SECOND ITEM ON THE AGENDA

Conventions in need of revision (second stage)

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I. Introduction

1. This paper, which contains an analysis of 28 Conventions, is submitted for examination by the Working Party on Policy regarding the Revision of Standards of the Committee on Legal Issues and International Labour Standards (LILS) at the third meeting of the Working Party. At its first two meetings, in November 1995 and March 1996, the Working Party had explained the criteria adopted in this examination and the methodology followed, and had made a number of recommendations which had been approved by the LILS Committee and by the Governing Body at its 264th and 265th Sessions. A brief reference will be made to the proposals by the Working Party on which consensus has already been reached.

Criteria followed for purposes of the examination

2. In undertaking an examination of the Conventions in need of revision, the Working Party had emphasized three basic criteria determining the conditions in which the examination would take place. It had first been agreed to examine the Conventions one by one, as each instrument had its own special characteristics. However, the Working Party excluded from any revision the six basic human rights Conventions (Nos. 87 and 98, 29 and 105, 100 and 111) and four other priority Conventions (Nos. 81, 129, 122 and 144), while leaving pending for the time being the case of Convention No. 138. The Working Party had also decided to postpone the examination of the maritime Conventions. Secondly, the Working Party had emphasized that the purpose of its work was to rejuvenate and strengthen the standard-setting system. With that in mind it had advocated measures to bring the system up to date while, on the other hand, draw the necessary conclusions from situations that no longer existed or provisions that had become obsolete in practice. Thirdly, the Working Party had considered that its proposals should not have the effect of reducing the protection already afforded to workers by the Conventions that had been ratified. Consequently when calling for the denunciation of certain obsolete Conventions, the Working Party had also recommended the States Parties to ratify the more recent and updated Conventions on the same subject, as the two measures -- that of ratification and that of denunciation -- should be associated.

Methodology

3. As regards methodology, the Office endeavoured, in the papers submitted to the Working Party, to throw light on the objective features characterizing the status of each Convention by analysing the four main factors involved:

- the status of *ratification* and the prospects for this in the light of past experience or objective factors (such as the closure of a Convention to ratification after its revision);
- *denunciations* that have taken place, a distinction being made between "pure" denunciations, by which member States renounce the commitments they had entered into with regard to a Convention, and the so-called "automatic" denunciations, that is those following upon the ratification of a revised Convention;
- the situation as regards *supervisory procedures*. The number and current relevance of comments made by the Committee of Experts, the existence or not of representations or complaints submitted under articles 24 and 26 of the Constitution, and the discussions that have taken place in the Conference Committee on the Application of Standards, provide the Working Party with the means of determining whether a Convention remains "alive" so to speak or whether it has become more or less obsolete in practice;
- lastly, the *need for revision* of a Convention, in the strict sense, with due regard for revisions already made, requests put forward during ILO Conferences or other relevant information. In this respect it will be noted that of the 28 Conventions analysed in this paper, eight have already been revised, six others are a revision of earlier Conventions and two Conventions are explicitly the complement of older Conventions without constituting formal revisions.

The analysis of these four factors is followed by comments concerning the specific situation of each Convention. Under this heading, mention is also made, where appropriate, of the opinions and

4. The method described above is intended to give the Working Party the objective information necessary to enable it to make recommendations to the LILS Committee of the Governing Body. At the request of the Working Party, the Office has complemented the examination of the Conventions one by one by putting forward specific proposals or suggestions to act as pointers with a view to facilitating the discussion and decision-making process in the Working Party. However it turned out that in a certain number of cases the Office did not have sufficiently conclusive or up-to-date information to be able to make such proposals. In fact the Office often lacks the requisite information to analyse the obstacles and difficulties that are encountered in cases of ratification. Indeed, it is the constituents that are in a better position to assess whether a particular Convention still plays an active role in a national context, or whether the protection it affords has become meaningless or outdated. In doubtful cases, the Office has first proposed to the constituents to supply additional information to clarify the situation so that the Working Party can then take a decision in full knowledge of the facts.

First results

5. The Working Party, at its meeting of 18 March 1996, examined the substance of 33 Conventions and made a similar number of Recommendations which have all been approved by the Governing Council. The results obtained represent the first landmarks in the policy of revision of standards which the Working Party has been given as its working mandate.

(a) Proposals for revision

6. The Governing Council, at its session in March 1996, approved the proposal to revise the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79). The Working Party recommended that this proposal should be considered together with the examination of the other instruments on the night work of young persons, more specifically Conventions Nos. 6 and 90 which are analysed in this paper.

7. With regard to the three Conventions on hours of work (Nos. 43, 47 and 49), the Working Party has made conditional recommendations, that is to say that these Conventions should be included in any draft revision "in the event that" the Conventions on hours of work were to be revised. The two basic Conventions on the subject (Nos. 1 and 30) are examined in the present document.

8. Four proposals for revision of the 33 Conventions examined have consequently been put forward by the Working Party, one being definitive and the other three of a conditional nature. This is a small proportion only, owing to the large number of revisions that have already been made of the Conventions examined in March 1966 that were often very old and had received few ratifications. Moreover, the status of the Conventions on hours of work indicates that while their need of revision may well have been recognized, it has not always been possible to arrive at the essential consensus to undertake such revisions. The Working Party will no doubt wish to re-examine the difficulties or obstacles that have
hampered the revision of standards in this area and possibly in other areas where the situation is similar.

(b) Shelving

9. Twenty-five Conventions were shelved with immediate effect in March 1996. Shelving is a new, pragmatic and concrete measure, which amounts to no longer requesting detailed reports on the application of the Conventions in question and of ceasing to publish them in the documents, studies and research papers of the ILO. However, there are two complementary aspects of this measure which should be borne in mind. First, as far as the ILO's supervisory procedures are concerned, shelving leaves intact the right to invoke provisions relating to representations and complaints, under articles 24 and 26 of the Constitution, and allows employers' and workers' organizations to continue to make comments in accordance with the regular supervisory procedures, and the Committee of Experts to review these comments and to request, where necessary, a detailed report. Secondly, shelving has no impact on the status of these Conventions in the juridical systems of the member States that have ratified them.

(c) Possibilities of abrogation or termination of certain Conventions

10. The Governing Council has considered eight Conventions that have been shelved (Nos. 28, 31, 46, 51, 60, 61, 66 and 67) as candidates for abrogation or termination. It has requested the Working Party and/or the LILS Committee to re-examine the status of these Conventions when a procedure allowing for their abrogation has been established. In this respect the Governing Body decided to examine in greater detail the solution of an amendment to the ILO Constitution, and requested the Office to prepare for the November 1996 session, a document dealing with questions of procedure, the necessary guarantees and the different problems involved in a constitutional amendment concerned with the abrogation or termination of obsolete Conventions, so that this document could be used as a basis by the Working Party in pursuing its work. The draft constitutional amendment is the subject of a separate document which is before the Working Party. (2)

(d) Promotion of ratifications

11. This provision concerns 22 Conventions of the 33 examined in March 1996. It consists of two variants. In the case of 18 Conventions that have already been revised and considered to be obsolete, the Governing Body has invited the State Parties to these Conventions to contemplate the possibility of ratifying the recent Conventions corresponding to them and denouncing at the same time the obsolete Conventions. During the discussions in the Working Party, the Employer members and the Worker members emphasized that the two measures established a balance that should not be upset. They should therefore be linked together and intervene at the same time. It was not acceptable for a government to denounce an obsolete Convention with immediate effect while at the same time postponing the possible ratification of a recent Convention to a later date.

12. At the meeting of the Working Party in March 1996, the Worker members had asked for information
on the measures taken to promote the ratification of the Conventions in question. This question will be taken up in the concluding part of the present document and fuller information on current developments will be given orally at the next meeting of the Working Party.

13. In the case of four recent Conventions that are considered to be up to date, the Governing Body invited member States to contemplate ratifying them and to inform the Office of the obstacles and difficulties encountered, if any, and of the possible need for revision of these Conventions.

(e) Status quo

14. With regard to certain Conventions, the Working Party considered that none of the proposals set out above was appropriate. These are essentially the ten priority Conventions referred to earlier which have been excluded from any revision. The ratification of the Conventions on the basic rights of workers is in any case the subject of specific promotion. Moreover, the status quo has been approved by the Governing Body for the Forty-Hour Week Convention, 1935 (No. 47), pending the adoption of revised standards for hours of work and working-time arrangements.

Second stage of the examination

15. The analysis of the 28 Conventions, which has been undertaken below, forms part of the continuation of the work carried out in November 1995 and March 1996 on criteria, methodology and proposals. It will be noted, however, that a development has taken place in that the case-by-case examination of the Conventions has been complemented by an examination based on subject-area, in the terminology used by the Ventejol Working Parties. As the work of the Working Party progresses, the regrouping of the Conventions by subject or by area will give a more coherent picture of the different parts of the standard-setting system and situate the proposals for revision and standard-setting activity more effectively in relation to others.

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II. Employment policy

16. The employment policy sector comprises three Conventions which have been the subject of "pure" denunciations: the Unemployment Convention, 1919 (No. 2), the Employment Service Convention, 1948 (No. 88), and the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). Convention No. 2 is one of the instruments that were adopted at the first International Labour Conference; it has never been revised and still has a large number of ratifications. However its provisions are dated, and have been subsumed into a number of more recent and more clearly worded Conventions. According to the information available to the Office, the revision of Convention No. 2 has not been envisaged and would no longer be justified. Nevertheless the Office does not suggest that it should be shelved as it is still of interest for many States that have not yet ratified the more recent Conventions that have superseded Convention No. 2.
17. In the area of employment services and fee-charging employment agencies, the situation is particularly clear in that the Conference examined the need to revise both Convention No. 88 and Convention No. 96 in 1994. The Conference found that the provisions of Convention No. 88 were up to date and useful, and did not endorse the draft revision of this Convention. It appears, therefore, that the status quo must be maintained. On the other hand, the Conference considered that the ILO should undertake the revision of Convention No. 96, which the Governing Body has included on the agenda of the Conference for 1997. It will be recalled that this Convention is itself a revised text which replaced the Fee-Charging Employment Agencies Convention, 1933 (No. 34), that had already been examined by the Working Party in March 1996. The Governing Body decided to shelve this instrument and invited the States Parties to Convention No. 34 to contemplate ratifying either Convention No. 96, or a new text revising that Convention which the Conference could adopt at a subsequent session.

II.1. C.2 -- Unemployment Convention, 1919

(1) Ratifications:

(a) Number of current ratifications: 51.


(c) Ratification prospects: small.

(2) Denunciations:

(a) Pure denunciations: 3

<table>
<thead>
<tr>
<th>Ratification</th>
<th>Denunciation</th>
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<tbody>
<tr>
<td>Bulgaria</td>
<td>1922</td>
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<tr>
<td></td>
<td>1960</td>
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<tr>
<td>India</td>
<td>1921</td>
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<td>1938</td>
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<td>Uruguay</td>
<td>1933</td>
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<td>1982</td>
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Reasons for denunciation:

Bulgaria: No reason for denunciation given.

India: Since the constitutional changes of 1935, the provinces now have sole jurisdiction over the question of unemployment.
Uruguay: The situation in Uruguay does not justify the establishment of a system of public employment agencies as required in Convention No. 2;

(b) Automatic denunciation: not applicable.

(3) Comments by the Committee of Experts: the comments pending for eight countries concern in particular the establishment of advisory committees, the coordination of non-fee-charging public and private employment agencies and the provision of statistics and data on unemployment. Workers' organizations in Argentina, Morocco and Turkey have transmitted observations on the application of Convention No. 2 to the Committee of Experts.

(4) Need for revision: this Convention has not been revised. However, several other more recent instruments also deal with the areas covered by Convention No. 2, more specifically the Employment Service Convention, 1948 (No. 88), the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Employment Policy Convention, 1964 (No. 122). In addition, the Labour Statistics Convention, 1985 (No. 160), and the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), contain more detailed provisions on statistics and protection against unemployment.

(5) Remarks: Convention No. 2, with 51 current ratifications, is one of the most widely ratified Conventions. In the course of the Ventejol Working Parties of 1979 and 1987, at which this Convention had been classified in the category of "other instruments"; the Office had pointed out that the Convention retained its value and interest as an interim basis for national action, in view of the large number of States that had not ratified the more recent Conventions dealing with the subjects covered in Convention No. 2. Consequently, this Convention still has a role to play in the institution of measures to combat unemployment (information-gathering, a system of non-fee-charging public employment agencies, tripartite consultations).

(6) Proposals:

(a) The Working Party might recommend to the Governing Body that it invite State Parties to Convention No. 2 to contemplate ratifying the more recent and updated Conventions concerned with the same subjects, notably Convention No. 168, and denouncing Convention No. 2 at the same time.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 2 in due course.

II.2. C.88 -- Employment Service Convention, 1948

(1) Ratifications:
(a) Number of current ratifications: 76.


(c) Ratification prospects: Convention likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciations: 3

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<tr>
<td>Bulgaria</td>
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<tr>
<td>Italy</td>
<td>1952</td>
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<tr>
<td>United Kingdom</td>
<td>1949</td>
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Reasons for denunciation:

**Bulgaria:** no reason given for denunciation.

**Italy:** the Italian Government decided to denounce the Convention while reserving the right to propose a revision to it in order to: (a) establish the principle that parity between employers' and workers' representatives would be a minimum guarantee; (b) specify that employment services might be so organized that it would be possible for workers' representatives to outnumber employers' representatives.

**United Kingdom:** to ensure that the provisions concerning non-fee-charging public employment service would not prevent the service from holding employers liable to a system of charges for certain special services concerning the placement of intellectual and professional workers and of executives.

(b) Automatic denunciations: not applicable.

(3) Comments by the Committee of Experts: comments pending for 43 countries, concerning in particular the cooperation of employers' and workers' representatives in the organization and functioning of employment services, as well as in the arrangements made for the placement of workers.

(4) Need for revision: Convention No. 88 has not been revised. The desirability of revising it has been considered on at least two occasions but has not been followed up.

(5) Remarks: Convention No. 88, with 76 current ratifications, is one of the Conventions that has
received a large number of ratifications. In 1971, the Committee of Experts on the Application of Conventions and Recommendations of the Governing Body had examined the desirability of undertaking a partial revision of Convention No. 88 in view of the denunciation of the Convention by Italy and the United Kingdom. The Committee had discussed the reasons for the denunciation and had not deemed it necessary to recommend its partial revision.\textsuperscript{(6)} The Ventejol Working Parties of 1979 and 1987 had classified this Convention among the instruments to be promoted on a priority basis and had not recommended its revision. In 1994 the Conference had reviewed the status of Convention No. 88 during a general discussion on the role of private employment agencies in the functioning of labour markets (which had decided that there was a need to revise Convention No. 96). The Committee, in its conclusions, had reiterated its support for the principles laid down in Convention No. 88 and had not proposed that the Convention should be revised.\textsuperscript{(7)} It appears therefore that there are no grounds for envisaging a revision of this Convention at the present time.

\textbf{(6) Proposals:}

(a) The Working Party could propose the maintenance of the status quo with regard to Convention No. 88.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 88 at an appropriate time.

\textbf{II.3 C.96 -- Fee-Charging Employment Agencies Convention (Revised), 1949}

\textbf{(1) Ratifications:}

(a) Number of current ratifications: 37.

(b) Latest ratifications: Côte d'Ivoire and the Netherlands, 1992.

(c) Ratification prospects: uncertain, pending a revision of the Convention, which should take place in 1997.

\textbf{(2) Pure denunciations: 4}

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<tr>
<td>Germany</td>
<td>1954 1992</td>
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<td>Brazil</td>
<td>1957 1972</td>
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<td>Finland</td>
<td>1951 1992</td>
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(3) Need for revision: at the 81st Session (1994) of the International Labour Conference, a general discussion had taken place in the Committee on Private Employment Agencies on the role of such agencies in the functioning of labour markets. In its conclusions, which had been approved by the Conference, the Committee had considered that the ILO should proceed to revise Convention No. 96 and had specified the objectives which in its view should be pursued by the revised standard. In March-April 1995, the Governing Body had complied with the recommendations of the Conference and decided to include the question of the revision of Convention No. 96 on the agenda of the Conference for 1997.

(4) Proposal: the Working Party (or the LILS Committee) would re-examine the status of Convention No. 96 at a subsequent meeting in the light of the work of the Conference in 1997.

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III. Conditions of work

18. This part comprises eight Conventions, five of which concern the subject of wages, two relate to hours of work, and the eighth to holidays with pay. They form part of the body of Conventions that have been the subject of pure denunciations. However, it will be noted immediately that each Convention has received only a single pure denunciation. Moreover, the denunciations have been made by two member States only. Consequently an analysis of the denunciations seems hardly sufficient to assess whether these instruments are in need of revision.

19. In the area of wages, the first three Conventions analysed (Nos. 26, 99 and 131) deal with minimum wage fixing. The fundamental instrument in this respect, Convention No. 26, has received a large number of ratifications. The three instruments complement one another. It would be useful if the Working Party were to recommend promoting the ratification of the most recent and up-to-date Convention, that is, No. 131. In terms of the policy for the revision of standards, it is suggested that the status quo be maintained as very few reasons have been found or requests made that would justify either the revision of these Conventions or the adoption of other measures. In the case of the two other Conventions relating to wages (Nos. 94 and 95), the situation appears to be quite different. Both of them were adopted nearly 50 years ago and the revision of some of their provisions has already been undertaken or proposed at ILO meetings. The Working Party could endeavour to obtain a more comprehensive picture of the need to revise these instruments before making recommendations to the Governing Body.

20. As regards hours of work, the Working Party is faced with a different kind of situation that is particularly difficult. Since the 1960s, the ILO has attempted to reformulate certain standards on hours of work without marked success. It is recognized that the fundamental Conventions (Nos. 1 and 30) should be at least partially revised, but so far the necessary political consensus in the Governing Body...
and the Conference has not been achieved. It is incumbent upon the Working Party to re-examine the situation once again.

21. Lastly, the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), has already been revised. The Working Party might recommend the promotion of the recent and updated standards contained in Convention No. 132, as well as the collection of fuller information so that a better analysis could be made of the difficulties and obstacles that are likely to impede the ratification of Convention No. 132.

III.1. C.26 -- Minimum Wage-Fixing Machinery Convention, 1928

(1) Ratifications:

(a) Number of current ratifications: 99.

(b) Latest ratifications: Belarus and Zimbabwe, 1993.

(c) Ratification prospects: Convention ratified by more than half the member States and likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciations: 1

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Reasons for denunciation: the terms of the Convention reduce flexibility in this area of great public interest and as a result the Government considers that these provisions are no longer of interest to the United Kingdom.

(b) Automatic denunciations: not applicable.

(3) Supervisory procedures: the Committee of Experts made comments that were left pending for 53 countries and received observations from employers' and workers' organizations on the consultation and participation of Employers' and Workers' representatives and the factors to be taken into account in fixing minimum wages. In addition, the Conference Committee on the Application of Standards discussed, at its latest meetings, a number of individual cases concerning the application of the Convention. Two representations (under article 24 of the Constitution) have been submitted with regard to Bolivia and Paraguay.
(4) **Need for revision:** Convention No. 26 has not been revised. The Minimum Wage Fixing Convention (No. 131) was adopted in 1970 to complement Conventions Nos. 26 and 99 which had been left open for further ratifications.

(5) **Remarks:** the General Survey by the Committee of Experts published in 1992, which dealt with Conventions Nos. 26, 99 and 131, did not report any great difficulties of application and obstacles to ratification that would make it necessary to revise one or other of these instruments. Many governments considered that the instruments under examination were being applied in keeping with the law and practice in their countries and had not encountered any particular difficulty in that respect. Other governments referred to difficulties that were unconnected with the provisions of the Convention. The reasons adduced by a number of countries to explain why they did not envisage ratifying the minimum wage Conventions were not related to the particular provisions of these Conventions that might be an obstacle to their ratification. Consequently Conventions Nos. 26, 99 and 131 did not appear to offer any special problems in terms of content. It will be noted moreover that Convention No. 26 has not been revised by Convention No. 131. An expert meeting held in 1967 had looked into the desirability of drawing up new instruments on minimum wage fixing. The experts had pointed out that only four other international labour Conventions had at that time received more ratifications than Convention No. 26. They had therefore considered that it would be preferable to adopt new instruments of broader scope and more precise obligations that would supplement rather than replace the existing instruments. The latter could then still be ratified by countries that were not in a position to provide better protection. A range of instruments would thus become available that would enable each country to choose the standards that were best adapted to its possibilities and its level of development. The Ventejol Working Parties of 1979 and 1987 had classified this Convention in the category of "other instruments". At the time of the 1979 Working Party, the Office had recalled the conclusions of the Meeting of Experts but had also underlined that the instruments adopted in 1970 with regard to minimum wages (Convention No. 131 and Recommendation No. 135) represented the principal targets to be achieved at the national level. Thus, even if the ratification of Conventions Nos. 26 and 99 may be an interim target, it must be borne in mind that Convention No. 131 is the latest and most up-to-date standard on the subject. The Working Party might wish to invite the States Parties to Convention No. 26 to contemplate ratifying Convention No. 131, if they have not already done so. Lastly, it should be noted that regulations on minimum wages have recently been under criticism by certain groups of economists whose criticisms have been echoed in particular by the Bretton Woods institutions -- the IMF and the World Bank. However, opinions on the subject are divided and these recent trends have not so far led to requests for the revision of Conventions Nos. 26, 99 and 131.

(6) **Proposals:**


(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 26 to contemplate ratifying the Minimum Wage Fixing Convention, 1970 (No. 131).
(c) The Working Party (or the LILS Committee) could re-examine the status of Convention No. 26 in due course.

III.2. C.99 -- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951

(1) Ratifications:

(a) Number of current ratifications: 51.


(c) Ratification prospects: Convention likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciations: 1

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<tr>
<th>Ratification</th>
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<tr>
<td>United Kingdom</td>
<td>1953</td>
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Reasons for denunciation: in view of the fact that their provisions are no longer appropriate for the United Kingdom over the long term, since the legal control of wages and related conditions is not compatible with its efforts to deregulate in this area, the Government intends to denounce Conventions Nos. 99 and 101.

(b) Automatic denunciations: not applicable.

(3) Comments by the Committee of Experts: comments pending for 23 countries.

(4) Need for revision: Convention No. 99 has not been revised. Convention No. 131 on minimum wage fixing was adopted in 1970 to supplement Conventions Nos. 26 and 99 which had been left open to further ratifications.


(6) Proposals:

(a) The Working Party could recommend the maintenance of the status quo with regard to Convention No. 99.
(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 99 to contemplate ratifying the Minimum Wage Fixing Convention, 1970 (No. 131).

c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 99 in due course.

III.3. C.131 -- Minimum Wage Fixing Convention, 1970

(1) Ratifications:

(a) Number of current ratifications: 40.


(c) Ratification prospects: the Convention is likely to receive further ratifications.

(2) Denunciations: not applicable.

(3) Supervisory procedures: comments by the Committee of Experts pending for 33 countries. Various workers' organizations have raised certain points concerning the application of this Convention. Four representations have recently been submitted (under article 24 of the Constitution) with regard to Bolivia, Costa Rica, France and Spain.

(4) Need for revision: this Convention has not been revised. At its adoption it had been considered desirable to adopt a new instrument that would supplement Conventions Nos. 26 and 99, ensure the protection of wage earners against unduly low wage levels, and, while being generally applicable, take into account the needs of the developing countries.

(5) Remarks: the Ventejol Working Parties of 1979 and 1987 had classified Convention No. 31 in the category of instruments to be promoted on a priority basis, and had considered that it provided a valid foundation for national action as well as a ratification target. The Office has no other information to indicate that the situation has changed since then. See also the remarks made in the case of Conventions Nos. 26 and 99.

(6) Proposals:

(a) The Working Party could propose the maintenance of the status quo with regard to Convention No. 131.

(b) It could recommend to the Governing Body that it invite the member States to contemplate ratifying Convention No. 131 and to inform the Office of the nature of the obstacles and difficulties encountered,
if any, as well as to communicate any proposals aimed at promoting its ratification.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 131 in due course.

III.4 C.95 -- Protection of Wages Convention, 1949

(1) Ratifications:

(a) Number of current ratifications: 90.

(b) Latest ratifications: Czech Republic and Tajikistan, 1993.

(c) Ratification prospects: Convention ratified by more than half the member States and likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciations: 1

<table>
<thead>
<tr>
<th>Ratification</th>
<th>Denunciation</th>
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</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>1951 1983</td>
</tr>
</tbody>
</table>

Reasons for denunciation: the Government of the United Kingdom has held consultations on the desirability of revising the law on wage payments in the light of the numerous changes that have taken place since 1831 when the first of the applicable regulations, which is still in force, was promulgated. These regulations are the principal means by which the United Kingdom complies with the provisions of the different Articles of Convention No. 95, and the Government believes that they should be updated so that the trend for wage payments to be made by modern methods will be further encouraged. After carefully considering all the replies received in the course of its consultations, the Government of the United Kingdom decided that it was necessary for it to abrogate the laws on payment as well as the associated legislation. However, it had been impressed by the evidence of widespread feeling that the statutory protection of deductions from wages should be revised and made available to all wage-earners, and it would be introducing modern legislation in this area after more extensive consultations. In the course of these consultations, the Government would be prepared to consider and discuss all proposals made on any subject relating to wage payments before deciding on the form and exact content of new laws. Consequently, the Government was unable to foresee at the present time to what extent such legislation would affect the ability of the United Kingdom to comply with the terms of Convention No. 95, which it would be required to respect scrupulously up to 1993 unless it denounced it immediately. In the circumstances, therefore, the Government had decided that the appropriate step to take would be to give formal notice of its denunciation of the Convention.
(b) Automatic denunciations: not applicable.

(3) **Supervisory procedures:** comments by the Committee of Experts pending for 70 countries refer to the observations made by workers' organizations. The Conference Committee on the Application of Standards has dealt with the application of Convention No. 95 in a number of individual cases. Moreover, this Convention has been the subject of nine representations (under article 24 of the Constitution) and of one complaint (under article 26) with regard to Congo, Costa Rica, France, Gabon, Iraq, Libyan Arab Jamahiriya, Mauritania, Nicaragua and Portugal.

(4) **Need for revision:** this Convention has not been revised. However, a specific area of Convention No. 95 has been the subject of an amendment in order to take into consideration the importance that should be accorded to the rehabilitation of insolvent enterprises and to the safeguarding of employment. Article 11 of Convention No. 95 has been amended in the sense indicated in Article 3, paragraphs 6 and 7, of the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173). Convention No. 95 remains open to ratification (Article 14 of Convention No. 173).

(5) **Remarks:** Convention No. 95 had been classified by the Ventejol Working Parties of 1979 and 1987 among the instruments to be promoted on a priority basis. However, as regards the payment of wages to migrant workers, the Office had raised in its report on international migrations and migrant workers, submitted to the Governing Body Committee on Employment and Social Policy (ESP) in March 1966, that questions bearing on certain aspects of the payment of wages to migrant workers were not satisfactorily covered by the existing provisions of Convention No. 95[12] (see also *infra* Conventions Nos. 97 and 143). In addition, it would be appropriate to invite States, in particular those bound by Convention No. 95, to contemplate ratifying Convention No. 173, which contains fuller and up-to-date provisions on wage protection in cases of the insolvency or winding-up of an enterprise.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it invite member States to provide it with information on changes that have come about or the possible difficulties inherent in the Convention, legislation or national practice that would lead to the need for a full or partial revision of Convention No. 95.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 95 to contemplate ratifying the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), revising Article 11 of Convention No. 95.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 95 at a subsequent meeting in the light of the information obtained by the Office.

**III.5. C.94 -- Labour Clauses (Public Contracts) Convention, 1949**
(1) **Ratifications:**

(a) Number of current ratifications: 55.

(b) Latest ratification: Iraq, 1986.

(c) Ratification prospects: Convention likely to receive further ratifications.

(2) **Denunciations:**

(a) Pure denunciations: 1

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>1950</td>
</tr>
</tbody>
</table>

*Reasons for denunciation:* in view of the changes that have taken place in economic conditions and in the relations between employers and workers since the Government of the United Kingdom ratified the Convention in 1950, the Government holds the view that the provisions of the Convention no longer corresponded to the present needs of the United Kingdom.

(b) Automatic denunciations: not applicable.

(3) **Comments by the Committee of Experts:** comments pending for 35 countries. Several employers' and workers' organizations have transmitted observations concerning the application of the Convention.

(4) **Need for revision:** this Convention has not been revised. The Internal Transport Committee, which met in 1992, had suggested extending the scope of application of Convention No. 94.

(5) **Remarks:** the Ventejol Working Parties of 1979 and 1987 had classified Convention No. 94 in the category of instruments to be promoted on a priority basis, as they considered it to be a valid foundation for national action as well as a ratification target. Contracts awarded by a public authority fell within a context that had become more complex as a result of economic globalization. The Working Party might consider whether it would not be advisable to request States for information on the status of national laws and practice on the subject.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it invite member States to provide it with information on changes that have come about or the possible difficulties inherent in the
Convention, legislation or national practice that would lead to the need for a full or partial revision of Convention No. 94.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 94 at a subsequent meeting in the light of the information obtained by the Office.

III.6. C.1 -- Hours of Work (Industry) Convention, 1919

(1) Ratifications:

(a) Number of current ratifications: 47.\(^{(13)}\)

(b) Latest ratifications: the Czech Republic and Slovakia, 1993.

(c) Ratification prospects: the Convention is likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciations: 1

Ratification  Denunciation

New Zealand  1938  1989

*Reasons for denunciation:* Conventions Nos. 1, 30 and 49 no longer reflect the methods of work in force in New Zealand and are regarded as a brake on the adoption of more flexible working hours.

(b) Automatic denunciations: not applicable.

(3) Comments by the Committee of Experts: comments pending for 26 countries comprising observations made by workers' organizations.

(4) Need for revision: this Convention has not been revised. The Conventions on hours of work should be revised from the technical point of view. However, it has not yet proved possible to do so for lack of a consensus.

(5) Remarks: during the proceedings of the Ventejol Working Party of 1979, the Office had pointed out that a new global Convention on hours of work was needed in order to regroup and replace the existing standards, but that the attempts made in that respect had so far met with failure. Pending such a revision, Conventions Nos. 1, 30 and 47 retained their interest.\(^{(14)}\) It will be recalled that, at the last Meeting of Experts on Hours of Work (1993), it had been recognized that certain provisions of Conventions Nos. 1
and 30 on hours of work in industry, and in commerce and offices, with respect to the limitations on maximum hours of work over different periods did not adequately reflect recent developments in working-time arrangements but that, apart from these exceptions, Conventions Nos. 1 and 30 were still relevant. The experts, other than those who had been appointed by the Governing Body after consultation with the Employers' group, were in favour of revising these Conventions so that they would provide for measures capable of ensuring a sufficient margin of flexibility and to guarantee adequate protection for workers.\(^{(15)}\) When the Working Party met in March 1996, it had already studied a number of Conventions dealing with hours of work in different sectors of economic activity. In the light of its recommendations, the Governing Body decided that five of the Conventions (Nos. 31, 46, 51, 61 and 67) could be abrogated at a later date when a procedure had been adopted for that purpose. In the meantime, they should be shelved, together with two other Conventions (Nos. 43 and 49) dealing with the same subject. The Working Party also advocated the maintenance of the status quo for the Forty-Hour Week Convention, 1935 (No. 47) "pending the adoption of the revised standards on hours of work and work time arrangements". There is therefore a clear need for revision in this area, and the Working Party should examine the possibilities of surmounting the obstacles with which the Organization has been faced so far. One of these possibilities might be to hold a general discussion in the Conference on the subject of working-time arrangements. A broad discussion of that kind would make it possible to take stock of the existing instruments, the need for revision and even the formulation of new standards, just as the discussion on the role of private employment agencies, which had been held in 1994 at the Conference, had made it possible to agree on the need to revise Convention No. 96 and on the maintenance of the status quo for Convention No. 88. Other possibilities could also be envisaged such as a discussion in the Governing Body, a further Meeting of Experts, etc.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it contemplate including the question of working-time arrangements on the agenda for a forthcoming session of the Conference, with a view to general discussion, as well as to clarifying the possible need to revise Convention No. 1 and, where necessary, other instruments concerned with hours of work (or other appropriate solutions for the same purpose).

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 1 in due course.

III.7. C.30 -- Hours of Work (Commerce and Offices) Convention, 1930

(1) Ratifications:

(a) Number of current ratifications: 28.

(c) Ratification prospects: the Convention likely to receive further ratifications.

(2) Denunciations:

(a) Pure denunciation: 1

<table>
<thead>
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<tbody>
<tr>
<td>New Zealand</td>
<td>1938</td>
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</table>

*Reasons for denunciation:* Conventions Nos. 1, 30 and 49 no longer reflect the methods of work in force in New Zealand and are perceived as a brake on the adoption of more flexible working hours.

(b) Automatic denunciations: not applicable.

(3) Comments by the Committee of Experts: comments pending for 15 countries.

(4) Need for revision: this Convention has not been revised. The Conventions on hours of work should be the subject of revision from a technical point of view. However, it has not been possible to undertake this so far for lack of a consensus.

(5) Remarks: same as for Convention No. 1.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it contemplate including the question of working-time arrangements on the agenda for a forthcoming session of the Conference with a view to general discussion, as well as to clarifying the possible need to revise Convention No. 30 and, where necessary, other instruments concerned with hours of work (or other appropriate solutions for the same purpose).

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 30 in due course.

### III.8. C.101 -- Holidays with Pay (Agriculture) Convention, 1952

(1) Ratifications:

(a) Number of current ratifications: 46.

(b) Latest ratification: Costa Rica, 1984.
(c) Ratification prospects: Convention left open.

(2) Denunciations:

(a) Pure denunciations: 1

<table>
<thead>
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<tbody>
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<td>United Kingdom</td>
<td>1956</td>
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*Reasons for denunciation*: considering that their provisions are no longer appropriate for the United Kingdom over the long term since legal wage controls and associated conditions are incompatible with the Government's efforts to deregulate in this area, the Government intends to denounce Conventions Nos. 99 and 101.

(b) Automatic denunciations: nine, following the ratification of the Holidays with Pay Convention (Revised), 1970 (No. 132).

(3) Comments by the Committee of Experts: comments pending for 13 countries, taking note of the observations made by workers' organizations on the application of the Convention. The Committee refers in the appropriate cases to the questions that are also dealt with within the framework of the Holidays with Pay Convention, 1936 (No. 52).

(4) Need for revision: Convention revised by the Holidays with Pay Convention (Revised), 1970 (No. 132). The latter Convention, which had received 25 ratifications as of 31 December 1995, has not closed Convention No. 101 to subsequent ratification. At the time of the Ventejol Working Party of 1979, the Office had indicated that Conventions Nos. 52 and 101, revised by Convention No. 132, remained in force for a certain number of States, and that Convention No. 101 had been left open to ratification as an interim target for countries that were not yet in a position to accept Convention No. 132 in the case of agriculture. It will be noted that 14 member States have ratified Convention No. 132 directly without having been bound by Convention No. 101.

(5) Remarks: the Ventejol Working Parties of 1979 and 1987 had classified Convention No. 101 in the category of "other instruments". However, Convention No. 132 contains higher criteria as regards holidays with pay in agriculture. The Working Party may wish to invite the States Parties to Convention No. 101 to contemplate ratifying Convention No. 132 and, if appropriate, providing it with information on the possible difficulties inherent in the Convention, legislation or national practice that might impede or delay such ratification.

(6) Proposals:
(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 101 to contemplate ratifying Convention No. 132, and at the same time denouncing Convention No. 101, and that it also invite the member States to inform the Office of the obstacles and difficulties encountered, if any, that might impede or delay the ratification of Convention No. 132.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 101 at a subsequent meeting in the light of the information obtained by the Office.

* * *

IV. Social security

22. This section deals with three Conventions: two of them (Nos. 24 and 25) concern sickness insurance, while the third (No. 44) relates to protection against unemployment. Conventions Nos. 25 and 44 were already reviewed by the Working Party in March 1996. It had then decided to defer its review until November when it would make a joint examination of Conventions Nos. 24 and 25, one covering industry and the other agriculture, and seek new information in order to determine whether or not these Conventions have become obsolete. It will be recalled that the three instruments had already been revised by more recent Conventions, i.e. Nos. 130 and 168 respectively. In that sense they can be considered as outdated, but this does not mean that some of their provisions have not retained their value. The solution suggested by the Office can be described as one of "wait and see". In the three cases, it is proposed to promote the ratification of the more recent Conventions while, at the same time, denouncing the outdated instruments. Furthermore, information on practice and the difficulties encountered would be requested from the States concerned. With such information in hand, the Working Party would be better equipped to recommend at a subsequent meeting whether or not these Conventions should be shelved.

IV.1. C.24 -- Sickness Insurance (Industry) Convention, 1927

(1) Ratifications:

(a) Number of current ratifications: 26.

(b) Latest ratification: Croatia, 1995.

(c) Ratification prospects: small. Despite having been revised, this Convention has not been closed to further ratifications. It was adopted before the introduction of the final Articles providing for, in the absence of a contrary decision by the Conference, the closure of the Convention to further ratifications upon the adoption of a revising Convention and the automatic denunciation of the original Convention upon ratification by a State of the revising Convention.

(2) Denunciations: one State (Uruguay) denounced Convention No. 24 and subsequently ratified the
(3) **Comments by the Committee of Experts:** comments pending for 12 countries, containing observations made by workers' organizations.

(4) **Need for revision:** Convention revised by the Medical Care and Sickness Benefits Convention, 1969 (No. 130) (14 ratifications as of 31 December 1995).

(5) **Remarks:** at the March 1996 meeting of the Working Party, the Worker members suggested that a more thorough examination should be made of Convention No. 25, combined with the examination of Convention No. 24, before a decision was taken to shelve it. The Employer members pointed out that the Office had indicated that the Convention was technically obsolete, that it had not received any ratification in the last 30 years and that it was a case that clearly lent itself to shelving. It will also be recalled that Convention No. 130, which revised Conventions Nos. 24 and 25, has already been examined by the Working Party. The Governing Body invited member States to contemplate ratifying Convention No. 130 and to inform the Office of the obstacles and difficulties encountered, if any, and the possible need for revision of this Convention. While awaiting the information requested on the ratification prospects for Convention No. 130, the Working Party could postpone the shelving of Convention No. 24. Moreover, the Office could take technical assistance measures with a view to promoting the ratification of Convention No. 130.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 24 to contemplate ratifying the Medical Care and Sickness Benefits Convention, 1969 (No. 130), and denouncing Convention No. 24 at the same time.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 24 to provide it with information on possible difficulties inherent in the Convention, legislation or national practice which might prevent or delay the ratification of Convention No. 130.

(c) The Working Party could propose to defer the shelving of Convention No. 24 while awaiting the information it had requested from the Office on the ratification prospects for Convention No. 130.

(d) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 24 at a subsequent meeting in the light of the information obtained by the Office.

**IV.2. C.25 -- Sickness Insurance (Agriculture) Convention, 1927**

(1) **Ratifications:**
(a) Number of current ratifications: 18.

(b) Latest ratification: Croatia, 1995.

(c) Ratification prospects: small. Despite having been revised, this Convention has not been closed to further ratifications. It was adopted before the introduction of the final Articles providing for, in the absence of a contrary decision by the Conference, the closure of the Convention to further ratifications upon the adoption of a revising Convention and the automatic denunciation of the original Convention upon ratification by a State of the revising Convention.

(2) Denunciations: one State (Uruguay) denounced Convention No. 25 and subsequently ratified the Medical Care and Sickness Benefits Convention, 1969 (No. 130).

(3) Comments by the Committee of Experts: comments pending for seven countries.

(4) Need for revision: Convention revised by the Medical Care and Sickness Benefits Convention, 1969 (No. 130) (14 ratifications as of 31 December 1995).


(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 25 to contemplate ratifying the Medical Care and Sickness Benefits Convention, 1969 (No. 130), and denouncing Convention No. 25 at the same time.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 25 to provide it with information on the possible difficulties inherent in the Convention, legislation or national practice that could prevent or delay the ratification of Convention No. 130.

(c) The Working Party could propose that the shelving of Convention No. 25 be deferred until the Office communicated to it the information requested on the ratification prospects for Convention No. 130.

(d) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 25 at a subsequent meeting in the light of the information obtained by the Office.

IV.3. C.44 -- Unemployment Provision Convention, 1934

(1) Ratifications:

(a) Number of current ratifications: 12.

(c) Ratification prospects: Convention closed to all further ratification.

(2) **Denunciations:**

(a) Pure denunciations: none.

(b) Automatic denunciations: two, following the ratification of Convention No. 168.

(3) **Comments by the Committee of Experts:** comments pending for nine countries comprising observations made by workers' organizations. The reports on the application of this Convention contained in the 1980s information from the Governments of Djibouti and Peru concerning their intention to denounce Convention No. 44.

(4) **Need for revision:** Convention already revised by the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

(5) **Remarks:** at the time of the Ventejol Working Party of 1979, the Office had stated that Convention No. 44 was no longer adapted to current conditions. Since then it has been revised by Convention No. 168 and closed to ratification. The Worker members, at the meeting of the Working Party in March 1996, queried the reasons why the Convention had not been left dormant by the Governing Body. They recalled that two trade union organizations had submitted comments to the Committee of Experts and that detailed reports were awaited, and requested that the examination of these should be deferred until the next meeting of the Working Party. The International Labour Conference adopted the more recent and comprehensive instruments on the aspects covered by Convention No. 44 relating to protection against unemployment. In this respect, the Office could take technical assistance measures with a view to promoting the ratification of Convention No. 168. It will be noted that the shelving of Convention No. 44, on which reports would be requested in 1998 from a very small number of States, would not have any incidence on the pending comments by supervisory bodies.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 44 to contemplate ratifying the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), and denouncing Convention No. 44 at the same time.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 44 to provide it with information on the possible difficulties inherent in the Convention, legislation or national practice that might prevent or delay the ratification of Convention No. 168.
(c) The Working Party could propose that the shelving of Convention No. 44 be postponed until the Office had communicated to it the information requested on the ratification prospects for Convention No. 168.

(d) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 44 at a subsequent meeting in the light of the information obtained by the Office.

* * *

V. Employment of women

23. This section covers six Conventions divided into three areas: maternity protection, night work and underground work. The subject-matter in general is one that has received a relatively large number of pure denunciations compared with the Conventions as a whole. The reasons for denunciation have been in most cases the incompatibilities noted between the protective provisions intended especially for women and the regulations concerning equality of treatment for men and women as regards conditions of employment. In this context, the prospects for revision differ according to the area concerned.

24. Maternity protection is an area that no longer has an up-to-date Convention. The need for a revision of Convention No. 103 has been widely recognized in the last few years. The Working Party could draw the attention of the Governing Body to this need so that it might examine the matter in the context of the Conference agenda to be drawn up. With a view to enabling a joint examination to be made of the maternity protection Conventions, as the Working Party had wished to do in other areas at its previous meeting, the Office has included a presentation of the Maternity Protection Convention, 1919 (No. 3).

25. In the area of night work for women, instruments now exist that meet current needs since the adoption in 1990 of the Protocol to the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Night Work Convention, 1990 (No. 171). The Working Party could recommend the ratification of these up-to-date instruments, which would help to clarify a number of situations that would be in need of re-examination. Night work for women is in fact regulated by three Conventions which are still in force and sometimes overlap one another, particularly when certain States are bound by two Conventions at the same time. The Working Party could thus press for a re-examination and a reordering by the member States of their obligations in this area, with the dual aim of ratifying the up-to-date instruments and shelving those that are obsolete.

26. The third area consists of only one Convention dealing with underground work, which has been ratified by the majority of ILO member States but has also been the subject of several pure denunciations in the last decade. However, the revision of Convention No. 45 does not seem to be the best solution. The Working Party might envisage as a priority the ratification of the Safety and Health in Mines Convention, 1995 (No. 176), which contains precise and up-to-date provisions on this subject that are applicable to both men and women.
V.1. C.3 -- Maternity Protection Convention, 1919

(1) **Ratifications:**

(a) Number of current ratifications: 30.

(b) Latest ratification: Bosnia and Herzegovina, 1993.

(c) Ratification prospects: few. Despite having been revised, this Convention has not been closed to further ratifications. It was adopted before the introduction of the final Articles providing, in the absence of a contrary decision by the Conference, for the closure of the Convention to further ratifications upon the adoption of a revising Convention, and the automatic denunciation of the original Convention upon the ratification by a State of the revising Convention.

(2) **Denunciations:** two States have denounced the Convention and three subsequently ratified the Maternity Protection Convention (Revised), 1952 (No. 103).

(3) **Comments by the Committee of Experts:** comments pending for 12 countries.

(4) **Need for revision:** Convention already revised by the Maternity Protection Convention (Revised), 1952 (No. 103) (33 ratifications as of 31 December 1995).

(5) **Remarks:** the Ventejol Working Party of 1979 had classified Convention No. 3, which had already been revised, and Convention No. 103 in both the category of instruments to be promoted on a priority basis and the category of instruments to be revised. The Ventejol Working Party of 1987 had nevertheless considered that it continued to be difficult at that stage to formulate proposals for the revision of those instruments and had excluded the possible revision of Conventions Nos. 3 and 103 from the revised classification. However, the Employer members as well as some governments felt that these standards should be revised. Subsequently (see Convention No. 103 below), only the revision of Convention No. 103 was to be considered by the Governing Body for purposes of revision. It should be noted that 11 States Parties to Convention No. 3 had already ratified Convention No. 103 without, however, denouncing Convention No. 3 at the same time. This Convention does not, in fact, contain provisions providing for the automatic denunciation of the Convention should a revising Convention be ratified, and is thus still in force for these States. The Working Party could propose that these States be invited to re-examine the status of Convention No. 3, which has become obsolete in so far as they are concerned.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it contemplate the desirability of including the revision of the instruments on maternity protection (or some of them) on the agenda for a
forthcoming session of the Conference, and that it take Convention No. 3 into consideration in that context.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 3 which have already ratified the Maternity Protection Convention (Revised), 1952 (No. 103), to re-examine the effects of these superimposed ratifications and to make proposals in that respect.

(c) The Working Party (or the LILS Committee) should re-examine the status of Convention No. 3 in due course.

V.2. C.103 -- Maternity Protection Convention (Revised), 1952

(1) Ratifications:

(a) Number of current ratifications: 33.

(b) Latest ratification: Chile, 1994.

(c) Ratification prospects: Convention likely to receive further ratifications.

(2) Pure denunciations: 1.

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<td>Venezuela</td>
<td>1982</td>
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<td>1985</td>
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Reasons for denunciation: no reason given for denunciation.

(3) Comments by the Committee of Experts: comments pending for 18 countries containing an observation made by a workers' organization.

(4) Need for revision: the question of the revision of Convention No. 103 had been proposed to the Governing Body with a view to its inclusion on the agenda for the Conference in 1995 and 1997, but this had not been followed up. The question is again submitted to the Governing Body at its present session with a view to its inclusion on the agenda for the Conference in 1999.

(5) Remarks: in the light of the proceedings of the Ventejol Working Party in 1979, which had concluded that there was a need to revise Convention No. 103, and those of the Working Party of 1987, which had considered that the necessary consensus for the revision of the Convention did not exist at the time, the Office had continued its technical studies on the Convention. It had proposed that the Governing Body examine the question of the revision of the Convention with a view to its inclusion on
the agenda for the Conference in 1995 and 1997. The proposal had been endorsed at the time by a number of Government representatives as well as by the Workers' group. On that occasion the Office had drawn attention to various obstacles to the ratification of the Convention, which had received relatively few ratifications given its fundamental importance. This question is before the Governing Body for examination at its current session, with a view to its inclusion on the agenda for the Conference in 1999.

(6) Proposals:

(a) The Working Party could examine the desirability of the revision of Convention No. 103 and make recommendations to the Governing Body in that respect.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 103 at a subsequent meeting.

V.3. C.4 -- Night Work (Women) Convention, 1919

(1) Ratifications:

(a) Number of current ratifications: 31.

(b) Latest ratification: Rwanda, 1962.

(c) Ratification prospects: minimal. Despite having been revised, this Convention has not been closed to further ratifications. It was adopted before the introduction of the final Articles providing, in the absence of a contrary decision by the Conference, for the closure of the Convention to further ratifications upon the ratification by one State of the revising Convention.

(2) Denunciations:

(a) Pure denunciations: 7.

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<td>1932</td>
</tr>
<tr>
<td>Argentina</td>
<td>1933</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>1922</td>
</tr>
<tr>
<td>Chile</td>
<td>1931</td>
</tr>
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Reasons for denunciation:

Albania, Bulgaria: no reasons given for denunciation.

Argentina: the limitation of the hours of work for women has become a veritable obstacle to the actual integration of women into the labour market.

Chile: 57 years after the adoption of this instrument, it is showing signs of rigidity. Its provisions are not only ill-adapted to the realities of our times but can also be considered, in particular, as discriminating against women by visibly prejudicing their possibilities of becoming fully integrated into the contemporary working world. Moreover, the text of the Convention unjustifiably restricts women's freedom to work, and is clearly out of touch with the development requirements of our country.

Luxembourg: employers' and workers' industrial organizations and the most important women's associations in the country have made numerous representations to the Government to lift the ban on night work for women in industry, claiming that it hampers women's access to many professions and occupations, and that it is no longer valid to maintain it since the concern to provide protection which originally inspired it no longer exists.

Malta: this decision was mainly taken because of the legal, economic and social difficulties that were caused by the ban on night work for women. Prohibiting women from working at night when they wish to do so is liable to be the subject of legal action on the grounds of gender discrimination.

Portugal: the provisions of the Convention no longer have any justification nowadays and even run counter to the principle of equality of treatment for men and women as regards access to employment, occupational training and promotion, and working conditions. An additional factor is the need to harmonize internal legislation and Community law in accordance with the interpretation given by the European Court of Justice.

(b) Automatic denunciations: 21 States denounced Convention No. 4 and subsequently ratified the Night Work (Women) Convention (Revised), 1934 (No. 41) or the Night Work (Women) Convention (Revised), 1948 (No. 89).

(3) Supervisory controls: comments by the Committee of Experts pending for three countries. In June 1996 the Governing Body adopted the report of the tripartite committee set up to consider a
representation (under article 24 of the Constitution) concerning the application by Peru of Convention No. 41 in particular.

(4) **Need for revision:** Convention revised partially by the Night Work (Women) Convention (Revised), 1934 (No. 41) (14 current ratifications as of 31 December 1995). The Night Work (Women) Convention (Revised), 1948 (No. 89), revised Conventions Nos. 4 and 41, and closed Convention No. 41 to ratification. As of 31 December 1995, Convention No. 89 had received 47 ratifications. In 1990 the International Labour Conference adopted the Protocol relating to Convention No. 89 (two ratifications as of 31 December 1995), and the Night Work Convention, 1990 (No. 171) (four ratifications).

(5) **Remarks:** Convention No. 4 had been classified in the category of "other instruments" by the Ventejol Working Parties of 1979 and 1987. The States Parties now have more up-to-date instruments on the subject of night work (Convention No. 89 and its Protocol and Convention No. 171). The Working Party could suggest to the 23 States bound simultaneously by Convention No. 4 and Convention No. 41 and/or Convention No. 89 that they denounce Convention No. 4 in order to be assured of consistent coverage for the night work of women. In actual fact, the implementation of Conventions Nos. 41 and 89 implies in law and in practice that Convention No. 4 has become obsolete with regard to these. If the Working Party recommends that Convention No. 4 be shelved, the eight States Parties to Convention No. 4, which have not ratified either Convention No. 41 or Convention No. 89, should be invited to ratify the most recent instruments.

(6) **Proposals:**

(a) The Working Party could propose that Convention No. 4 be shelved with immediate effect.

(b) It could recommend to the Governing Body that it invite the 23 States Parties to Convention No. 4, which have ratified the Night Work (Women) Convention, 1934 (No. 41) or the Night Work (Women) Convention (Revised), 1948 (No. 89), to contemplate ratifying, as appropriate, Convention No. 89 and/or its Protocol of 1990 and denouncing Convention No. 4 at the same time.

(c) It could recommend to the Governing Body that it invite the eight other States Parties to Convention No. 4 to contemplate ratifying the Night Work Convention, 1990 (No. 171), or, where appropriate, the Night Work (Women) Convention (Revised), 1948 (No. 89), and its Protocol of 1990, denouncing at the same time Convention No. 4.

(d) It could recommend to the Governing Body that it invite the States Parties to Convention No. 4 to provide it with information on the possible difficulties inherent in the Convention, legislation or national practice which could prevent or delay the ratification of Convention No. 171 or, where applicable, of Convention No. 89 and its Protocol of 1990.

(e) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 4 in
due course.

V.4. C.41 -- Night Work (Women) Convention (Revised), 1934

(1) Ratifications:

(a) Number of current ratifications: 17.

(b) Latest ratification: Argentina, 1950 (also more recent ratifications by 15 other countries after they become independent, subsequent to the entry into force in 1951 of Convention No. 89 which closed Convention No. 41 to further ratifications; four of them subsequently ratified Convention No. 89).

(c) Ratification prospects: Convention closed to any further ratification.

(2) Denunciations:

(a) Pure denunciations: 3

<table>
<thead>
<tr>
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<td>Hungary</td>
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<tr>
<td>Myanmar</td>
<td>1935</td>
</tr>
<tr>
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Reasons for denunciation:

Hungary: the exclusion of women from night work is considered to be discriminatory, especially as regards wages and promotion at work.

Myanmar and United Kingdom: no reasons given for their decisions.

(b) Automatic denunciations: 18 denunciations following the ratification of Convention No. 89.

(3) Supervisory procedures: comments by the Committee of Experts pending for six countries. Furthermore, the Governing Body adopted in June 1996 the report of the tripartite committee set up to consider a representation (under article 24 of the Constitution) concerning the application by Peru of Convention No. 41 in particular.

(4) Need for revision: the Night Work (Women) Convention (Revised), 1948 (No. 89), revised
Conventions Nos. 4 and 41 and closed Convention No. 41 to ratification. In 1990, the International Labour Conference adopted the Protocol relating to Convention No. 89 (two ratifications as of 31 December 1995) and the Night Work Convention, 1990 (No. 171) (four ratifications).

(5) Remarks: the Ventejol Working Parties of 1979 and 1987 had classified this Convention in the category of "other instruments". Since the entry into force of Convention No. 89 in 1951, there have been 21 denunciations recorded of Convention No. 41, 18 of which have been automatic (see under Convention No. 4). At the March 1996 meeting, the Office proposed to the Working Party that Convention No. 41 should be made dormant. At the request of the Worker members, the Working Party expressed their hope that a joint examination would be made of Conventions Nos. 4 and 41. The Working Party could suggest to the States Parties to Convention No. 41 that they contemplate ratifying Convention No. 89 and its Protocol of 1990 or, where appropriate, of the Night Work Convention, 1990 (No. 171).

(6) Proposals:

(a) The Working Party could propose the shelving of Convention No. 41 with immediate effect.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 41 to contemplate ratifying the Night Work (Women) Convention (Revised), 1948 (No. 89), and its Protocol of 1990 or, where necessary, ratifying the Night Work Convention, 1990 (No. 171) and denouncing Convention No. 41 at the same time.

(c) It could recommend to the Governing Body that it invite the States Parties to Convention No. 41 to provide it with information on the possible difficulties inherent in the Convention, legislation or national practice which could prevent or delay the ratification of Convention No. 89 and its Protocol of 1990 or, as appropriate, of Convention No. 171.

(d) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 41 at a subsequent meeting in the light of the information obtained by the Office.


(1) Ratifications:

(a) Number of current ratifications: 47 (two ratifications of the 1990 Protocol).

(b) Latest ratification: Czech Republic and Slovakia, 1993.

(c) Ratification prospects: the Convention and its Protocol are likely to receive further ratifications.
(2) **Denunciations:**

(a) Pure denunciations: 15

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<tr>
<th>Country</th>
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<td>Spain</td>
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<td>Switzerland</td>
<td>1950</td>
<td>1992</td>
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<td>Uruguay</td>
<td>1954</td>
<td>1982</td>
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*Reasons for denunciation:*

*Cuba:* no reason given for denunciation.
**Belgium:** the Government decided to denounce Convention No. 89, undertake the ratification procedure for Convention No. 171 and prepare new legislation on night work.

**France:** it is solely for exceptional reasons associated with a serious risk of conflict among its international commitments that France has been led to denounce the Convention. A judgement by the Court of Justice of the European Communities (Stoeckel case 345/89 of 25 July 1991) had in fact drawn attention to the incompatibilities between French legislation on night work and directive 76/207/EEC concerning the equality of men and women in working conditions. The Commission of the Communities has called upon France to bring its legislation into conformity with directive 76/207/EEC. This order is the first stage of a procedure which, if it continues, will lead to the reappearance of France before the Court of Justice of the European Communities, where a further adverse judgement seems to be inevitable. Consequently France can no longer defer the amendment of its legislation and by the same token it cannot fail to denounce Convention No. 89 on the night work of women in industry.

**Greece:** as the Government has committed itself to bring its national legislation into harmony with European Community law, it is required to denounce Convention No. 89 in order to adapt Greek legislation to the provisions of directive 76/207/EEC, which applies the principle of equality of treatment between men and women in employment opportunities, occupational training and promotion, and working conditions.

**Ireland:** since the adoption of the Convention the situation has changed, and the prohibition on the employment of women for night work now constitutes an inadmissible discrimination against working women.

**Italy:** the Court of Justice of the European Communities has given its formal opinion on the question of night work for women in industry. In order to make its regulations compatible with those of the European Community, the Italian Government decided to renounce Convention No. 89.

**Luxembourg:** the professional organizations of employers and workers and the most important women's associations in the country have called upon the Government on numerous occasions to remove the prohibition on the night work of women in industry, claiming that it hampers the access of women to a great many professions and occupations and that its maintenance has ceased to be acceptable since the concern for protection that originally inspired it no longer exists.

**Malta:** this decision was taken mainly because of the legal, economic and social difficulties that were caused by the prohibition of night work for women. This refusal to allow women to work at night if they wish to do so is liable to be the subject of legal action on the grounds of discrimination between the sexes.

**Netherlands:** the absolute prohibition imposed by the Convention has proved to be an impediment to any discussion of night work for women. However, this question must now be reviewed in relation to the efforts made to bring about the complete integration of women into the production process in the
Netherlands: The purpose of the denunciation is to prevent a situation from being created in which it would be impossible for many years to come to modify this state of inequality in any way as a result of the obligation deriving from Convention No. 89.

*New Zealand:* it is considered that to prohibit night work in factories while ignoring other forms of night work that are intrinsically dangerous, such as police work, the work of nursing personnel, and public transport services, constitutes a discrimination rather than a protection and is contrary to the spirit of the law of 1997 on the Commission on Human Rights, which was adopted to enable New Zealand to ratify international covenants on human rights.

*Portugal:* there is no longer any justification for the provisions of the Convention which may even be prejudicial for the firm establishment of the principle of equality between the sexes in employment, professional and vocational training and promotion, and conditions of work. Moreover, it is necessary to harmonize internal laws and Community law as it has been interpreted by the Court of Justice of the European Communities.

*Spain:* the provisions of the Convention run counter to the Spanish Constitution of 1978 which states as a fundamental right "the prohibition of any kind of discrimination ... based on gender", a provision that is expanded upon in the Workers' Charter, which places strict insistence on the prevention of all discrimination based on gender in relations in the workplace.

*Sri Lanka:* the ratification of the Convention is an impediment to the employment of women on night work in a third shift. The present situation as regards women in employment is very different from that which prevailed at the time when the Convention was ratified by Sri Lanka. Various national organizations representing the rights of women have pointed out that the legislation in question discriminates against those rights and acts as a constraint that makes it difficult for women to have an equal opportunity of obtaining employment.

*Switzerland:* Switzerland needs a margin of manoeuvre in order to adapt its labour laws to the development of the national and international situations. By denouncing the Convention, it frees itself of a long-term obligation which is of concern only to industry and the women employed in it. Switzerland's main economic competitors, notably the Member States of the European Community, are not bound by this Convention or are in the process of ridding themselves of their obligations. To renounce the denunciation of the Convention would hinder the efforts that are being made to improve the structural conditions of the economy of Switzerland and the attraction of the Swiss market-place, and would thereby prejudice the country's international competitiveness.

*Uruguay:* national labour law is characterized by the protection it affords to women at work. Although at the time the protective legislation was adopted it was in accordance with the cultural concepts that had evolved over the centuries in the majority of societies, at the present time the result of technological and scientific developments together with the extension of education and vocational training, among other reasons, have been to transform the explicit intention in the past to protect women against exhausting
and dangerous work into a factor of discrimination in the present-day world that limits women's opportunities to obtain employment.

(b) Automatic denunciations: Not applicable.

(3) Comments by the Committee of Experts: comments pending for 20 countries, comprising observations by three workers' organizations.

(4) Need for revision: a Protocol to Convention No. 89 was adopted in 1990 (two ratifications as of 31 December 1995). The Night Work Convention, 1990 (No. 171) (four ratifications as of 31 December 1995), establishes measures of protection for night work in general without revising Convention No. 89.

(5) Remarks: the instruments on night work of 1990 (Protocol to Convention No. 89, Convention No. 171 and Recommendation No. 178) envisage different possibilities of assuring protection for night work in accordance with the requirements of a modern economy.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 89 to contemplate ratifying the Protocol of 1990 to that Convention or, where appropriate, ratifying the Night Work Convention, 1990 (No. 171), and to inform the Office of the obstacles and difficulties encountered that might prevent or delay the ratification of these instruments.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 89 and its Protocol of 1990 at a subsequent meeting in the light of the information obtained by the Office.


(1) Ratifications:

(a) Number of current ratifications: 88.

(b) Latest ratification: Croatia, 1995.

(c) Ratification prospects: Convention ratified by more than half the member States of the ILO.

(2) Denunciations:

(a) Pure denunciations: 8

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<td>Country</td>
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<td>United Kingdom</td>
<td>1936</td>
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<td>Uruguay</td>
<td>1954</td>
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**Reasons for denunciation:**

**Australia:** the Government of Australia has come to the conclusion that the development of technological and social conditions in the area of mining work now enable it to give full effect to the relevant provisions of the United Nations Convention on the Elimination of All Forms of Discrimination against Women. Consequently, it has now become necessary to denounce Convention No. 45.

**Canada:** various bodies in Canada now consider that the Convention limits women's access to employment and thus runs counter to the principle of equality of treatment and opportunities for male and female workers.

**Ireland:** owing to the new developments that have occurred since the adoption of this Convention, the prohibition on the underground work of women in mines has become an inadmissible discrimination against working women.

**Luxembourg:** the law on equality of treatment between men and women as regards opportunities of employment, and access to vocational training and promotion, stipulates that the provisions regarding the employment of women in mines may not, for the time being, be considered as contrary to the provisions of the law. However, these provisions were abrogated by a law of 17 November 1986.

**New Zealand:** this Convention does not take into account the principles of equality embodied in international instruments on human rights and incorporated into New Zealand legislation.

**Sweden:** on the Swedish labour market, the principle of equality between working men and women has been fully accepted. As a result of this equality of opportunity, the provisions of public law may not
contribute to creating meaningless differences in the opportunities offered to men and women to compete for jobs.

**United Kingdom:** the provisions of the Convention that prohibit underground work for women in mines of all kinds constitute an unnecessary obstacle to the employment of women. The Government considers that the Convention is no longer in line with present circumstances and that it should therefore be denounced.

**Uruguay:** it has not yet proved possible to apply the provisions of the Convention on Uruguayan territory, nor does it seem likely that they can be applied in the near future.

(b) Automatic denunciations: Not applicable.

(3) **Supervisory procedures:** comments by the Committee of Experts pending for 11 countries, comprising an observation made by a workers' organization. In June 1996, the Governing Body adopted the report of the tripartite committee set up to consider a representation (under article 24 of the ILO Constitution) concerning the application of this Convention by Peru.\(^{(26)}\)

(4) **Need for revision:** this Convention has not been revised. The 1985 instruments on occupational health services (Convention No. 161 and Recommendation No. 171) and those of 1995 on safety and health in mines (Convention No. 176 and Recommendation No. 181) are designed to ensure the existence of a safe and healthy working environment for all as well as the framing and implementation of a consistent security and health policy for mines. Convention No. 161 has received 16 ratifications (13 States bound by Convention No. 45); Convention No. 176 has not yet entered into force.

(5) **Remarks:** during the proceedings of the Ventejol Working Parties of 1979 and 1987, Convention No. 45 was classified among the instruments to be promoted on a priority basis. A large number of countries that ratified it have, in the last few years, abrogated the prohibitions on the employment of women in underground work. The Committee of Experts, in its comments on Convention No. 45, recalled that the action taken by the ILO was intended to ensure a safe and healthy working environment for all. When the working environment is not safe and healthy for everyone, it is both legitimate and in accordance with the relevant international instruments to provide persons who have special needs as a result of their age or their physical condition with protection which may go so far as to prohibit the performance of the work in question. The Committee of Experts considers that before any decision is taken to denounce the Convention an examination should be made of working conditions in the mines in order to determine whether the working environment is reasonably safe and healthy for everyone in the meaning of Convention No. 161 on occupational health services. The Committee of Experts believes that, if it is found that this is not the case, it is justifiable to maintain the protection envisaged by the Convention, and that it would even be desirable to extend such protection to other underground work of the same kind.\(^{(27)}\) Moreover, the Committee of Experts, in its Special Survey of 1996 on equality in employment and occupation, emphasized that the principles of non-discrimination are also to be applied as regards occupational safety and health. In this area, protective legislation applying to women should be updated.
and the measures to reduce hazards to workers' health should be adopted in line with an egalitarian approach.\(^{(28)}\)

(6) *Proposals:*

(a) The Working Party could recommend to the Governing Body that it invite the States Parties to Convention No. 45 to contemplate ratifying the Safety and Health in Mines Convention, 1995 (No. 176), and possibly denouncing Convention No. 45 at the same time.

(b) It could recommend to the Governing Body that it invite the States Parties to Convention No. 45 to provide it with information on the possible difficulties inherent in the Convention, legislation or national practice that might impede or delay the ratification of Convention No. 176.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 45 at a subsequent meeting in the light of the information obtained by the Office.

* * *

VI. Employment of children and young persons

27. This section covers two Conventions (No. 6 and No. 90) on the night work of young persons. It will be recalled that the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79), had already been examined by the Working Party in March 1996. At that time the Governing Body had approved "the revision of the provisions of Convention No. 79, and possibly of other instruments on the night work of young persons".\(^{(29)}\) Apart from Convention No. 79, the Conventions concerned would be Convention No. 90, and Convention No. 6, which has itself been revised by Convention No. 90. The Working Party should rule on the revision of these Conventions, or of some of them. If it decides to recommend the revision of all the Conventions (Nos. 6, 79 and 90) on the night work of young persons, it should specify whether it is in favour of the preparation of a new Convention or whether the adoption of an additional Protocol to the Night Work Convention, 1990 (No. 171), could be envisaged. It will be recalled that the possibility of a Protocol had been discussed in the Working Party in March 1996, and that the Employer members had expressed their interest in the suggestion at the time. The Worker members had reserved their position until they were able to make a joint examination of the other Conventions on the night work of young persons as well.

VI.1. C.6 -- Night Work of Young Persons (Industry) Convention, 1919

(1) *Ratifications:*

(a) Number of current ratifications: 51.
(b) Latest ratification: Viet Nam, 1994.

(c) Ratification prospects: minimal. Despite having been revised, this Convention has not been closed to further ratifications. It was adopted before the introduction of the final Articles providing, in the absence of a decision to the contrary by the Conference, for the closure of the Convention to further ratifications upon the adoption of a revising Convention and the automatic denunciation of the original Convention upon the ratification by one State of the revising Convention.

(2) Denunciations:

(a) Pure denunciations: 1

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Reasons for denunciation: reason for denunciation not given.

(b) Other denunciations: eight States denounced Convention No. 6 and subsequently ratified the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (for non-automatic denunciations, see remark above).

(3) Comments by the Committee of Experts: comments pending for ten countries, comprising an observation made by workers' organization.

(4) Need for revision: Convention already revised by the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90) (49 ratifications as of 31 December 1995). In March 1996, the Governing Body had envisaged the revision of the instruments on the night work of young persons.

(5) Remarks: the Ventejol Working Parties of 1979 and 1987 had classified Convention No. 6 in the category of "other instruments". At the 1979 Working Party, the Office had pointed out that Convention No. 6 remained on a purely interim basis for the time being, pending the ratification and application of more recent standards. The Working Party, at its meeting of March 1996, recommended the revision of Convention No. 79 and possibly also of other instruments on the night work of young persons.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it contemplate the revision of the Conventions on the night work of young persons, and include the Night Work of Young Persons (Industry) Convention, 1919 (No. 6), in its examination.
(b) It could draw up recommendations on the form that such a revision might take, in particular the possible preparation of a Protocol to the Night Work Convention, 1990 (No. 171), that would deal with the specific conditions of night work for children and young persons.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 6 in due course.

VI.2. C.90 -- Night Work of Young Persons (Industry) Convention (Revised), 1948

(1) Ratifications:

(a) Number of current ratifications: 49.

(b) Latest ratification: Croatia, 1995.

(c) Ratification prospects: Convention likely to receive further ratifications.

(2) Denunciations: none.

(3) Comments by the Committee of Experts: comments pending for 14 countries, comprising an observation made by a workers' organization.

(4) Need for revision: this Convention has not been revised. In March 1996, the Governing Body had envisaged the revision of the instruments on the night work of young persons. (31)

(5) Remarks: the Ventejol Working Parties of 1979 and 1987 had classified Convention No. 90 in the category of instruments to be promoted on a priority basis, while the 1987 Working Party had also identified it as an instrument to be revised (see Convention No. 6).

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it envisage the revision of the Conventions on the night work of young persons, in particular the Night Work of Young Persons (Industry) Convention, (Revised), 1948 (No. 90).

(b) It could draw up recommendations on the form that such a revision might take, in particular the possible preparation of a Protocol to the Night Work Convention, 1990 (No. 171), that would deal with the specific conditions of night work for children and young persons.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 90 in due course.
VII. Migrant workers

28. Two Conventions (Nos. 97 and 143) are examined under this heading. The Working Party could base itself on the proceedings of the Committee on Employment and Social Policy of the Governing Body in March 1996, which had been devoted to the situation of international migrations and migrant workers. Among other matters, the need to revise Conventions Nos. 97 and 143 was discussed in this Committee. The remarks made below relate to the proceedings of the Committee, which had requested that its discussions be brought to the knowledge of the Working Party so that a more intensive study could be made of the questions raised. The discussions of March 1996 had not led to a consensus on the desirability of revising or recasting the standards concerning migrant workers. In the circumstances, the Office suggested either that an overall study should be prepared under article 19 of the Constitution, to enable an in-depth analysis to be made of the main difficulties apparent in the application and ratification of the relevant Conventions, and to provide a basis for future work in the Governing Body, or that a general discussion should be held in the Conference to take stock of the existing situation as regards current instruments and whether they need revision, and even to consider the possible preparation of new standards.

VII.1. C.97 -- Migration for Employment Convention (Revised), 1949

(1) Ratifications:

(a) Number of current ratifications: 40.

(b) Latest ratification: Bosnia and Herzegovina, 1993.

(c) Ratification prospects: Convention likely to receive further ratifications.

(2) Denunciations: none.

(3) Comments by the Committee of Experts: comments pending for 31 countries, containing observations made by an employers' organization and three workers' organizations.

(4) Need for revision: Convention not revised, but contemplated by the Migrant Workers (Supplementary Provisions), 1975 (No. 143). The need to revise Conventions Nos. 97 and 143 was taken up during the proceedings of the Committee on Employment and Social Policy in March 1996.

(5) Remarks: the Ventejol Working Party of 1987 had pointed out that the 1979 classification did not contain any suggestion for the adoption of new standards in the area concerned. The Working Party
recalled that a draft Convention on the rights of all migrant workers and their families was in course of preparation by the United Nations.\(^{(34)}\) When this instrument was nearing completion, the Ventejol Working Party deemed it useful to see whether it would be desirable to take steps, in the area of competence of the ILO, to adapt or complement the existing ILO instruments on the subject. In the document\(^{(35)}\) submitted by the Office in March 1996 to the Committee on Employment and Social Policy, it was pointed out that the 1994-95 interdepartmental project on migrant workers had enabled important gaps to be identified in international labour standards for migrant workers:

(a) they do not concern the elaboration and establishment, in consultation with employers' and workers' organizations, of a national migration policy within the framework of employment policy;

(b) the increased role taken by private placement and recruitment agencies is not recognized in the existing instruments, which consider recourse to these bodies to be of secondary importance (the proposed revision of Convention No. 96 may take the role of these agencies into account);

(c) the questions relating to the contracts of migrant workers, which are of fundamental importance for their protection, are not dealt with in existing instruments. To ensure the protection of migrant workers a written contract defining the conditions of employment very precisely is necessary, but it is not enough; it must be complemented by an arrangement enabling workers to present an appeal easily and quickly in the country of employment (or on occasion in the country of origin) in order to protect their rights;

(d) the questions touching upon certain aspects of the payment of wages to migrant workers, in particular periodicity, modes of payment, deferred payments in foreign currency and appeals are not adequately dealt with by the current provisions of the Protection of Wages Convention, 1949 (No. 95). Moreover, it would be desirable to examine the question of deductions from wages for the services provided by private employment agencies, as such deductions come under Article 9 of Convention No. 95.

The Office attributed the scant progress made in the ratification of standards on migrant workers to the growing complexity, variety and extent of international migratory movements. During the work of the Committee,\(^{(36)}\) the Workers' group had stated that it was in favour of enhancing the protection of migrant workers through the application of international standards and the improvement of the Conventions. It hoped that the question of recruitment by private agents at the international level would be taken up in 1997 on the occasion of the revision of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96). The Employers' group was less convinced of the usefulness of strengthening standards in this area and preferred a practical approach, particularly for settling the most serious cases of the exploitation of temporary migrants and clandestine workers. The majority of governments that expressed their views were not in favour of the framing of new standards in the area concerned, and generally considered that it would be more useful to study the reasons why these important instruments had not been ratified more widely, and to remove any obstacles to ratification that might be identified. However, a few governments were in favour of a revision of the existing instruments or the adoption of new standards, and some of them recalled the gaps in the existing
Conventions that had been cited in the document submitted by the Office. Following the recommendations of the Committee on Employment and Social Policy, the Governing Body made provision for a Tripartite Meeting of Experts on Future ILO Activities in the Field of Migration in 1997. The Committee also requested that its discussions on the revision or recasting of the ILO standards concerning migrant workers should be transmitted to the Working Party on Policy regarding the Revision of Standards with a view to a further examination of the questions involved.\(^{(37)}\) The Working Party is thus invited to re-examine the status of Conventions Nos. 97 and 143 and to assess their need of revision.

(6) *Proposals:*

(a) The Working Party could recommend to the Governing Body that it contemplate the following options:

- to invite member States to provide reports under article 19 and to request the Committee of Experts to undertake a general survey of the reports concerning Conventions Nos. 97 and 143 on migrant workers;
- and to re-examine the possibility of including the question of migrant workers for purposes of general discussion on the agenda for a forthcoming session of the Conference, as well as with a view to clarifying the possible need for revision of Conventions Nos. 97 and 143.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 97 in due course.

**VII.2. C.143 -- Migrant Workers (Supplementary Provisions) Convention, 1975**

(1) *Ratifications:*

(a) Number of current ratifications: 17.

(b) Latest ratification: Bosnia and Herzegovina, 1993.

(c) Ratification prospects: few.

(2) *Denunciations: none.*

(3) *Comments by the Committee of Experts:* comments pending for 13 countries, containing an observation made by an employers' organization.

(4) *Need for revision:* Convention complementing but not revising the Migration for Employment Convention (Revised), 1949 (No. 97). The need to revise Conventions Nos. 97 and 143 was examined...
during the proceedings of the Committee on Employment and Social Policy of the Governing Body in March 1996.

(5) Remarks: see the remarks relating to Convention No. 97 which are relevant to both Conventions Nos. 97 and 143. In addition, the 1980 General Survey on migrant workers by the Committee of Experts on the Application of Conventions and Recommendations had drawn attention to the numerous problems raised in both Part I (concerned with the suppression of clandestine movements of migrants and the illegal employment of migrants) and Part II (concerned with promoting effective equality of opportunity and treatment) of Convention No. 143. These undoubtedly explained why relatively few governments were prepared to envisage their ratification in the near future. The Committee of Experts had noted the obstacles to ratification connected with the content of certain provisions in Convention No. 143. For instance, in the Committee's view, the most important problems were associated, in Part I, with the provisions concerning prosecution of the authors of manpower trafficking and those concerning administrative, civil and penal sanctions against the illegal employment of migrant workers. In Part II, it was the restrictions envisaged by the legislation or national regulations on employment opportunities that posed the most serious obstacle to ratification. This question was far more complex because it was related to national policy in the area of immigration and employment in general, as well as to the concern of the State in question to protect the occupational status of its nationals.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it contemplate the following options:

- to invite member States to provide reports under article 19 and to request the Committee of Experts to undertake a general survey of the reports concerning Conventions Nos. 97 and 143 on migrant workers;
- and to re-examine the possibility of including the question of migrant workers for purposes of general discussion on the agenda for a forthcoming session of the Conference, as well as with a view to clarifying the possible need for revision of Conventions Nos. 97 and 143.

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 143 in due course.

* * *

VIII. Workers in non-metropolitan territories

29. This section comprises four Conventions (Nos. 82, 83, 84 and 85) which the Working Party had already examined in March 1996. It had then decided to defer the discussion on these instruments until more detailed information was available. The Worker members had emphasized the importance that they attached to these Conventions, whose relevance could not be assessed solely by the number of
ratifications they had received. It will be recalled that the possibility of revising these Conventions, or one of them, had not been dealt with by the Working Party. These Conventions often contain standards that relate to other instruments. For instance, the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85), remains of interest so long as Conventions Nos. 81 and 129 have not had their scope of application extended to the whole of the non-metropolitan territories concerned. In order to determine more clearly the impact and current relevance of these four Conventions, it would seem necessary to undertake consultations at the level of States Parties and to inform the Working Party of the results obtained.

VIII.1. C.82 -- Social Policy (Non-Metropolitan Territories) Convention, 1947

(1) Ratifications:

(a) Number of current ratifications: 4

- United Kingdom 1950
- France 1954
- New Zealand 1954
- Belgium 1955

(b) Ratification prospects: virtually nil (no ratification in the last 41 years). It will be noted that this Convention has been kept open for further ratifications by Convention No. 117 (Article 19), which revised it.

(2) Denunciations: none.

(3) Supervisory procedures: comments by the Committee of Experts pending for two countries. Moreover, a representation has recently been presented under article 24 of the Constitution. In March 1996 the Governing Body approved the report of the tripartite committee on the subject.

(4) Need for revision: Convention already revised by the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (30 ratifications as of 31 December 1995).

(5) Remarks: this Convention had been classified in the category of "other instruments" by the Ventejol Working Parties of 1979 and 1987. During the proceedings of the 1979 Working Party, the Office had stated that this Convention had been largely superseded by Convention No. 117 although it was still in force for a certain number of non-metropolitan territories. The two Conventions deal with broad social issues which are governed by more precise provisions in other international labour Conventions. At the
meeting of the Working Party in March 1996, it was agreed to defer the examination of this Convention until the November meeting. The Worker members stressed the importance that they attached to Convention No. 82 (as well as Conventions Nos. 83, 84 and 85) and expressed the wish to receive fuller information on their application. For this purpose the Working Party could invite the Office to enter into consultations with the States Parties to Convention No. 82 and to inform the Working Party of the results obtained.

(6) *Proposals:*

(a) The Working Party could recommend to the Governing Body that it request the Office to enter into consultations with the four States Parties to Convention No. 82 in order to determine whether or not its provisions are being applied in the framework of other Conventions in the non-metropolitan territories concerned.

(b) It could propose that the shelving of Convention No. 82 be deferred pending receipt of the relevant information from the Office on the results of its consultations.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 82 at a subsequent meeting in the light of the information obtained by the Office.

**VIII.2. C.83 -- Labour Standards (Non-Metropolitan Territories) Convention, 1947**

(1) *Ratifications:*

(a) Number of current ratifications: 2

   - United Kingdom 1950
   - Australia 1973

(b) Ratification prospects: virtually nil. This Convention, adopted in 1947, did not enter into force until 1974; it has received only two ratifications in 49 years.

(2) *Denunciations:* none.

(3) *Comments by the Committee of Experts:* no report has been requested for Convention No. 83 under article 22 of the Constitution. However, the requests made for reports (under article 35 of the Constitution) apply to the Conventions listed in the annex to Convention No. 83.

(4) *Need for revision:* This Convention has not been revised and its revision is not contemplated.
(5) **Remarks:** Convention No. 83 does not contain basic obligations. It specifies the conditions of application to the non-metropolitan territories concerned in the case of 13 Conventions that have often been revised and that are listed in the annex to Convention No. 83. This annex has not been amended since 1948. Consequently Convention No. 83 was not classified by the Ventejol Working Parties of 1979 and 1987. At the Working Party meeting in March 1996, the Worker members underlined the importance they attached to Conventions Nos. 82, 83, 84 and 85. The representative of the Government of Australia, for his part, stated that his Government had recently had occasion to apply the provisions of Convention No. 83. The Working Party might invite the Office to enter into consultations with the two States Parties to Convention No. 83 in order to determine in what way the Conventions listed in the annex to Convention No. 83 would continue to be applicable to the non-metropolitan territories concerned if Convention No. 83 were shelved.

(6) **Proposals:**

(a) The Working Party could recommend to the Governing Body that it request the Office to enter into consultations with the two States Parties to Convention No. 83 in order to determine in what way the Conventions listed in the annex to Convention No. 83 could continue to be applied in the non-metropolitan territories concerned.

(b) It could propose that the shelving of Convention No. 83 be postponed until the Office had communicated to it the relevant information on the results of its consultations.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 83 at a subsequent meeting in the light of the information obtained by the Office.

**VIII.3. C.84 -- Right of Association (Non-Metropolitan Territories) Convention, 1947**

(1) **Ratifications:**

(a) Number of current ratifications: 4

- United Kingdom: 1950
- New Zealand: 1952
- France: 1954
- Belgium: 1955

(b) Ratification prospects: minimal (no ratification for 40 years).
(2) Denunciations: none.

(3) Comments by the Committee of Experts: no comment pending.

(4) Need for revision: the revision of Convention No. 84 has not been envisaged.

(5) Remarks: during the proceedings of the Ventejol Working Party of 1979, the Office had stated that this Convention was still of interest as an interim basis for national action. It had also pointed out that the provisions of Convention No. 84 were covered in a greater detail by Conventions Nos. 87 and 98. It will be noted that some of the member States that have ratified Convention No. 84 have already extended the application of Conventions Nos. 87 and 98 to their non-metropolitan territories, while others no longer have any territories to which Convention No. 84 would apply. Convention No. 84 also binds a certain number of States for which Conventions Nos. 87 and 98, or one of them, are not yet applicable. On acceding to independence, certain member States had in the meantime undertaken to comply with the provisions of Convention No. 84 prior to contemplating ratification of Conventions No. 87 and/or No. 98. In the circumstances the Working Party could propose that the member States continuing to apply the provisions of Convention No. 84 be invited to contemplate ratifying Conventions Nos. 87 and 98. It should be noted in this respect that these States have already been invited to undertake such an examination as part of the efforts made by the Governing Body with a view to the ratification of the fundamental Conventions of the ILO, including Conventions Nos. 87 and 98.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it invite the member States that have made a formal commitment to apply the provisions of Convention No. 84 to contemplate ratifying the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and/or, as appropriate, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

(b) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 84 in due course.

VIII.4. C.85 -- Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947

(1) Ratifications:

(a) Number of current ratifications: 5

United Kingdom 1950

Australia 1954
France 1954
Belgium 1955
Papua New Guinea 1976

(b) Ratification prospects: virtually nil.

(2) Denunciations: none.

(3) Comments by the Committee of Experts: two comments pending.

(4) Need for revision: this Convention has not been revised. The Convention continues to be relevant for certain non-metropolitan territories and its revision has not been envisaged.

(5) Remarks: during the proceedings of the 1979 Working Party, the Office had stated that this instrument was still of interest as an interim basis for national action. Although the provisions of Convention No. 85 had been covered in a greater detail by Conventions Nos. 81 and 129, Convention No. 85 remained in force for a certain number of territories for which these instruments had not yet been accepted.

(6) Proposals:

(a) The Working Party could recommend to the Governing Body that it invite the five States Parties to Convention No. 85 to contemplate extending the application of the Labour Inspection Convention, 1947 (No. 81), and/or the Labour Inspection (Agriculture) Convention, 1969 (No. 129), to non-metropolitan territories that continue to be governed by the provisions of Convention No. 85.

(b) It could recommend to the Governing Body that it request the Office to hold consultations with the States Parties to Convention No. 85 in order to identify the possible difficulties and obstacles that might impede or delay the application of Convention No. 81 and/or Convention No. 129 in the non-metropolitan territories concerned.

(c) The Working Party (or the LILS Committee) would re-examine the status of Convention No. 85 at a subsequent meeting in the light of the information obtained by the Office.

* * *

IX. Final remarks

30. On the basis of the examination of the Conventions one by one and of the proposals set out above,
the Working Party is invited to make recommendations to the LILS Committee. These proposals can be recapitulated as follows:

(a) Shelving measures have been suggested with regard to six Conventions, to have immediate effect in two cases (Conventions Nos. 4 and 41) and to be conditional in the other four cases (Conventions Nos. 24, 25, 82 and 83).

(b) Proposals for revision have been contemplated with regard to nine of the 28 Conventions analysed earlier. In three cases (Conventions Nos. 6, 90 and 103), such a revision could be directly recommended by the Working Party. In the other six cases (Conventions Nos. 1, 30, 94, 95, 97 and 143), the proposals are tentative, and would depend upon the achievement of certain preliminary conditions and the search for a consensus among the constituents.

(c) No proposal has been made for the subsequent abrogation or termination of a Convention.

(d) Measures for the promotion of ratifications have been proposed with regard to 15 Conventions. In nine cases (Conventions Nos. 2, 3, 4, 24, 25, 41, 44, 45 and 101), this would involve promoting the ratification of updated Conventions and jointly denouncing, at the same time, the older and outdated Conventions. In the other six cases (Conventions Nos. 26, 84, 85, 95, 99 and 131), promotion of the ratification of recent Conventions has not been associated with a denunciation. It is often accompanied by requests for information on the obstacles and difficulties encountered that could impede or delay the ratification of recent Conventions.

(e) Lastly, the maintenance of the status quo as regards revision has been envisaged in the case of four Conventions (Nos. 26, 88, 99 and 131).

**Follow-up measures**

31. The recommendations of the Working Party, which were approved by the Governing Body, involve follow-up measures by the Office and the constituents to ensure that the policy for the revision of standards is put into practice. Since the March 1996 meeting, a number of measures have been put into effect by the Office, such as the proposal to include the revision of instruments identified by the Working Party on the agenda for the Conference in 1999, the shelving of certain Conventions by halting the requests for detailed reports or, for instance, the publication of such reports in the forthcoming French edition of international labour Conventions and Recommendations, or again the expansion of the programme for several subregional and national training seminars on international labour standards so as to take into account the results of the activities of the Working Party in November 1995 and March 1996.

32. However, the implementation of the Working Party's recommendations for the promotion of the ratification of certain updated Conventions, the collection of information on the obstacles and difficulties that might hamper their ratification, and the denunciation of obsolete Conventions raise important questions. Some initiatives are under way which the Office should be in a position to
introduce orally at the next meeting of the Working Party. It is desirable for the Working Party to be able to discuss the implementation of its recommendations and lay down guidelines for the Office and the constituents concerned.

Forthcoming meeting of the Working Party

33. At its next meeting, in March 1997, the Working Party could examine a group of Conventions that have not been analysed during the first two stages, with the obvious exception of priority Conventions and maritime Conventions. There are still more than 50 Conventions prior to 1985 to be examined in order to complete their analysis one by one. A group of some 30 Conventions could be looked at in March 1997. They would cover the following subject-areas: freedom of association, equality of opportunity and treatment, employment, social policy, labour administration, occupational relations and working conditions. The last group of Conventions would be examined in November 1997. It will be further recalled that the list of Conventions, which had been submitted in November 1995 and had served as a point of departure for the case-by-case examination of the need to revise the Conventions, did not include any Convention later than 1985. The Working Party should indicate whether it intends to examine Conventions adopted after 1985 or would prefer them to be excluded from its examination.

34. When the Working Party has completed its examination of the need to revise the Conventions, it may wish to take up other questions that are covered by its mandate. The terms of the mandate of the Working Party, as adopted by the Governing Body at its 262nd Session (March-April 1995), are set out in the annex to this document.

35. The Working Party is invited to examine the proposals listed above and to submit its recommendations on the subject to the Committee on Legal Issues and International Labour Standards.

Geneva, 16 October 1996.

Point for decision: Paragraph 35.

Annex

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

Document GB.262/5/2, paragraph 52:

After a discussion, the [LILS] 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.

Document GB.262/LILS/3, paragraph 67:

When considering the extent of the revision work of standards which has already been carried out by the Organization, as well as the quantity and quality of discussions which have regularly taken place within the Governing Body and at the Conference on this matter, it is clear that the ILO has come a long way indeed. However, several questions have also been raised and difficulties or inadequacies have come up along the way, which were reflected by the discussions of the Conference in 1994. The Director-General would therefore like to submit for examination by the Committee on Legal Issues and International Labour Standards six proposals for discussion, on the basis of this first report, with a view to improving the practice and achievements of the Organization:

1. the first step should be to assess actual revision needs. The conclusions of the Ventejol Working Party of 1987 would seem to infer that only a few revisions still need to be made. However, the majority opinion of the Conference and that of the Governing Body has been that revision activities should be stepped up -- although they have not, in most cases, put forward any specific proposals. This is therefore a matter of assessment of needs, which must be clarified on as objective as possible a basis by tripartite examination. If it so wished, the Committee could take as a point of reference the classification established by the Ventejol Working Party and update it;

2. the Committee would perhaps like to reflect on the possibility of extending and supplementing the evaluation of standards. This would mean in fact going back to the origins of the reform of article 19, in so far as the concerns of those drafting the Constitution in 1946 and of the constituents in 1994 seem to have much in common. It has been pointed out that the Organization does not yet have a regular, flexible and efficient procedure allowing the constituents to explain their difficulties in the area of ratification, or to propose the revision of certain standards. Such a procedure would supplement the work of the Committee of Experts and could play a vital role not only in directing the policy of social partnership but also in guiding the Governing Body and the Conference in the drafting of a programme of standard-setting activities. The Committee on Legal Issues and International Labour Standards of the Governing Body and the Conference should be a party to such a procedure, of which the methodology should be very carefully worked out;
3. the methods of revision should be diversified. With very few exceptions, the ILO has opted for the method of the total revision of instruments, following the double-discussion procedure at the Conference. When an instruments needs to be thoroughly overhauled, this method seems the most appropriate; but it is also the most cumbersome. It is not satisfactory for the Organization that partial or technical revisions have been unable to be included in the work of the Conference or that standards sometimes await revision for a very long period. To try and cope with the wide range of needs and situations, various procedures have already been set up, but it has been noted that some of them have not been used -- or very little;

4. the standard-setting system should be made more consistent, first by narrowing the differences between the social policy objectives it establishes. Though a certain diversity might be desirable, it has also been noted that the system of revision adopted by the Organization has resulted in an overlapping of texts which sometimes causes serious difficulties. When certain constituents criticize these standards for being outdated, inappropriate or obsolete, they often refer to Conventions adopted before 1945, but it is far too often overlooked that the vast majority of these have already been revised, closed to ratification or even left dormant. The Committee may wish to discuss the possibilities of making certain Conventions extinct or adopting effective practical measures to remedy this situation;

5. the evolution of ratification rates of Conventions remains a delicate and much-discussed issue, especially because it is contingent upon complex factors. It would be premature to claim at this stage that conclusions can be drawn from an examination which is still in its infancy. However, when referring to the conclusions of the Ventejol Working Party, it is impossible not to notice the continuing gap between the objectives the Governing Body set in 1987 and the results registered during the past few years. The problem therefore cannot be overlooked, but first and foremost it must be comprehended. This implies not only taking into account the reasons put forward to explain the phenomenon but also testing them in the light of evidence and making an analysis, from a wide enough standpoint, of the difficulties and obstacles involved in the ratification of ILO Conventions. This in-depth analysis remains to be carried out and, if the Committee so wishes, the Office might contribute to this work;

6. finally, it has become apparent that the ratification of revised Conventions poses a specific problem. In so far as these are, without exception, less ratified than initial Conventions or certain unrevised Conventions, any steps taken to improve the system of revision of standards might come up against this difficulty. The Committee may wish to discuss this and envisage the measures which might be taken or proposed to improve the situation in this area.


2. Document GB.267/LILS/WP/PRS/1. The Working Party is invited to make a joint examination of the two documents before it, as the recommendations made in one of them might have repercussions for those in the other. Thus, for instance, if an abrogation procedure were to be rapidly established, certain recommendations for the denunciation of obsolete Conventions could become obsolete in a fairly short space of time.
3. These are the ratifications that are linked with effects. Ratifications that were subsequently denounced, and provisional ratifications the conditions of which had not been met by 31 December 1995 were not taken into account.

4. The denunciations of international labour Conventions by member States and their reasons for doing so, when given, are quoted in full in the *Official Bulletin*.

5. It should be remembered that the Ventejol Working Parties of 1979 and 1987 had classified international labour standards into four categories: (1) instruments for promotion on a priority basis; (2) instruments for revision; (3) other existing instruments; and (4) subjects for new standards. The purpose of category (1) was to identify the modern instruments that constituted useful objectives on a universal basis. The instruments that could not be classified in this category or in that of "instruments to be revised" were placed in the category of "other instruments". The latter category thus comprised three kinds of Conventions: those that constituted useful interim targets for States that were not in a position to ratify the more recent instruments, the old Conventions and Conventions that were extinct (Final report of the Working Party on International Labour Standards, in *Official Bulletin*, Vol. LXII, 1979, Series A, special number, paras. 3-9, and Final report of the Working Party on International Labour Standards, ibid., Vol. LXX, 1987, Series A, paras. 2-4).


8. ibid., paras. 49-55.


13. Convention No. 1 received four conditional ratifications (Austria, France, Italy and Latvia); the
requisite conditions have not yet been satisfied.


19. Bosnia and Herzegovina, Chile, Cuba, Greece, Hungary, Italy, Libyan Arab Jamahiriya, Luxembourg, Slovenia, Spain and Yugoslavia.


22. Thirteen States parties to Convention No. 4 have also ratified Convention No. 41. These States are as follows: Afghanistan, Benin, Burkina Faso, Central African Republic, Chad, Côte d'Ivoire, Gabon, Madagascar, Mali, Morocco, Niger, Peru, Togo. Ten other States Parties to that Convention have also ratified Convention No. 89. These are: Angola, Austria, Bangladesh, Burundi, Guinea-Bissau, India, Pakistan, Rwanda, Senegal, Zaire.

23. Cambodia, Colombia, Laos, Lithuania and Nicaragua; also Cuba, Italy and Spain. It should be noted that the last three States are in a special situation in that they have denounced Convention No. 89, but Convention No. 4 remains in force for them as it has not been denounced.


25. The Protocol adopted in 1990 amends several provisions of Convention No. 89. Under the terms of article 4 of the Protocol, a Member may ratify the Protocol at the same time or at any time after its ratification of the Convention. However, a Member may not ratify the Protocol only without ratifying Convention No. 89. The ratification of the Protocol takes effect 12 months after its registration.


27. Observations of 1995 (December Session) for the Dominican Republic.


32. Documents GB.265/ESP/2 and GB.265/9, section II.

33. Document GB.265/9, paras. 28-49.

34. The Convention was adopted by the United Nations General Assembly in 1990. It has received only six ratifications so far, and has not entered into force.


39. The Conventions listed in the annex are as follows: Nos. 59, 58, 15, 77, 16, 90, 3, 89, 45, 19, 17, 27 and 14. Conventions Nos. 59, 58, 15, 3 and 89 have been revised. Conventions Nos. 15, 16 and 19 have been ratified by Australia and the United Kingdom, Conventions Nos. 27 and 58 by Australia only and Convention No. 17 by the United Kingdom only.

40. The States that have made such a commitment and that have not yet ratified Convention No. 87 are Fiji, Mauritius, Solomon Islands, Somalia, United Republic of Tanzania and Zaire, while those that have not ratified Convention No. 98 are Mauritania, Solomon Islands and Somalia. The United Republic of Tanzania has indicated that the differences existing between its national legislation and Convention No. 87 make it difficult to ratify that Convention, and Zaire has explained that it has submitted a Bill to authorize, inter alia, the ratification of Convention No. 87. As regards the other States, the Office had not yet received by 1 February 1996 any response to the letter from the Director-General inviting them to indicate their intentions with respect to the ratification of the fundamental Conventions (see documents GB.264/LILS/5, Nov. 1995, and GB.265/LILS/6, Mar. 1996).

41. In this case, the provisions of Convention No. 85 would cease to apply to the territory in question in
accordance with Article 9 of the Convention.

42. See para. 9 of the present document.

43. It will be noted, however, that various instruments dealing with some of these matters are closely bound to the Conventions which the Working Party has decided to exclude from the revision exercise (see para. 2 of the present document).

44. Document GB.264/LILS/WP/PRS/1, Annex II.