FIFTH ITEM ON THE AGENDA

Report of the Working Party on Policy regarding the Revision of Standards

I. Introduction

1. In accordance with the decision taken by the Governing Body at its 264th Session (November 1995), the Working Party on Policy regarding the Revision of Standards met on 18 March 1996 under the chairmanship of Mr. Cartier (Government, France). The Employer and Worker Vice-Chairmen were Miss Hak and Mr. Parrot, respectively.

2. The Chairman recalled that the second meeting of the Working Party was an extension of the first, held in November 1995, and that the aim of the Working Party was to make the body of international labour standards more operational and readable. At its previous meeting, it had been decided to exclude from revision the six basic human rights Conventions and the four other priority Conventions. The Office was also requested to prepare two documents: the first would analyse, on the basis of Annex II of document GB.264/LILS/WP/PRS/1, the situation of Conventions which had not entered into force, been denounced or had received few ratifications and were more than ten years old; whereas the second would examine possibilities of abrogation from a standpoint of legal theory.

3. The Chairman noted that these two documents were closely linked. As regards the Conventions which might be classified as obsolete, the first document proposed specific solutions that would be immediately applicable — albeit interim; these would consist of leaving dormant or shelving these Conventions, whilst awaiting a legal mechanism — as proposed in the second document — which would put an end to their legal effects and existence. He pointed out that the Working Party had a historic opportunity to make in-depth reforms to ensure the sound functioning of the standard-setting system as a whole and to improve the Organization’s image vis-à-vis the outside world, and he invited its Members to have confidence in the future. He proposed that the Working Party should start by examining the document concerning the abrogation/termination of international

---

1 GB.265/LILS/WP/PRS/1.
2 GB.265/LILS/WP/PRS/2.
labour Conventions, as one of the three groups had not had the time to examine
the document GB.265/LILS/WP/PRS/1.

II. Abrogation/termination of international
labour Conventions

4. At the Chairman’s request, the Legal Adviser summarized the document
concerning abrogation and underlined its purpose, approach and conclusions. The
purpose of the document, as requested by the Working Party at its previous
meeting, was to examine the way to put an end to all the legal effects of a
Convention, it being understood that these effects were of two kinds: obligations
of a procedural nature (Article 22 of the Convention) which might be legally
settled by leaving a Convention dormant, and basic obligations, making the
member States having ratified a Convention accountable for its application (also
in accordance with articles 24 and 26 of the Constitution) — for which there was
not as yet any solution. As concerned the approach of the document, the Legal
Adviser stressed that solutions were being sought which would breathe new life
into and strengthen the standard-setting system of the ILO. It was for this reason
that it seemed appropriate to recall the legal theory behind the limit of the
Conference’s power in this respect, in order to avoid adopting by oversight or
inadvertently solutions which might undermine the consistency and soundness of
the system as a whole instead of strengthening it. Finally, as regards possible
solutions, the document showed that under the present constitutional system, and
in line with its practice, the legal effects of a Convention could only be totally
eliminated by a combination of two actions: one with respect to the effects, which
set out to nullify the obligations already deriving from the Convention and to step
up the “exit” procedure in force; the other to sterilize the Convention as a source
of obligations, in other words to close it to further ratifications, either my means
of an act contraire, or by a “killer Convention”, given the specific difficulties that
had arisen in the case of Conventions pre-dating 1929. To avoid the complications
and vicissitudes inherent in the combination of these two actions, the document
envisaged the solution of a constitutional amendment which would give the
Conference the power to nullify simultaneously the obligations deriving from a
Convention and the Convention classified obsolete itself, by a two-thirds majority
decision — or by a higher majority. Such a decision would be taken on a case-by-

5. The Employer Vice-Chairman, noting that the option referred to in
footnote 11 of document GB.265/LILS/WP/PRS/1 was not contained in the
present document, expressed her group’s preference for the constitutional
solution, on condition that the decision relating to the abrogation of a Convention
was taken by consensus. They were aware however that (noting that the
Instrument for the Amendment of the Constitution had not yet entered into force)
the adoption of a constitutional amendment was a lengthy process that would
require, for its entry into force, a two-thirds vote by the Conference and
ratification by two-thirds of the member States, including five of the Members of
chief industrial importance. A decision to amend the Constitution would be a
decision of major importance for the future and should be taken in full awareness of its consequences. In particular, while the Employers were in favour of “tidying up”, this would have required certain questions to be resolved in advance. The first was to determine how Conference delegates who were not fully aware of all the legal aspects could put an end to a ratification by a government, approved by its parliament according to national procedures, thereby bypassing decisions of parliaments. While national parliaments must approve ratification of amendments to the Constitution, their approval would also be necessary to give effect to a case-by-case decision on abrogation in order to alter the international and national obligations of member States. Another aspect was the period of 12 months for “opting out” would probably not be sufficient in view of the procedures required at the national level. Furthermore, the Employers wondered whether opting out was a good solution, since the application of that possibility could detract from the effects of abrogation. The third question concerned the two-thirds majority necessary to decide to abrogate a Convention. This would imply that two groups could join forces and impose their decision on the third. This would be unacceptable as far as freedom of association or collective bargaining were concerned. In conclusion, if the work of the Working Party was to be useful, any decision deriving from it would have to be taken by consensus.

6. The Worker Vice-Chairman also recalled that the Working Party had been set up to examine the revision of standards, with a view to reviving and strengthening the standard-setting system. The Workers had pointed out that the work of the Party should be carried out alongside the elaboration of new standards, the promotion of human rights and the strengthening of the supervisory system of basic Conventions, and should not aim to weaken the Conventions. The abrogation of Conventions might also help to breathe new life into and consolidate the system, since doing away with obligations that no longer had any value would contribute towards strengthening the credibility and relevance of other Conventions as well as the clarity and cohesion of the standard-setting body as a whole. Agreeing with the Employers on this point, the Workers were of the opinion that no system of abrogation could be applied without a consensus. Before analysing the various options contained in the Office document, the Worker Vice-Chairman pointed out that this discussion on techniques did not constitute a value judgement on the pertinence of Conventions which should be examined on a case-by-case basis. The conclusion of his analysis was that it seemed that the constitutional amendment was the only option liable to offer a solution to the problem as a whole. However, a Convention could only be abrogated if all the parties acknowledged that it had lost its raison d’être and not merely because its abrogation suited a particular government. The Workers were concerned about Conventions which might be borderline cases as to their obsolete nature. It was therefore important that this option should be accompanied by guarantees and safeguards, which should be specified in the Office document submitted to the Working Party at the next meeting. The Vice-Chairman also asked that the question of procedures should be added to those examined in the document. He also pointed out for information purposes that his group was totally opposed to the approach mentioned in footnote 11 of the document under discussion. He also wondered how a Convention could be considered as obsolete if a party felt that
it was not, and reiterated that the Workers wished to have the guarantee that the
abrogation of a Convention would only take place after a consensus to this effect.

7. The Government representative of Indonesia stressed the need to take into
account the implications that each of the solutions might have at the national level
and to avoid, as far as possible, any additional complication of the procedures.
From this standpoint, she was in favour of the second solution (constitutional).

8. The Government representative of Norway was also in favour of the
option of the constitutional amendment because it was the most straightforward.
However, he noted that there was still a series of problems that should be
examined in depth. In addition to the problems raised by the Employer members
concerning the role of parliaments, the matter of delegating authority to the
European Union might also be raised.

9. The Government representatives of Chili, the Russian Federation and the
Islamic Republic of Iran also came round in favour of the constitutional solution
after having acknowledged its advantages in terms of clarity and simplicity. They
nevertheless expressed reservations as to the need of a consensus as a means of
decision-taking. They felt that a decision taken on the basis of a two-thirds
majority — and particularly if it was a higher majority — would be sufficiently
representative of the Organization’s opinion concerning the intrinsic value of a
Convention or its up-to-date nature. If the Conference could only act on the basis
of a consensus, this would be tantamount to allowing one delegate to exercise, for
reasons which had nothing to do with the value of a Convention, a right of veto
which was not in accordance with democratic practices.

10. Furthermore, the representative of the Government of Chile stressed the
opportunity provided to the Organization by the revision work undertaken by the
Working Party, by placing at its disposal instruments allowing it to adapt to
change and centre its standard-setting activity on the social and economic
problems of today’s world.

11. As concerned more particularly the guarantees required by the non-
governmental groups, the representative of the Government of the Russian
Federation recalled that the issue here was to envisage only the mechanism to
abrogate Conventions considered obsolete — in other words those that had
become meaningless and were no longer applied at the national level — but not
the fundamental Conventions. In his opinion, the system envisaged provided
enough guarantees against the possibility, moreover highly unlikely, of an
untimely or extreme decision, given that any decision had to filtered at various
levels — that of the Governing Body by consensus or majority, then that of the
Conference with a new vote with a strengthened majority — before being able to
take effect. As to the matter of parliamentary intervention, he considered that this
was not a real problem. A decision by the Conference was a decision taken at
international level aimed at the Organization itself and the role of States was to
draw consequences at the national level, according to the procedures specific to
each system.

12. The Government representatives of the United States and Australia also
expressed their preference for the constitutional solution, which would, as far as
past instruments were concerned, offer a solution to the problem of Conventions
considered obsolete and, for the future, provide the Organization with a simple
and efficient system of abrogation. They felt that at this point of the discussion a choice should be made between the alternatives envisaged in order to continue this examination in more detail. The technical methods governing the implementation of the option selected should therefore be the subject of a new Office document which would serve as a basis for future discussions of the Working Party.

13. Speaking in his capacity as Government representative of France, the Chairman also supported the solution of the constitutional amendment and expressed his confidence as to the guarantees provided by the envisaged system of abrogation. He saw no reason why the Conference, which adopted Conventions without the intervention of parliaments, should not by itself abrogate a Convention without national parliaments having to reach a decision beforehand.

14. Replying to the doubts expressed concerning the implications of the constitutional solution, the Legal Adviser pointed out that they should be assuaged in the proposals of the solution itself, given that any constitutional amendment must necessarily be submitted to the parliaments of the member States and that their acceptance of the amendment would in fact presuppose that they accepted in advance that the Conference be entrusted with the power to decide, in conditions providing all the necessary safeguards, the abrogation of Conventions that it agreed to consider obsolete. The inclusion in the document of a reference to the possibility of opting out would also allow account to be taken of the misgivings or hesitations of Members wishing to continue to be bound by a Convention, notwithstanding the decision of the Conference to abrogate it. The Employer Vice-Chairman felt, however, that the case of abrogation was not analogous to that of adoption.

15. With regard to the proposed solutions, the Working Party expressed its preference for the constitutional option.

16. The Working Party therefore invites the Committee on Legal Issues and International Labour Standards —

(a) to take note of this part of the report;
(b) to request the Office to prepare, for the next meeting of the Working Party, a detailed document that should address the procedural aspects, the necessary safeguards and the various problems related to a constitutional amendment on the abrogation or termination of obsolete international labour Conventions; on the basis of this document, the Working Party could continue its work.

III. Examination of the least-ratified and dormant Conventions

17. The Chairman submitted to the Working Party the Office paper on the least-ratified and dormant Conventions (GB.265/LILS/PR/PRS/1). This study, which was requested by the Working Party, examined in detail the Conventions which had not entered into force, had been left dormant or had received few ratifications that were listed in Appendix II of the November 1995 paper (GB.264/LILS/PR/PRS/1), with the exception of the Conventions concerning seafarers which the Working Party agreed to deal with separately because of their
specific nature. The 41 Conventions examined in the paper make up 24 per cent of all ILO Conventions. They were examined one by one, with an indication in each case of the ratification status of the Convention, of any decision already taken by the Governing Body to leave it dormant, and of any comments that the Committee of Experts may have made on the subject. In addition, the paper drew attention to instances where Conventions had been revised by the Conference and to observations that may have been made by the 1979 and 1987 Working Parties on International Labour Standards. Finally, the Office made a variety of specific proposals or suggestions for each Convention, including a new proposal, that of "shelving" certain Conventions. He invited the Office to explain the various types of measure proposed before moving on to an examination of the Conventions one by one.

18. At the request of the Chairman, the representative of the Director-General mentioned that the Working Party was called upon first of all to identify Conventions that needed revising. In the paper before it, however, there were only three Conventions that the Office proposed or suggested might be revised. This rather small number was due principally to the fact that 17 of the 41 Conventions had already been revised and that six others revised earlier Conventions. The paper also contained proposals that did not call for much discussion, such as the maintenance of the status quo which was the case for two Conventions. Other proposals involved seeking more information and identifying the obstacles and difficulties encountered with the ratification or application of certain Conventions before the Working Party decided whether or not they needed to be revised. Five fairly recent Conventions were in this situation.

19. Three other types of measure contemplated in the document called for some explanation: leaving a Convention dormant, shelving a Convention, and shelving a Convention with its possible subsequent abrogation by the Conference. Leaving a Convention dormant was a practical measure that had been previously adopted by the Governing Body in 1985-86 under article 22 of the Constitution for Conventions that it considered no longer relevant. Twenty Conventions could thus be left dormant. The document proposed that three additional Conventions be left dormant as a follow-up to the measures taken in 1985-86. Shelving was a new category that would entail both leaving a Convention dormant and ceasing to publish it in the Office's documents, studies and research papers. This new category was justified by the fact that the Governing Body's decision to leave certain Conventions dormant did not mean stopping their ratification. In the case of some Conventions, new ratifications had been registered after they had been left dormant in 1985, which was not very logical. Shelving Conventions that were clearly obsolete would make it clear to the member States, to the multidisciplinary teams and to the Office as a whole that their ratification should no longer be encouraged. Moreover, the standard-setting system would make more sense if certain Conventions were shelved. The fact that Conventions left dormant continued to appear in the list of ratifications and in other ILO publications did not help to make the system more coherent. Twenty-eight of the 41 Conventions

3 The 20 Conventions currently considered as falling in this category are Nos. 15, 20, 21, 28, 34, 35, 36, 37, 38, 39, 40, 43, 48, 49, 50, 64, 65, 67, 86 and 104.
examined in this paper could thus be shelved. Finally, it was proposed that some Conventions that were both obsolete and virtually unratified be both shelved and possibly abrogated. Nine Conventions were concerned by this proposal, including five that had never entered into force and two that had only been ratified by one country. These Conventions would be suitable candidates for possible abrogation along the lines discussed by the Working Party at the start of its meeting, on the understanding that the proposed list was not restrictive and that the Working Party could either shorten it or lengthen it at its discretion.

20. The Employer members considered that the Office paper provided a very good, pragmatic and concrete examination of each Convention and was an adequate response to the request expressed by the Working Party in November 1995. They emphasized that the substance of the document was to be found in paragraph 6, which listed the various types of measures proposed. They felt that the idea of making separate proposals for each Convention was an excellent means of cleaning up the long list of Conventions.

21. The Worker members emphasized the considerable work that examining the 41 Conventions entailed and that this showed the Working Party's determination to move ahead and find solutions. They observed that the discussion of the Conventions in the paper dealt not with their substance or content but rather with the situation in which they found themselves. Should the Working Party agree to the shelving of certain Conventions together with the promotion of updated standards, the Worker members felt it important that the steps taken to promote the ratification of such Conventions be followed up and that the Office keep the Working Party informed of its initiatives and of the results achieved.

Conventions that have not entered into force

C.31 Hours of Work (Coal Mines) Convention, 1931
C.46 Hours of Work (Coal Mines) Convention (Revised), 1935
C.51 Reduction of Hours of Work (Public Works) Convention, 1936
C.61 Reduction of Hours of Work (Textiles) Convention, 1937
C.66 Migration for Employment Convention, 1939

22. Regarding the five Conventions that had not entered into force, the Employer members expressed their agreement with the Office's suggestion that they be shelved and possibly abrogated by the Conference. The Worker members indicated that they had no objection to the Office's proposal that the Conventions be shelved or even to their possible abrogation. The representative of the Government of Norway supported the statements made by the two other groups.

23. The Working Party therefore proposed:
(a) shelving Conventions Nos. 31, 46, 51, 61 and 66 referred to above with immediate effect;
(b) inviting the Governing Body to draw the attention of the States parties to Conventions Nos. 31 and 46 to the possibility of requesting the cancellation or withdrawal of the registration of their ratifications;
that the Working Party (or the LILS Committee) re-examine the status of these five Conventions in due course, with a view to their possible abrogation by the Conference.

Analysis of past denunciations

C.20 Night Work (Bakeries) Convention, 1925

24. The Worker members agreed with the proposal that this Convention be shelved. Since its shelving entailed inviting the States parties to Convention No. 20 to ratify the Night Work Convention, 1990 (No. 171), they insisted that they should subsequently receive a report on the steps taken to promote the latter’s ratification. The same applied to other similar cases that would be examined later. The Employer members also indicated that they could accept the Office’s proposal, even though Convention No. 171 was more general in scope than Convention No. 20.

25. The representative of the Government of Australia commented on the wording of paragraph 6(b) of the Office’s proposals. He considered that member States should not feel obliged to ratify Convention No. 171 in order to denounce Convention No. 20 and therefore proposed that the text of paragraph (b) be modified accordingly.

26. The Employer members said that they could accept this proposal. The Worker members were opposed to such a modification inasmuch as the Working Party was concerned not with promoting the denunciation of Conventions but rather with the ratification of updated or more relevant Conventions.

27. The representative of the Government of Mexico agreed with the notion that ratification of Convention No. 171 should not be linked to denunciation of Convention No. 20. The representative of the Government of Chile found it very appropriate that Convention No. 20 should be denounced and ratification of Convention No. 171 encouraged at the same time, as the Office proposed.

28. The Employer members pointed out that the wording of the Office’s proposal had been carefully drafted. They felt if the link between denouncing one Convention and ratifying another were done away with, it would introduce the concept of encouraging the denunciation of a Convention, which was quite new. They felt that it was therefore preferable not to upset the balance on which the text proposed by the Office was based.

29. In the light of the opinions expressed, the representative of the Government of Australia said he was prepared to keep the wording proposed by the Office.

30. The Working Party therefore proposed:
(a) shelving Convention No. 20 with immediate effect;
(b) recommending that the Governing Body invite the States parties to Convention No. 20 to contemplate ratifying the Night Work Convention, 1990 (No. 171), and denouncing Convention No. 20 at the same time;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 20 in due course.
C.43 Sheet-Glass Works Convention, 1934

31. The Working Party expressed its agreement with the Office's proposals. It proposed:
(a) shelving Convention No. 43 with immediate effect;
(b) that Convention No. 43 be included among the Conventions that might be revised should the Working Party recommend the revision of other Conventions dealing with hours of work and working conditions of shift workers;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 43 in due course.

C.49 Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935

32. The Working Party expressed its agreement with the Office's proposals. It proposed:
(a) shelving Convention No. 49 with immediate effect;
(b) that Convention No. 49 be included among the Conventions that might be revised should the Working Party recommend the revision of other Conventions dealing with hours of work and working conditions of shift workers;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 49 in due course.

C.60 Minimum Age (Non-Industrial Employment) Convention (Revised), 1937

33. The Worker members said that they could accept this Convention being shelved but that a special effort should be made to promote ratification of Convention No. 138.

34. The representative of the Director-General recalled the steps that the Office had taken at the request of the Governing Body to encourage ratification of fundamental Conventions. Efforts had already been made along these lines and would continue to be made in order to promote the broadest possible ratification of Convention No. 138.

35. The Working Party therefore proposed:
(a) shelving Convention No. 60 with immediate effect;
(b) recommending that the Governing Body invite the State party to Convention No. 60 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), and denouncing Convention No. 60 at the same time;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 60 in due course, with a view to its possible abrogation by the Conference.
C.41 Night Work (Women) Convention (Revised), 1934

36. The Worker members drew attention to discrepancies between the French and English texts of paragraphs (5) (Remarks) and (6) (Proposals) of the document.

37. The representative of the Director-General confirmed that there had been a translation error between the French text, on the one hand, and the English and Spanish texts, on the other. The sentence in the middle of paragraph (5) should read: “The 1979 Ventejol Working Party considered that Convention No. 41 was of relevance solely as an interim basis for national action.” In paragraph 6(a) the Office’s proposal was not that the Convention should be shelved but that it should be left dormant. Paragraph 6(a) should read: “The Working Party could propose that Convention No. 41 be left dormant with immediate effect”.

38. The Worker members did not feel that they could accept that the Convention be left dormant without a more detailed examination as it was currently ratified by 17 countries and the Ventejol Working Party had considered that it was still of some relevance. They added that the Convention could be discussed in conjunction with the Night Work (Women) Convention, 1919 (No. 4), at the Working Party’s next session.

39. The Working Party agreed to postpone discussion of Convention No. 41 and to examine it in conjunction with Convention No. 41 at its next session.

C.48 Maintenance of Migrants’ Pension Rights Convention, 1935

40. The Worker members agreed with the proposal to shelve the Convention but felt that it was premature to speak of its possible abrogation at this stage since there were still seven current ratifications. The Working Party therefore proposed:
(a) shelving Convention No. 48 with immediate effect;
(b) recommending that the Governing Body invite the seven States parties to Convention No. 48 to contemplate ratifying the Maintenance of Social Security Rights Convention, 1982 (No. 157), and denouncing Convention No. 48 at the same time;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 48 in due course.

C.21 Inspection of Emigrants Convention, 1926

41. The Working Party expressed its agreement with the Office’s proposals. It proposed:
(a) shelving Convention No. 21 with immediate effect;
(b) recommending that the Governing Body invite the States parties to Convention No. 21 to contemplate ratifying the Migration for Employment Convention (Revised), 1949 (No. 97), if appropriate, and denouncing Convention No. 21 at the same time;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 21 in due course.
C. 28 Protection against Accidents (Dockers) Convention, 1929

42. The Working Party expressed its agreement with the Office’s proposals. It proposed:
(a) shelving Convention No. 28 with immediate effect;
(b) recommending that the Governing Body invite the State party to Convention No. 28 to contemplate ratifying the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), if appropriate, and denouncing Convention No. 28 at the same time;
(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 28 in due course, with a view to its possible abrogation by the Conference.

C. 50 Recruiting of Indigenous Workers Convention, 1936
C. 64 Contracts of Employment (Indigenous Workers) Convention, 1939
C. 65 Penal Sanctions (Indigenous Workers) Convention, 1939
C. 86 Contracts of Employment (Indigenous Workers) Convention, 1947
C. 104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955

43. The Worker members questioned whether these Conventions did not continue to ensure the protection of workers in certain newly-independent countries.

44. The representative of the Director-General observed that the Conventions referred to the situation in dependent territories during the colonial period, and that that type of situation virtually no longer existed. It was, however, difficult to certify that a given Convention had lost all relevance everywhere in the world. Referring to the Conventions listed, he emphasized that the Governing Body had decided to leave the five instruments dormant in 1985 and that their decision had not since posed any problem. Moreover, according to available information, some governments had already ratified or were contemplating ratifying Convention No. 169. Since it had already been decided in 1985 to leave these Conventions dormant, the Office proposed going a step further and shelving them.

45. The Employer members recalled that shelving a Convention meant only that in addition to being left dormant it was no longer published in ILO documents.

46. The Working Party therefore proposed:
(a) shelving Conventions No. 50, 64, 65, 86 and 104 with immediate effect;
(b) recommending that the Governing Body invite the States parties to Conventions Nos. 50, 64 and 86 to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and/or the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and, as appropriate, denouncing Conventions Nos. 50, 64 and 86 at the same time;
(c) recommending that the Governing Body invite the States parties to Conventions No. 65 and 104 to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and, as appropriate, denouncing Conventions Nos. 65 and 104 at the same time;

(d) that the Working Party (or the LILS Committee) reexamine the status of Conventions Nos. 50, 64, 65, 86 and 104 in due course.

C.110 Plantations Convention, 1958 [and Protocol, 1982]

47. The Worker members observed that the latest ratification of this Convention was that of Sri Lanka in 1995. The Working Party expressed its agreement with the Office’s proposals. It proposed that:

(a) measures be taken by the Office to promote ratification of this Convention to improve its level of ratification;

(b) the Working Party (or the LILS Committee) reexamine the status of Convention No. 110 in due course.

Conventions that might be considered obsolete

C.34 Fee-charging Employment Agencies Convention, 1933

48. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) shelving Convention No. 34 with immediate effect;

(b) recommending that the Governing Body invite the States parties to Convention No. 34 to contemplate ratifying the Fee-charging Employment Agencies Convention (Revised), 1949 (No. 96), or a new Convention revising Convention No. 96 which the Conference might adopt at a forthcoming session;

(c) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 34 in due course.

C.67 Hours of Work and Rest Periods (Road Transport) Convention, 1939

49. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) shelving Convention No. 67 with immediate effect;

(b) recommending that the Governing Body invite the three States parties to Convention No. 67 to contemplate ratifying the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 159), and denouncing Convention No. 67 at the same time;

(c) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 67 in due course, with a view to its possible abrogation by the Conference.

C.25 Sickness Insurance (Agriculture) Convention, 1927

50. The Worker members suggested that this Convention, together with Convention No. 24, be looked at more closely before a decision as to its possible
shelving. Because this Convention had not been left dormant and the Ventejol Working Party had felt it was still relevant as an interim basis for national action, it would be advisable to give the matter more thought.

51. The Employer members pointed out that the Office had indicated that the Convention was technically obsolete, that it had not been ratified for the past 30 years and that it was suitable for shelving.

52. The Working Party agreed to postpone discussion of Convention No. 25 to its next session and asked the Office to provide further information on its status.

C. 35 Old-Age Insurance (Industry, etc.) Convention, 1933
C. 36 Old-Age Insurance (Agriculture) Convention, 1933
C. 37 Invalidity Insurance (Industry, etc.) Convention, 1933
C. 38 Invalidity Insurance (Agriculture) Convention, 1933
C. 39 Survivors’ Insurance (Industry, etc.) Convention, 1933
C. 40 Survivors’ Insurance (Agriculture) Convention, 1933

53. The Working Party expressed its agreement with the Office’s proposals regarding these six Conventions. It proposed:
(a) shelving Conventions Nos. 35, 36, 37, 38, 39 and 40 with immediate effect;
(b) recommending that the Governing Body invite the States parties to Conventions Nos. 35, 36, 37, 38, 39 and 40 to contemplate ratifying the Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128), and, as appropriate, denouncing Conventions Nos. 35, 36, 367, 38, 39 and 40 at the same time;
(c) that the Working Party (or the LILS Committee) reexamine the status of Conventions Nos. 35, 36, 37, 38, 39 and 40 in due course.

C. 44 Unemployment Provision Convention, 1934

54. The Worker members questioned why the Convention had not been left dormant by the Governing Body and felt that it would be premature to shelve it. Two trade union organizations had in fact recently submitted comments on the application of this Convention in their country to the Committee of Experts, which had itself requested detailed reports from the governments concerned. The representative of the Director-General explained that the effect of leaving a Convention dormant was to suspend automatic requests for reports from States that had ratified it. Should the Convention be shelved, the Committee of Experts would still be required to give its opinion on the comments that were pending. Moreover, the provisions of articles 23, 24, 25 and 26 of the Constitution were in no way affected by a Convention being left dormant and continued to apply.

55. The Worker members added that they found it difficult to think of this Convention as obsolete and suggested that its examination be postponed to the next session of the Working Party. The representative of the Director-General confirmed that requests would in the meantime be sent to the governments for additional information.

56. The Working Party agreed to postpone examination of Convention No. 44 to its next session.
C. 82 Social Policy (Non-metropolitan territories) Convention, 1947
C. 83 Labour Standards (Non-metropolitan territories) Convention, 1947
C. 84 Right of Association (Non-metropolitan territories) Convention, 1947
C. 85 Labour Inspectorates (Non-metropolitan territories) Convention, 1947

57. The Worker members stressed the importance they attached to these Conventions whose relevance could not be judged merely by the number of ratifications. The Conventions needed to be looked at more carefully and they were not in a position to accept their shelving with immediate effect. They asked that examination of these Conventions be postponed to the next session of the Working Party.

58. The representative of the Government of Australia said that his Government had recently had occasion to apply the provisions of Convention No. 83. He would prefer to consult his Government before taking a decision on the matter raised in the Office’s paper.

59. The Working Party agreed to postpone examination of Conventions Nos. 82, 83, 84 and 85 to its next session.

Other Conventions that have received few ratifications

C. 47 Forty-hour Week (Convention), 1935

60. The Working Party expressed its agreement with the Office’s proposals. It proposed maintaining the status quo as regards Convention No. 47, pending the adoption of revised standards on hours of work and working-time arrangements.

C. 153 Hours of Work and Rest Periods (Road Transport) Convention, 1979

61. The Worker members expressed their agreement with the Office’s suggestion regarding the promotion of Convention No. 153 and the invitation to member States to inform the Office of the obstacles and difficulties encountered with its ratification. They asked what this would entail.

62. The representative of the Director-General explained that the Office conducted its promotional efforts at several levels, such as through multidisciplinary teams or training activities. In the present case, the best solution would probably be ad hoc measures such as written requests for information from the governments and constituents, as the lesser importance of these Conventions would not necessarily justify a general study under article 19 of the Constitution.

63. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) recommending that the Governing Body invite member States to contemplate ratifying Convention No. 153 and, where appropriate, to inform the Office of the obstacles and difficulties encountered and of the possible need to revise this Convention;
(b) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 153 in due course.

C.79 Night Work of Young Persons (Non-industrial Occupations) Convention, 1946

64. The Employer members expressed their agreement with the Office’s proposals. They added that the additional protocol to Convention No. 171 suggested in paragraph 5 of the paper was an interesting idea and should perhaps be considered.

65. The Worker members indicated that they agreed with the Office’s recommendations in the light of the proposal in paragraph 14 that all the Conventions on work of young persons be examined at the next meeting of the Working Party in November 1996.

66. The Working Party proposed recommending that the Governing Body take appropriate measures to revise the provisions of Convention No. 79, and possibly of other instruments on the night work of young persons.

C.157 Maintenance of Social Security Rights Convention, 1982

67. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) recommending that the Governing Body invite the member States to contemplate ratifying Convention No. 157 and, where appropriate, to inform the Office of the obstacles and difficulties encountered and of the possible need to revise this Convention;

(b) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 157 in due course.

C.130 Medical Care and Sickness Benefits Convention, 1969

68. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) recommending that the Governing Body invite the member States to contemplate ratifying Convention No. 130 and, where appropriate, to inform the Office of the obstacles and difficulties encountered and of the possible need to revise this Convention;

(b) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 130 in due course.

C.128 Invalidity, Old-Age and Survivors’ Benefits Convention, 1967

69. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) recommending that the Governing Body invite the member States to contemplate ratifying Convention No. 128 and, where appropriate, to inform the Office of the obstacles and difficulties encountered and of the possible need to revise this Convention;
(b) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 128 in due course.

C.143 Migrant Workers (Supplementary Provisions) Convention, 1975

70. The Working Party agreed to postpone examination of Convention No. 143 to November 1996, as the Committee on Employment and Social Policy would be examining a paper during the present session of the Governing Body which, inter alia, analysed the possible need for revising Conventions Nos. 97 and 143.

C.152 Occupational Safety and Health (Dock Work) Convention, 1979

71. The Working Party expressed its agreement with the Office’s proposals. It proposed:

(a) recommending that the Governing Body invite the member States to contemplate ratifying Convention No. 152 and, where appropriate, to inform the Office of the obstacles and difficulties encountered and of the possible need to revise this Convention;

(b) that the Working Party (or the LILS Committee) reexamine the status of Convention No. 152 in due course.

Final remarks

72. The Committee on Legal Issues and International Labour Standards is invited to:

(a) take note of the section of the report of the Working Party on Policy regarding the Revision of Standards that deals with the examination of the least ratified and dormant Conventions;

(b) examine the proposals on which the Working Party has reached a consensus, namely:

(i) the proposal that Conventions that have not entered into force, and which are listed in paragraph 23 of the report (Conventions Nos. 31, 46, 51, 61 and 66) be shelved with immediate effect;

(ii) the proposal to shelve the following Conventions with immediate effect:

— Night Work (Convention No. 29);
— Migrant Workers (Convention No. 21);
— Dockers (Convention No. 28);
— Employment Services (Convention No. 34);
— Social Security (Conventions Nos. 35, 36, 37, 38, 39, 40 and 48);
— Hours of Work (Conventions Nos. 43, 49, 60 and 67);
— Indigenous Workers and Aboriginal Populations (Conventions Nos. 50, 64, 65, 86 and 104);

In addition, the Committee could recommend that the Governing Body invite the States concerned to contemplate ratifying the more recent and updated Conventions listed in the relevant
paragraphs of this report, and denouncing the Conventions listed above at the same time. On this point, the Working Party wishes to draw the attention of the LILS Committee and of the Governing Body to the close link between the proposals relating to the ratification of the more recent and updated Conventions and those relating to the possible denunciation of certain obsolete instruments;

(iii) the possible subsequent abrogation by the Conference of five Conventions that have not entered into force (Conventions Nos. 31, 46, 51, 61 and 66), and of three other Conventions (Nos. 28, 60 and 67) once an appropriate procedure has been adopted;

(iv) the maintenance of the status quo with respect to Convention No. 47, pending the adoption of revised standards on hours of work and working-time arrangements (paragraph 60 of the report);

(v) the revision of the provisions of Convention No. 79, and possibly of other instruments on the night work of young persons (paragraph 66 of the report);

(vi) the recommendation that the Governing Body invite member States to contemplate ratifying Conventions Nos. 110, 128, 130, 153 and 157 and informing the Office of the obstacles and difficulties encountered, if any, as well as of the possible need to revise these instruments;

(vii) bearing in mind the proposals contained in this report, the postponement of the examination of Conventions Nos. 25, 41, 44, 82, 83, 84, 85 and 143 to the next meeting of the Working Party, and the submission of a new document that takes into account any additional information and other new facts that the Office may have obtained;

(viii) the preparation by the Office for the next meeting of the Working Party of a document examining the Conventions dealing with the following subjects:

— Migrant Workers (Nos. 97 and 143);
— Night Work of Women (Nos. 4 and 89);
— Night Work of Young Persons (Nos. 6, 79 and 90);

The document should also comprise an examination of the other Conventions that have been the subject of pure denunciations (Nos. 1, 2, 26, 30, 45, 88, 94, 95, 96, 99, 101 and 103);

(c) note that the implementation of some of the Working Party's recommendations means that the Office must follow them up by requesting information from governments and constituents and present reports to subsequent meetings of the Working Party on developments in the situation of the Conventions examined and on the results obtained; and that the member States must undertake tripartite consultations that take into account, in particular, the procedures laid down in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the Tripartite Consultation (Activities
of the International Labour Organization) Recommendation, 1976 (No. 152);
(d) make recommendations to the Governing Body on the above proposals and on any other relevant issue, as well as on the follow-up to the Working Party's activities.

* * *

73. The Working Party recommends to the Committee on Legal Issues and International Labour Standards that it recommend to the Governing Body that, after the elections to the Governing Body in June 1996, it should reconstitute the Working Party on Policy regarding the Revision of Standards so as to enable it to meet in November 1996 to continue its work.


Points for decision: Paragraph 16;
Paragraph 72;
Paragraph 73.