all these topics in its statement to the World Conference due to the time allocated to each speaker. While the Fourth World Conference on Women and the Platform for Action to be adopted were important, the ILO's work on women should not be restricted to them alone: it should pursue its own objectives, including useful discussions on relevant action programmes in this sphere.

66. A number of governments expressed considerable satisfaction with the Office paper and support for the Office's preparations for the Fourth World Conference on Women. The representative of the Government of Tunisia described the paper as interesting and informative on developments since the last session of the Committee in November 1994. He thought, however, that the document should have also provided information on ILO activities regarding migrant workers and other vulnerable groups.

67. The representative of the Government of France endorsed the Employers' criticism concerning the ILO's preparations for the World Conference on Women, and requested that the constituents be mobilized to obtain their joint perspectives on it, as had been done for the Social Summit. In this connection, the ILO should make relevant arrangements, including the setting up of a working party that should meet at the next Governing Body session, immediately after the International Labour Conference in June 1995. The Office should prepare for the working party a proposal on what the ILO specifically expected from the World Conference.

68. The representative of the Government of China congratulated the Office on the excellent and concise document and expressed appreciation of its preparatory work for the Fourth World Conference. She drew attention to the importance her Government attached to the Conference. She supported the contents of the Office document agreeing that important positive changes had occurred, for example, in the fields of training, remuneration and the perception of women. However, much still needed to be done to achieve gender equality. Women were still confined to the traditional sectors and, with the recession there had been reduced employment opportunities for women. She emphasized the need for an integrated strategy and the ILO's role in the elaboration of such a strategy. In this connection, she referred to the ILO's tripartite structure, extensive knowledge and its current active partnership policy as being of considerable
relevance in the pursuance of such a strategy. A number of specific measures could also be taken within the framework of the programme and budget.

69. The representative of the Government of Sudan considered that the paper provided adequate information. He drew attention to the importance given by his Government to women and gender equality and the fact that it had established a special committee on this issue to prepare for the World Conference. He expressed considerable appreciation of the integrated strategy in paragraph 19 which covered all the essential elements. He requested that more emphasis should be given to employment development and poverty alleviation since women were more vulnerable in these spheres. He also emphasized the need to consider family responsibilities when discussing women's employment. He stressed that the World Conference would have very important results, and hoped that the ILO would play an important role in their follow-up.

70. The representative of the Government of Venezuela pointed to the many positive aspects of the Office document, including the fact that it provided self-criticism and portrayed the sad reality in terms of the problems women continued to face in the world of work. In this connection, he referred to the persistent problems highlighted in paragraph 16 and indicated the validity of the statement that “equality of opportunity and treatment for women and men in employment has yet to be achieved anywhere”. He gave examples of the tragic developments in this regard, such as the growth in prostitution in many parts of the world. Discrimination against women persisted. Furthermore, in his country, there had even been a decline in the number of women Members of Parliament. His country's delegation to the World Conference would therefore stress social issues regarding women. The implementation of the ratified conventions on equality should also be emphasized. He perceived the forthcoming World Conference in Beijing as providing a golden opportunity to examine the complex and dynamic situation of women. The ILO should play an important role in this to draw attention to discrimination against women at work such as in pay and working conditions. He called on the ILO to prepare a set of reports on these issues for the World Conference.

71. The Chairperson agreed with the view expressed by the Employer and Worker members that the terms of the draft Platform for Action and the Office's comments on it should be brought to the attention of the Governing Body. She explained that the Office had not been able to consult the tripartite constituents on it, since the draft Platform was received after the Governing Body session of November 1994. Regarding the objectives for the ILO's response as outlined in the Office document, the Office was right in focusing on them, since they reflected the objectives of the programme and budget. In relation to the questions raised about the participants in the training of trainers' workshop on gender issues mentioned in paragraph 5, she requested the Office to provide this kind of information on a regular basis in its reports on meetings organized.

72. Speaking as a representative of the Government of Canada, the Chairperson indicated, with reference to the Employer members' objection to the ILO's involvement with NGOs, that her Government's delegation to the Social Summit had included NGOs which covered representatives of workers' and employers' organizations as well as other groups interested in the subjects on the
Summit’s agenda. Since the NGO fora at the Fourth World Conference on Women would be covering a wide range of topics, including many of concern to the ILO, it would therefore be in the ILO’s interest to participate in them. This would also provide a good opportunity for the ILO to be better known to a wider public. Regarding Part 2 of the Office paper, she drew attention to the term “tentative” in the title which meant that the issues raised were not a final enumeration, but had been prepared by the Office in order to seek the Committee’s views. As regards the key areas of the Platform for Action, she pointed out that the list in paragraph 11 described the sum total of issues covered. While technically not all of them, such as the subject of violence against women, fell within the ILO’s mandate, they all had a direct or indirect impact on the status of women in the world of work. For example, sexual harassment was an integral part of violence against women. On the Employer members’ criticism of affirmative action she pointed out that there appeared to be a confusion between affirmative action and the merit principle. She stressed that affirmative action was aimed at correcting imbalances resulting from past discriminatory practices and at removing the obstacles faced by vulnerable groups and to provide them with opportunity. It was not contradictory to and did not conflict with the merit principle, since the objective was to increase opportunities for qualified people from groups disadvantaged by discrimination in the past. She agreed that employers should be added to the list in the last sentence of paragraph 15 but governments should also be included. With reference to the first sentence in paragraph 16, she observed that, while there had been considerable progress for women, no one could state with credibility that the objective of equality of opportunity and treatment for women and men in employment had been fully attained. There were indications that the globalization of the economy and other changes were having a more adverse impact on women than on men. She suggested that the first statement in paragraph 16 might read “equality of opportunity and treatment for women and men in employment has not yet been fully achieved anywhere”. As regards the integrated strategy, she pointed out that paragraph 19 was intentionally exhaustive, since it provided a diagnosis of the measures required. The paragraph should not be interpreted to mean that the ILO should cover all the measures specified.

73. The Chairperson, summarizing the discussion, said that a proposal concerning the ILO’s position on the Beijing meeting should be submitted to the next Governing Body session, following the International Labour Conference in June 1995. The Governing Body would also consider, at that session, the composition of the ILO’s delegation to the Fourth World Conference on Women.

ILO activities in the occupied Palestinian territories
(Seventh item on the agenda)

74. The Committee had before it a document 5 on ILO activities in the occupied Palestinian territories.

75. The Employer members welcomed the information contained in the document, and especially the fact that additional resources had been allocated to

5 GB.262/LILS/7.
these activities out of the 1992-93 regular budget cash surplus. They took note of the activities referred to in paragraph 13 of the document with respect to the rehabilitation and reintegration of ex-detainees, and considered there were a number of other countries with the same problems for which such an objective might be relevant. They supported the capacity-building in the Palestinian Chambers of Commerce and Industry, referred to in paragraph 18, which was the only aspect of the activities that concerned the employers—except for integrated small-enterprise promotion at the Chamber of Commerce, mentioned in paragraph 20, which would be financed out of extra-budgetary resources.

76. The Worker members expressed their appreciation of the ILO's efforts and role in the occupied Arab territories and had accordingly endorsed the proposal to allocate additional resources for stepping up the campaign against unemployment and poverty and contribute to the region's development. Any improvement in the standard of living of Palestinians would help consolidate peace in the region. Paragraph 4 of the document identified the necessary bases for creating employment so as to foster the economic and social progress that was needed in these territories. They mentioned the signing in March 1995 of a cooperation agreement between the Histadrut and the Palestinian General Federation of Trade Unions (PGFTU).

77. The representative of the Government of Tunisia expressed his Government's appreciation of the information contained in the document, which the Committee had called for at its previous session. With regard to technical cooperation in the occupied territories, the Office's efforts, as well as those of the donor organizations and countries that had made a financial contribution and participated in its activities, deserved to be recognized. Technical cooperation should be reinforced so that it could make a real contribution to the peace process. Paragraph 24 of the document referred to the considerable need for technical assistance in the territories, and the ILO's regular budget financing should therefore be stepped up accordingly; Tunisia had submitted a request to this effect to the Programme, Financial and Administrative Committee. The Memorandum of Understanding that had been signed between the PLO and the ILO contained 30 draft projects for meeting priority needs which could not be carried out because of budgetary constraints. With regard to the aspects of the situation concerned with discrimination, the speaker observed that the document contained no information on the subject. He also emphasized the dramatic consequences of the closing of the occupied territories to Palestinian workers, especially the resulting increase in unemployment that now stood at around 30 per cent on the West Bank and 60 per cent in the Gaza Strip and meant a daily loss of earnings for the population of US$1 million. Palestinian workers who had been employed in Israel were now being replaced by workers from other countries. The Government of Tunisia asked for information on ILO activities aimed at easing the impact of this situation on Palestinian workers.

78. The representative of the Government of Qatar thanked the Office for the information in the document and for its activities on behalf of Palestinian workers in the occupied Arab territories. He recalled the suffering of the Palestinian people and thanked the donor countries, while expressing the hope that
technical cooperation would be stepped up and would make a positive contribution to the peace process.

79. The representative of the Government of China endorsed the views expressed by the representatives of Tunisia and Qatar, and congratulated the Office on its activities in this field. She felt that, though there had been some promising changes in the situation, there was still much to be done to improve the living and working conditions of Palestinians. The ILO's technical cooperation should therefore be strengthened, as suggested in the document.

80. The representative of the Government of Egypt was convinced of the importance of the work carried out by the ILO in the occupied Arab territories. He stressed the need to increase extra-budgetary resources, and hoped that the contacts that had already been made would make it possible to step up technical assistance. Regarding the proposal to create a Ministry of Labour and Vocational Training, he considered that $406,000 in financial assistance was inadequate; he emphasized, however, that a project of this nature could have a catalytic effect on the other countries.

81. The representative of the Government of Nicaragua referred to the activity related to the rehabilitation and reintegration of ex-detainees, referred to in paragraph 13, and expressed the view that this project should go hand in hand with financial assistance for individuals and States that had been involved in the war. He recalled that peace and social justice were part of the philosophy of the ILO and of the United Nations and that there could only be a transition to democracy if there was adequate employment for workers. He expressed his concern at the unemployment rate in the occupied territories and hoped that the additional resources of $900,000 would make it possible to bring about a social environment that was satisfactory to the Palestinians.

82. The representative of the Arab Labour Organization (ALO) agreed with the views of the previous speakers and considered that, whatever the resources allocated for activities in the occupied Arab territories, the projects carried out could not fail to be beneficial and were the outcome of the request voiced by the International Labour Conference in its 1980 resolution. He hoped that new activities would be developed so that, when the time came, the Palestinians would be able to cope with the post-occupation period. He regretted that the document did not mention the infringement of human rights and discriminatory practices from which the Palestinian workers suffered; he would have liked to have had some information on the living and working conditions of these workers. He asked for information on the mission that the Director-General would shortly be sending to the occupied Arab territories to prepare his report to the Conference.

83. The representative of the Government of Sudan, while congratulating the Office on its efforts, stressed the need to step up technical assistance to the Palestinians and to increase the budget in this respect. The Palestinian people should be able to exercise their right to work and not be prevented from doing so by the sealing off of the territories by the Israeli army.

84. A representative of the Director-General (Mr. Dajani, Assistant Director-General responsible for ILO activities in the Arab States) thanked the speakers for their support. A comprehensive programme had been prepared for employers with a view to improving the capacity and structure of chambers of
commerce; part of this project would involve the creation of a network for them to exchange information. A similar project would be undertaken for the workers. Both projects had been designed in collaboration with Palestinian counterparts and were designed to meet their priority needs. The speaker recognized that financing was still a problem, but said that the extra-budgetary resources obtained had been allocated directly to the Palestinians; some of these had been used by the Office for ex-detainees. Various ILO activities to be carried out jointly with the ALO would be considered. He emphasized that employment was a crucial issue, that efforts had been made to launch labour-intensive projects and that interested donor countries had been contacted.

85. The Committee took note of the document and of the information provided in the course of the discussion.

Developments in South Africa and implementation of the ILO Plan of Action in South Africa
(Eighth item on the agenda)

86. The Committee had before it a paper on this subject, requested by the Committee at its previous session.

87. The representative of the Director-General (Mr. Mabere, Assistant Director-General responsible for ILO activities in Africa) reminded the Committee that at its previous session the Governing Body had asked for more details on action taken by the ILO after the elimination of apartheid. He stated that the ILO's main objective in South Africa was to help create an enabling environment that would help that country tackle the legacy of apartheid. It was important for the ILO to recognize that it was dealing with a country which was very conscious of having regained its international democratic status and was eager to be fully consulted and involved in all its dealings with the ILO and other international organizations. This need for consultation explained the delay in taking action as rapidly as it would otherwise be desirable.

88. At its previous session the Governing Body had specifically requested more information on the International Donor Conference on South Africa's Reconstruction and Development Programme (RDP) held in Cape Town from 26 to 28 October 1994. This information was provided in paragraphs 11 and 12 of the document before the Committee.

89. Similarly, the information requested on the new labour legislation and the Office's assistance in drafting the legislation was provided in paragraph 8. The new draft labour law had been published in February 1995, and a senior representative of the Director-General had participated in its launching. The draft law was now being widely discussed in the country, and it was hoped that Parliament would enact it late in 1995 or in early 1996.

90. The ILO had undertaken various activities in the context of implementing the Plan of Action. Paragraphs 3 and 4 of the report showed how the Salaried Employees and Professional Workers Branch (TRAVINT) and the Turin Centre had provided technical assistance to the South African Public

6 GB.262/LILS/8.
Service Training Institute (PSTI) in human resources management in the public sector. The Bureau for Workers' Education (ACTRAV) had planned a large programme to help and facilitate debate on the new draft labour legislation for the three major trade unions. The Bureau for Employers' Activities (ACT/EMP) was putting together a programme to assist black business organizations. Furthermore, ACT/EMP was endeavouring to reconcile the differences between Business South Africa (BSA) and one of the black employer affiliates which had withdrawn its membership.

91. Mr. Mabere revealed that negotiations for the opening of an ILO office in South Africa were well advanced, and an agreement to set it up was likely to be signed before the June Conference, with the office possibly opening later in 1995.

92. The Employer members had read the report with interest and expressed satisfaction that the South African constituency had been consulted and involved with TRAVINT and the Turin Centre. Revision of the labour law, now being discussed in the country, was a welcome step forward. The outcome of the donor conference represented a variety of activities that could be undertaken by the ILO in South Africa. They pointed out that a second donor conference was planned which could be a pledging conference. They supported the proposed development of a comprehensive labour market policy for South Africa (paragraph 14) as an important instrument of social policy. The Employer members were happy that, since the November meeting of the Governing Body, implementation of the ILO Plan of Action had taken shape, and they looked forward to the opening of the ILO Office in South Africa. They complimented the Office on the work done since the last report and over the years.

93. The Worker members felt that the paper was more a report on activities than on the implementation of a plan of action. They regretted that it did not provide enough information on future ILO activities in South Africa. They had expected information showing a comparison of what was envisioned in the Plan of Action, with what was actually done or accomplished, and an explanation of why certain things had not been done. They asked the Office to pursue vigorously the Plan of Action. They welcomed the fact that soon an ILO office would open in South Africa, and hoped that the ILO would continue the implementation of the Plan of Action with emphasis on the promotion of tripartism and collective bargaining, job creation and vocational training. They hoped that finances and coordination would be available to the departments to enable them to provide technical cooperation to assure the successful implementation of the Plan of Action. They hoped that a document would be submitted to the next session comparing what was envisioned in the Plan of Action with what had actually been accomplished.

94. The representative of the Government of Germany was pleased with the progress that had been made in South Africa, and in particular welcomed the energetic involvement of the ILO. He pointed out that the German Government had also cooperated with the South African Government in the new draft labour legislation.

95. The representative of the Government of Venezuela expressed satisfaction with the report, and congratulated the ILO on its long and
praiseworthy involvement against apartheid, which had resulted in the election of the Mandela Government. He supported the suggestion of the Worker members to prepare a report which documented all the important stages of ILO work and the implementation of the Plan of Action in South Africa.

96. The representative of the Government of Tunisia, speaking as Chairman of the Organization of African Unity (OAU) and on behalf of the African group of the Governing Body, complimented the Office on the report, and thanked Mr. Mabere for the information he had provided. The opening of an Office in South Africa would strengthen the ILO's work in the country, and he hoped it would get all the support it needed.

97. The representative of the Government of the United Kingdom praised the work done and the progress achieved by the ILO in South Africa. In particular, he welcomed the ILO's success in securing bilateral aid for South Africa in small-scale enterprises (paragraph 5) and noted that his Government was currently discussing with the ILO the United Kingdom's potential involvement in Improve Your Business (IYB) projects in South Africa.

98. The Chairperson gave the floor to an observer representing the Government of South Africa, who considered that the document had understated the ILO's work in the area. The ILO had provided US$1 million in strategic assistance to South Africa within a year. The assistance the ILO had given to the Ministry of Public Administration had come at a crucial time when it was being threatened by a strike that would have crippled the Ministry. Fortunately, the strike had been avoided because of timely ILO assistance. He also noted that the first Presidential Commission appointed had been on labour market policy, illustrating the importance of the areas in which the ILO was engaged. He was, however, concerned that the ILO Office in South Africa might not have enough resources to carry out its work efficiently.

99. The representative of the Organization of African Unity congratulated the ILO on its report. The ILO Office in South Africa would cover four other countries in the region, and hoped that it would be sufficiently financed to enable it to fulfil its obligations.

100. The Chairperson expressed in conclusion the collective appreciation for the ILO's efforts in South Africa and for the multilateral aid that was being extended to the country. She reminded the Worker members that in November 1994 it had been agreed that the present report would be the Office's last report to the Committee on the subject. She understood the Worker members' wish for a document comparing what was in the Plan of Action and the work actually done, but nevertheless believed that South African matters should henceforth be dealt with in the Committee on Technical Cooperation of the Governing Body.

101. The Worker members noted the assurance that the Office would prepare such a document for the Committee on Technical Cooperation.
102. The Employer members, noting the Office paper which summarized the report of the Sixth Ordinary Session, were surprised to note that a special monitoring mechanism existed for a non-binding Recommendation. They nevertheless noted declining teachers' morale, which was highlighted in paragraph 5 of the paper, to which might be added the violence that teachers increasingly faced. The statement in paragraph 11 that few women held positions of responsibility was perhaps too general. It was appropriate to integrate follow-up work with the multidisciplinary teams, but the Office should be careful to note the limited resources of the teams. The Employer members supported the point for decision in paragraph 16.

103. The Worker members drew attention to the lapse of time between the submission of an allegation and its examination by the Joint Committee. They hoped that measures to improve its working methods with regard to allegations would streamline and speed up the process. They noted the Joint Committee's reaffirmation in paragraph 6 of the paper of the Recommendation's principles and its view that no revision should be undertaken for the moment. The observation in paragraph 8 concerning the inadequacy of actual consultation and collective bargaining mechanisms in many countries was particularly significant. The Worker members supported the recommendation contained in Annex 2 of the Joint Committee's report calling for the ILO to promote awareness of the 1966 Recommendation by means of a partnership strategy, as well as the point for decision in paragraph 16 of the Office paper.

104. The Committee accordingly recommends that the Governing Body —

(a) take note of the report on the Sixth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers;

(b) authorize the Director-General to communicate the report to the governments of member States and, through them, to the employers' and workers' organizations concerned, and to invite them to continue and to intensify their efforts to apply all provisions of the Recommendation, notably in relation to the message on the occasion of International Teachers' Day which is contained in Annex 4 of the report;

(c) authorize the Director-General to communicate the relevant part of the Annex containing the Joint Committee's analyses of the allegations before it to the Governments of Albania, Colombia, Ethiopia, Panama and Portugal and to the teachers' organizations concerned and, where appropriate, to take the necessary follow-up action, as recommended in the report;

7 GB.262/LILS/9.
(d) authorize the Director-General to communicate the message contained in Annex 4 to the competent bodies of UNESCO for transmission to the 45th Session of the International Conference on Education;

(e) forward the report to the International Labour Conference at its 82nd Session (June 1995) for examination in the first instance by the Committee on the Application of Conventions and Recommendations;

(f) request the Director-General to take into consideration, where appropriate in consultation with the Director-General of UNESCO, the Joint Committee’s conclusions and proposals for future action by the ILO and UNESCO contained in paragraphs 102-111 of its report, in planning and implementing future ILO activities, due account being taken of available resources.

UNESCO draft recommendation concerning the status of higher education teaching personnel
(Tenth item on the agenda)

105. In view of the information supplied in paragraphs 3 and 4 of the Office paper,8 concerning the failure by UNESCO to take account of all of the Office’s recommendations and the questions of overlapping competence, the Employer members could not support the point for decision as there was no indication as to the basis for taking the decision. They needed at least a copy of the draft recommendation before taking a decision. They proposed to postpone further consideration of this item until the November 1995 Session, at which time the Office should submit the draft text to the Governing Body.

106. The Worker members were deeply concerned that, in spite of the Office’s efforts, it had not been possible to sufficiently influence the content of the draft text on issues within its competence, and particularly matters related to international labour standards. As a result, there was a danger that the content of the Recommendation might be in conflict with those standards. Furthermore, they were concerned not only with UNESCO’s failure to take account of all suggestions by the Office, but also with the absence of any supervisory mechanism to monitor any new instrument. They would have preferred a joint ILO/UNESCO instrument. The Office should closely follow further developments, and the Worker members should be directly involved in monitoring the new instrument, and not excluded as was at present the case with regard to the 1966 Recommendation. The separate actions envisaged in the point for decision (paragraphs 6(a) and (b)) should logically be pursued together. The Worker members approved the point for decision.

107. The representative of the Government of Nicaragua noted that the changes in the labour laws of many countries in Central America could give rise to confusion over interpretation if competences overlapped between the ILO and UNESCO, as suggested in paragraph 4 of the paper, and the ILO was not clearly involved in the new instrument’s monitoring. He therefore supported the position of the Employer members.

8 GB.262/LILS/10.
108. The representative of the Government of France emphasized that the ILO would lose the opportunity to influence future developments if it did not take measures now concerning the question of supervision of the proposed new instrument.

109. A representative of the Director-General informed the Committee that, since the submission of the paper, UNESCO had altered its procedure. The draft text of the Recommendation would now be sent to its member States for consultation, followed by consideration of a revised text by a UNESCO Committee of Experts in 1996. The ILO would be invited to the experts meeting as an observer. It was important at this stage for the Governing Body to indicate what direction the Office should take with regard to the question of monitoring.

110. On a proposal by the Chairperson, it was agreed to authorize the Office to continue discussions with UNESCO with regard to the content of the draft Recommendation and to explore ways and means to ensure its monitoring. A decision on these matters should be taken by the Governing Body at its November 1995 Session, on the basis of a new paper submitted by the Office along with the revised text of the draft Recommendation.

111. The Committee accordingly recommends that the Governing Body —

(a) authorize the Office to continue consultations with UNESCO on the draft Recommendation concerning the Status of Higher Education Teaching Personnel, and on ways and means to ensure its monitoring;
(b) decide at its November 1995 Session what further course of action to take on the basis of a paper submitted to it by the Office along with the text of the draft Recommendation.

Report of the Symposium on the Role of Workers’ Education in the Promotion of Trade Union Rights
(Eleventh item on the agenda)

112. The Committee had before it a paper introducing the report of the meeting appended to it.

113. The Committee recommends that the Governing body take note of the report and that it request the Director-General to take its conclusions into account in implementing future programmes of activity.


Points for decision: Paragraph 53; Paragraph 104; Paragraph 111; Paragraph 113.

9 GB.262/LILS/11.