NINTH ITEM ON THE AGENDA

Reports of the Committee on Legal Issues and International Labour Standards

Second report: International labour standards and human rights

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

1. The Committee had been asked to consider the report of the Working Party on Policy regarding the Revision of Standards which comprised three parts dealing respectively with follow-up on the recommendations of the Working Party, (1) examination of the needs for revision of Conventions (fourth stage), (2) and various proposals concerning future meetings of the Working Party and the withdrawal of Conventions that have not come into force.

2. The Chairman of the Working Party (Government, France), introducing the results of the Working Party's activities, noted that the work had led to a number of concrete results that were particularly evident in the examination of the follow-up on the recommendations of the Working Party. The document submitted by the Office gives an account of the follow-up initiatives undertaken both by the member States and by the Organization. He emphasized the constructive attitudes of the social partners and was pleased to see that a real dialogue had started within the Working Party. It was appropriate to draw attention to the large number of ratifications that had been registered, particularly of Conventions concerning fundamental human rights at work. The Working Party had also examined 21 Conventions in the hope of completing the examination of all Conventions adopted after 1985 with the exception of the maritime and priority Conventions. The Working Party had, however, deferred examination of five Conventions relating to accidents at the workplace and occupational diseases on the grounds that it needed further information. With regard to methodology, the Working Party made use of the excellent analysis framework established by the Office.

3. The Chairman of the Working Party drew the attention of the Committee's members to the recommendation in paragraph 95 of the report. With regard to this, the Working Party proposed recommending that the Governing Body should initiate the procedure to include on the Conference agenda the withdrawal of five Conventions which had never come into force. Such a decision by the Committee would demonstrate the work that had been undertaken to modernize the ILO's standard-setting system. The Working Party also recommended the consolidation of three Conventions on the medical examination of young persons. That proposal could be included in the portfolio of items for possible inclusion on the Conference agenda. He also referred to the future work of the Working Party, which could cover the Conventions whose examination had been deferred, as well as the examination of international labour Recommendations based on methods and criteria similar to those used for the Conventions. In addition, the Working Party proposed to study the methods used for revising Conventions. Paragraph 92 specified the points that could be considered in March 1998. Lastly, he emphasized the excellent atmosphere within the Working Party which was essential to progress and paid particular tribute to the two Vice-Chairmen and to the Office. In conclusion, he recommended that the Committee approve the points for decision in the final paragraph of the report.

4. The Employer members noted that the constructive spirit prevailing within the Working Party had made it possible to achieve good results. Nevertheless, they were not satisfied by the fact that few
decisions had been taken to shelve Conventions that were obsolete or had a low ratification rate. It was possible to draw a number of general lessons from the report. The Working Party could define quantitative criteria concerning the minimum number of ratifications of a Convention below which its shelving could be recommended. In this respect the Employer members noted the low rate of ratification of the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), which was a good candidate for shelving. They also hoped that the technical studies carried out by the Office, such as those requested for Conventions on occupational accidents would help to guide the Working Party's future activities. The Conventions on indigenous populations were a special case: differences in approach between the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) called for a new study by the Office. The Employer members were pleased that efforts were being made to promote ratification of the Minimum Age Convention, 1973 (No. 138), but considered that it was also necessary to discourage ratification of previous minimum age Conventions which had been found to be out of date or obsolete. Lastly, they recalled that there were areas where, in the opinion of the Employers' group, revision was needed, namely, social security and dock work. The relevant Conventions had been examined at the meeting of the Working Party and merited tripartite discussion with a view to revising the Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Dock Work Convention, 1973 (No. 137).

5. The Worker members thanked the Chairman of the Working Party and the Office. They emphasized that with regard to the pace of work, it was important that the policy of the Working Party should continue. This did not imply either a slowing down of or a quickening in the pace of its work but that it should constantly strive for consensus. They hoped that the work would continue along these lines on the basis of the excellent documentation prepared by the Office. Such a method would lead to results which would be of interest to all the parties concerned. With regard to paragraph 12, they hoped that a copy of the communications addressed to governments concerning the policy on the revision of standards would be transmitted to employers' and workers' organizations in each member State, as well as to the Employers' and Workers' groups. Referring to the points on social security mentioned in paragraph 45, they emphasized that the capitalization model was not necessarily the one to follow. They also pointed out that, as indicated in paragraph 48, provisions for an in-depth study on the principles of social security were included in the Programme and Budget for 1998-99. Before considering revision of Convention No. 102, the question needed to be studied in depth, particularly since the fundamental principles contained in that Convention were important and could not be contested. A proposal relating to the question had been included in the portfolio. On the basis of these considerations, the Worker members had accepted the Working Party's recommendation. With regard to the minimum age Conventions, they emphasized the importance of targeted technical assistance provided by the Office to States initiating a ratification procedure.

6. The representative of the Government of Panama said that congratulations were due to the Working Party and the Office for the progress made in the work on the policy regarding the revision of standards. The documents submitted gave a very clear view of the most important standard-setting issues and had won the support of those wishing to modernize the standard-setting system.

7. The representative of the Government of Germany endorsed the positive comments on the work done
by the Working Party and its Chairman and hoped that the work would continue in the same spirit. As regards the report, he wanted clarification on two points. First, two slightly different numbers appeared to be given for Conventions for which member States had been invited to provide information, one number being given in a communication from the Deputy Director-General dated 6 June 1997 and another number being given in the document on follow-up on the recommendations of the Working Party. The communication of 6 June referred to 13 Conventions, while paragraph 24 in the other document mentioned 16. Secondly, with regard to the mechanism for withdrawing a Convention referred to in paragraphs 94 and 95 of the Working Party's report and for which the procedure to be followed by the Office was indicated, he wished to know whether Conventions once withdrawn should subsequently be abrogated.

8. Ms. Rozas (Worker member) said that when standards were revised there should be no reference to the Chilean model of social security which had no advantages for workers. The model in question was an individual funded pension scheme that had been imposed without any consultation with workers and favoured those in a position to profit from the capital growth of the contributions. In Chile, many workers were employed in the informal sector and excluded from the private pensions system. It was thus necessary for the State to take the place of solidarity and provide subsistence allowances to a large proportion of the population. If the Office in future were to undertake a survey of social security systems, it would need to consult the people concerned. In addition, women did not enjoy the same conditions for social security, since they could not contribute during periods when they were off work in order to look after their families. Chile should ratify Convention No. 102, which contained principles of solidarity and non-discrimination.

9. The representative of the Government of Italy endorsed the positive comments on the Working Party's work and expressed his satisfaction with the results so far achieved. While it was important to adapt standards to changing conditions, it was also important to keep the spirit of consensus which was essential for any progress within the Working Party. All countries were concerned in one way or another by the work carried out by the Working Party. The speaker also recalled that his Government attached particular importance to the decisions contained in part V of the report on the employment of children and young persons.

10. The Employer members indicated that, without wishing to enter into a discussion on so broad a subject, they did not share the view expressed by the previous speaker from the Workers' group. They were in favour of a revision of Convention No. 102 because new realities demonstrated the relevance of the new models adopted by a number of Latin American countries, not only by Chile. Social security was a delicate subject which called for skilled technical preparation and tripartite discussion conducted under appropriate conditions, and it was for this reason that they insisted on the importance of discussing this issue and the various ways to approach it.

11. Mr. Tapiola (Deputy Director-General), replying to questions raised by the representative of the Government of Germany, said that the communication dated 6 June 1997 addressed to member States concerned only 13 Conventions, since three Conventions on which the Working Party had wanted
information regarding the needs for revision concerned social security issues. Other Conventions on social security had been examined during the present meeting of the Working Party, and the request for information would be completed in due course by the inclusion of social security Conventions when a possible need for revision had been identified. With regard to the mechanism for withdrawing Conventions, he confirmed that Conventions that had been withdrawn would not subsequently have to be abrogated. Lastly, he confirmed that the Office would do everything possible to ensure that employers' and workers' organizations would receive copies of communications on the policy to revise standards addressed to government authorities, but pointed out that it was for the governments to arrange the necessary tripartite consultations.

12. With regard to the Rural Workers' Organisations Convention, 1975 (No. 141), the Employer members reiterated their request for precise information on the reasons for the low ratification rate. They had stated that it would be more appropriate to use the term "liberté d'association" (freedom of association) rather than "liberté syndicale" (also, freedom of association in English) to describe the category to which that Convention belonged. Violations of freedom of association concerned both employers' and workers' organizations, as was clear from the reports of the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations.


14. Another representative of the Director-General (the Director of the International Labour Standards Department) explained that Convention No. 19 and the Equality of Treatment (Social Security) Convention, 1962 (No. 118) sought to coordinate different national social security schemes at international level. Ratification of Convention No. 118 and acceptance of the obligations it imposed with regard to benefits in cases of accidents or occupational diseases allowed States to escape being bound by the provisions of Convention No. 19.

15. The Employer members referred to discussions on indigenous peoples that had taken place in the Working Party and were reflected in paragraphs 80 to 84 of the report. Given the problems noted in this respect, they considered that the Working Party's proposal should also include a request to States having ratified the Indigenous and Tribal Populations Convention, 1957 (No. 107) to inform the Office of any obstacles and difficulties encountered that could impede or delay ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In accordance with the Working Party's established methods, such a request would make it possible to identify the particular nature of the questions addressed by the two Conventions and give a more accurate reflection of the views expressed during the discussion. The spokesperson of the group added that the explanation by the Working Party Chairman (paragraph 84 of the report) highlighted the delicate nature of these issues and showed that there was a need for information on obstacles to ratification.

16. The Worker members noted that the proposal reflected the consensus reached by the Working Party.
Convention No. 169 was of great importance, including outside the Organization, as the document submitted by the Office had shown. Examination of Convention No. 169, adopted in 1989, was not part of the Working Party's mandate. Furthermore, it was not appropriate for the Committee to modify a Working Party proposal that had been adopted by consensus.

17. The Chairman of the Working Party recalled that this was an area that had undergone rapid development between the adoption of Convention No. 107 and that of Convention No. 169. Convention No. 107 concerned protection and assistance for populations, while Convention No. 169 affirmed the right of those populations to maintain their own identity. Convention No. 169 had nevertheless been adopted by a large majority, which suggested that Convention No. 107 was now considered to be out of date. He recalled that the subject was a difficult one, but examination of Convention No. 169 was not part of the Working Party's mandate. He said that the question could be discussed again by the Committee and Governing Body, but that the Working Party's proposal was within the terms of its mandate.

18. The representative of the Government of Germany pointed out that in paragraph 44 of the report, the States parties to Convention No. 63 were invited to contemplate ratifying Convention No. 160 but not asked for information on obstacles to ratification. In any event if a State party to Convention No. 107 indicated that it was not ratifying Convention No. 169, it would certainly inform the Office of its reasons for not doing so.

19. The Employer members stated that in the light of what had already been said on the subject, their reservations concerning the terms of the Working Party's proposal contained in paragraph 85 of the report should be duly included in the report to the Governing Body.

20. The Worker members said that the proposal concerning Convention No. 107 could be compared to other recommendations adopted during previous meetings concerning Conventions for which the Working Party had not considered it helpful at that particular moment to request information on obstacles to ratification. They regretted the reservations expressed by the Employer members.

21. The representative of the Government of Germany indicated that the Committee had not so far had access to the documents submitted by the Office on which the Working Party's discussions had been based.

22. A representative of the Director-General (Director of the International Labour Standards Department) indicated that the documents in question were publicly available but that it was possible not to mention them in the Committee's recommendation.

23. The Committee recommends that the Governing Body:

(a) take note of the report of the Working Party on Policy regarding the Revision of Standards concerning the follow-up on the recommendations of the Working Party, the views expressed
during the meeting of the Committee and the proposal in paragraph 35 of the report;

(b) take note of the report of the Working Party on Policy regarding the Revision of Standards concerning the examination of the need for revision of Conventions (fourth stage) 4 and the opinions expressed during the meeting of the Committee;

(c) approve the other proposals in the corresponding paragraphs of the report on which the Working Party and Committee have reached consensus;

(d) ask the Office to prepare, for the next meeting of the Working Party:

- a document concerning the examination of the needs for revision of Conventions (fifth stage);
- an updated version of the document concerning the follow-up on consultations concerning the needs for revision and obstacles to the ratification of 13 Conventions;
- a document examining the needs to revise Recommendations;
- a document examining the possibilities to publish the work of the Working Party.

II. Standard-setting policy: Ratification and promotion of fundamental ILO Conventions

24. The Committee had before it a document on technical assistance provided by the ILO in conjunction with the promotion and ratification of ILO standards respecting fundamental human rights at work, following the discussions which took place at the 268th Session (March 1997) of the Governing Body on the outlook for the ratification of the fundamental Conventions.

25. A representative of the Director-General (Chief of Equality and Human Rights Coordination Branch, of the International Labour Standards Department) updated the information contained in the document. He informed the Committee that the ILO had just received the ratification instrument of Convention No. 138 from Burkina Faso; that Cyprus had ratified Convention No. 138; that Denmark was due to remit the ratification instrument of Convention No. 138 that same day; that the Council of Ministers of the United Republic of Tanzania was to examine this week Conventions Nos. 87, 100, 111 and 138 in order to place them before Parliament for adoption; and that the Parliament of Zimbabwe had approved ratification of Conventions Nos. 29 and 105. Finally, he informed the Committee that technical assistance activities would be carried out in the near future in the Republic of Korea with a view to the ratification of Conventions Nos. 29, 100, 105 and 111 as well as in Thailand with a view to the ratification of Convention No. 100. The Committee was subsequently informed that the Office had just received the ratification instruments from Burundi concerning Conventions Nos. 98 and 138.

26. The Worker members thanked the Office for the information contained in the document which provided a response to the wish expressed by their group that the ILO should adopt a resolutely proactive position regarding the promotion of the fundamental Conventions. They had noted that the
different obstacles to ratification mentioned by member States were not new and that some countries, in particular the United States and India, mentioned practically all of them at the same time.

27. As regards the first obstacle (invoked by some 44 governments), concerning non-conformity of national legislation and practice with the provisions of the fundamental Conventions, they believed that this argument was not admissible in so far as it was clear that when the national legislation of a country was not in conformity with the provisions of one or another of the seven fundamental Conventions -- which enshrine internationally recognized principles -- such legislation should be changed forthwith. They recalled that this was furthermore the objective of the ratification campaign. As regards the obstacle of the political, economic and social situation (invoked by 23 governments), the Worker members affirmed that -- except in extreme cases, such as those of civil war -- this was not really an obstacle in so far as the Workers' group was firmly convinced that the respect of the fundamental ILO Conventions made an effective contribution to the social and economic development of a country. They also pointed out that a reading of the list of countries invoking this argument invalidated some of its relevance. The obstacle of the rigidity of certain ILO instruments was often mentioned, paradoxically, in the context of what was the most flexible fundamental Convention, namely Convention No. 138. The Workers' group believed that there was food for thought for the Office here and an encouragement to focus its promotional activities on the content of the instruments in question. As regards the lack of flexibility of ILO standards, they also recalled that fundamental human rights are not flexible by nature and that they could not accept the possible criticism of the judicial practice of the ILO's supervisory bodies. As regards the lengthy and cumbersome nature of the procedure for ratifying international treaties, the Worker members said that this problem should be resolved at the national level, that it could not justify the non-ratification of the fundamental Conventions, and that if the procedure was long, it would be better to initiate it as soon as possible. Finally, some of the obstacles mentioned under heading E ("Other obstacles invoked"), in particular by Croatia, Madagascar and Slovakia, clearly showed that there was a misunderstanding about the objective of certain ILO Conventions. In this connection, they welcomed the positive development in the position of Canada as regards the appropriateness of ratifying Convention No. 29. They recognized that the problem of the translation of the fundamental Conventions into national languages was a real obstacle not only to their ratification but to their effective application. This is why they had requested the Office to increase its assistance in this respect.

28. As regards the obstacles to ratification, the Worker members believed that the document before the Committee had not identified the main obstacle, namely the lack of political will. It was clear that if there was a political will to ratify, all the obstacles mentioned by the governments could be overcome. A lack of knowledge about the real content of the fundamental Conventions, which appeared from a reading of the obstacles invoked by some countries, also acted as a break on ratification. The speaker said that many Worker members from countries in transition towards a market economy had noted that paradoxically this transition seemed to be slowing down the ratification of the fundamental Conventions. What had happened to the idea that the liberalization of the economy automatically went hand in hand with democracy?

29. As regards technical assistance proper, the Worker members regretted that their suggestion to include in the Programme and Budget for 1998-1999 a specific action programme to promote the
ratification campaign had been rejected. However, they expressed their satisfaction at the real efforts made by the Office to promote the ratification of the fundamental Conventions and encouraged it to persevere in this task. They also welcomed the active participation of the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACT/EMP) in the ratification campaign. They took this opportunity to ask Employer members if the International Organization of Employers (IOE) could intervene with employers of the Dominican Republic who opposed the ratification of Convention No. 138, on the grounds that legislation in force was already in conformity with the provisions of this Convention. Returning to the question of the technical assistance provided by the Office in conjunction with the promotion and ratification of the fundamental Conventions, the Worker members emphasized the importance of providing the social partners -- and not only governments -- with the legal assistance and technical advisory services described in paragraphs 14-15 of the document. They pointed out that often in the field there seemed to be some confusion as to whether occupational organizations could have recourse to ILO legal assistance. They welcomed the cooperation existing between the International Labour Standards Department and that responsible for occupational relations and they hoped that they would continue to collaborate effectively.

30. The speaker concluded by welcoming the clear and positive impact of the ratification campaign launched in 1995. However, he said that for the Workers' group ratification was not an end in itself and that the effective application of the ratified instruments remained the primordial objective. In this respect, he pointed out that the African Worker members had expressed concern about the fact that the activities of some international organizations -- in particular the World Bank -- ran counter to the ratification and application of ILO standards and that some countries did not ratify fundamental ILO Conventions in order to attract foreign investment. He noted that a number of technical cooperation projects were being implemented (in particular the International Programme on More and Better Jobs for Women) in addition to the International Programme on the Elimination of Child Labour (IPEC), one of whose objectives was to facilitate the ratification of certain fundamental Conventions. After thanking the donor countries for their valuable contribution, he encouraged the Office to continue along this path and to increase as far as possible this extra-budgetary financing. He also welcomed the initiative taken jointly by the Regional Office for Asia and the Pacific and the International Labour Standards Department to identify the reasons why some countries of Asia had not yet ratified Conventions Nos. 100 and 111 whereas they had ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women. Noting that the United Nations Convention on the Rights of the Child had been ratified on an almost universal basis, unlike Convention No. 138, he expressed the wish that a similar initiative should be taken as regards the ILO Convention concerning minimum age for admission to employment.

31. Finally, even if they did not share the point of view expressed in paragraph 19 of the document that "some of the obstacles to ratification and to the application of the Conventions are not just a matter of simple legal assistance (but) increasing the level of development of some countries", the Worker members once again expressed their satisfaction at the success achieved by the ratification campaign and repeated that the key element in this sphere was one of political will.

32. The Employer members first of all expressed their satisfaction at the number of new ratifications
achieved since the beginning of the campaign. However, a reading of the document had left them unsatisfied in so far as it merely examined the promotional efforts with a view to the formal ratification of the fundamental Conventions but said nothing about promotion with a view to the effective application of the Conventions after ratification. For the Employers' group, this matter of technical assistance was very important and should have been given its proper place in the document. The Employer members recalled that the objective of the Organization was to ensure that ratified Conventions were fully applied. The list of the obstacles to ratification mentioned by governments was useful and gave some idea of the difficulties encountered by States. They noted that one of the obstacles invoked by many countries was the growing importance of the informal sector in their economies, which totally escaped the scope of international labour standards. For the Employer members, such a situation should encourage the Organization to reflect on the possibility of adapting its standards, including the fundamental Conventions, to allow these countries to ratify them and enable all workers, and not just a minority, to benefit from them. They also noted with interest that in addition to the rigidity of ILO standards mentioned by some countries, reference was made to the evolving judicial practice of the supervisory bodies. As regards the observation of the Worker members concerning the Dominican Republic, they pointed out that this country had already ratified six of the seven fundamental Conventions and referred to paragraph 11 of the document before the Committee which emphasized that the IOE had adopted in 1996 a resolution on child labour and the participation of the Bureau for Employers' Activities in the fight against the elimination of child labour. In this respect, they welcomed the active participation of ACTEMP and ACT/TRAV in the success of the ratification campaign.

33. As regards technical assistance proper, the Employer members encouraged the ILO to continue along the path described in the document, in particular as regards the promotion of the fundamental Conventions. They believed that the obstacles invoked by the countries should guide the Office in defining the assistance which it provided to them. ILO assistance should give priority attention to the major principles enshrined in the fundamental Conventions as well as to tripartism. As regards the means of this assistance, as described in the document, the Employer members had urged the Office to show great prudence in the development of relations with non-governmental organizations whose interests did not always coincide with those of the ILO.

34. The Employer members concluded their remarks by reiterating their satisfaction with the progress achieved as regards ratification even if much still remained to be done in a new context which increasingly required employers and workers to collaborate rather than to confront one another.

35. The representative of the Government of Malaysia requested the secretariat to delete the name of his country from paragraph 6 of the document since in the meantime the Government of Malaysia had ratified Convention No. 138.

36. The representative of the Government of Germany congratulated the Office on its document which he found very interesting even though some parts fell short of what was required. He thus regretted that the exact nature of the legislative or constitutional provisions which were an obstacle to ratification had not been indicated. In this respect, he recalled that the ILO had recently adopted, under article 19 of the ILO's Constitution, a new procedure whereby governments which have not ratified a fundamental
Convention will have to report periodically on their law and practice and describe the difficulties which prevent or delay ratification of the Convention. The examination of these reports by the Committee of Experts on the Application of Conventions and Recommendations would provide valuable information on the exact nature of the legislative or constitutional provisions which are an obstacle to the ratification of these Conventions. Finally, even though he understood the reasons for this, he regretted that the Office -- which had the necessary expertise -- had not expressed a position on the relevance of the argument invoked by some countries concerning the non-conformity of their legislation with the provisions of the fundamental Conventions.

37. The representative of the Government of Canada congratulated the Office for this useful overview of the ILO technical assistance activities in conjunction with the promotion and ratification of fundamental Conventions. She expressed her satisfaction at the progress achieved and encouraged the Director-General to continue along this path. She noted the fact that this technical assistance was not limited to the fundamental standards or ratification and urged the Office to give greater attention to technical assistance with a view to the effective application of ratified Conventions.

38. The representative of the Government of Croatia informed the Committee that since she had not received the document under discussion she had not been able to prepare her remarks properly. Noting that this was not the first time that she had been placed in this situation, she requested the Office to take the necessary steps to ensure that this did not happen again. As regards Convention No. 105, her Government had not stated that ratification was not appropriate but simply that it was not necessary. She therefore requested the Office to delete the name of her country from paragraph 8, particularly since in the meantime, following technical assistance provided by the ILO, Croatia had ratified this Convention. Not having received the document before leaving her country, she said that she was not able to confirm or contradict the information appearing in paragraph 11 of the document that ACT/EMP had provided assistance to the establishment of free and independent employers' organizations in her country.

39. The representative of the Government of Egypt noted that the document under discussion dealt with obstacles to ratification invoked by countries and that one of the obstacles mentioned concerned non-conformity of national legislation with the provisions of ILO instruments. It was normal that before proceeding to ratification a government should analyse the legislation in force as regards the purpose of the Convention. Thus Egypt had requested technical assistance from the Office and embarked on the revision of its Labour Code to take account of the provisions of Convention No. 138. Once Egypt has ratified this Convention, it will have ratified all the fundamental Conventions. She believed that in order to be effective, ILO standards should be more flexible, i.e. adapted to the local conditions of each of the member States of the Organization as required furthermore by article 19(3) of the ILO's Constitution. The ratification of Conventions was not an objective in itself, since the goal was their effective application and, to this end, ILO Conventions should be less rigid and less detailed. They should contain only general principles without going into detail. In this respect the policy for the revision of standards on which the Office had embarked was a step in the right direction. Her Government was convinced that the rigidity of standards was detrimental to the efficiency of the market economy. She emphasized the importance of Recommendations and noted that less and less Recommendations were being adopted independently, i.e. without being attached to a Convention. She said that she shared the point of view
expressed in the document that some of the obstacles to ratification and to the application of the Conventions were not just a matter of simple legal assistance, but of increasing the level of development of some countries. The representative of the Government of Egypt expressed the wish that more emphasis be placed in the technical cooperation provided by the Office on the fight against poverty and social marginalization and the promotion of employment and she urged it to allocate more resources to achieving these objectives, which were real obstacles to ratification. She expressed her Government's satisfaction with the many ratifications registered since May 1995 and hoped that these efforts would be continued. Finally, she encouraged the Office to give attention to the practical application of Conventions ratified by countries.

40. The representative of the Government of Panama noted the interest of the document and said that in his subregion fundamental Conventions were broadly ratified -- only El Salvador and Panama had not ratified all the Conventions because of problems of non-conformity of national legislation. As regards his country, he informed the Committee that thanks to assistance from the IPEC programme, Panama had strong hopes of ratifying Convention No. 138 shortly.

41. The representative of the Government of Mauritius said that he wished to reply to the questions raised by the Worker members concerning the credibility of the arguments invoked by some countries, in particular as regards paragraph 5 of the document under discussion. He said that his country, which had already ratified four of the seven fundamental Conventions, was in the process of eliminating legislative obstacles with the assistance of the ILO.

42. He reaffirmed the determination of his Government to remove all obstacles so that it could finally ratify the three remaining Conventions.

43. The representative of the Government of the United States expressed satisfaction at the success of the ratification campaign and thanked the Office for the technical assistance provided to his country with a view to the ratification of Conventions Nos. 29, 111 and 138. He said that his Government shared the idea that the effective application of ratified Conventions was a very important aspect. As regards paragraphs 4 and 6, he noticed that the analysis made in the document was based exclusively on the replies provided by countries and wondered whether an analysis of the obstacles invoked by the member States would not allow common points to be identified which could be used by the Office in determining the technical assistance which it provided to several countries. As regards the lengthy nature of the process for ratifying international treaties in the United States, this was only an obstacle but not a barrier.

44. The representative of the Government of the Philippines informed the Committee that his Government would shortly register the formal ratification instrument of Convention No. 138.

45. The representative of the Government of the Republic of Korea expressed his Government's satisfaction with the success of the ratification campaign. He endorsed the remarks of the representative of the Director-General that the decision to send a mission to his country at the beginning of next year would facilitate the ratification of four of the fundamental ILO Conventions and informed the
Committee that his Government was currently examining with the Office the arrangements for this mission.

46. The representative of the Government of China expressed satisfaction at the number of ratifications of the fundamental Conventions. He emphasized that as regards his country the main principles enshrined in these instruments had already to a large extent been incorporated into the legislation in force. However, this did not mean that universal ratification was imminent, since the obstacles mentioned in the document under discussion remained. While promotion of ratification was a good thing, it was undeniable that the heart of the matter lay in the effective and real application of the ratified Conventions. The assistance and technical cooperation provided by the Office were necessary and should be improved. He took this occasion to request clarification about the procedure to be followed in the field, if a country wished to make use of the expertise of a decentralized multidisciplinary team (DMDT) and hoped that the March 1998 document on the ratification prospects would provide information on this point. He believed that the Office's efforts should also be focused on the dissemination of information on the content of Conventions. He informed the Committee that China had begun, in consultation with the social partners and following ILO assistance, the necessary preparation for the forthcoming ratification of Convention No. 138. He explained that child labour in his country was strictly prohibited and that this phenomenon was a marginal one as a result of the energetic campaign launched by the State against this practice. The work achieved by the Government on this Convention, with technical assistance from the Office, illustrated the benefits which could be reaped from a constructive attitude. Finally, he confirmed his country's support of the periodical revision of Conventions which had become obsolete.

47. The representative of the Government of Chile emphasized the political will of the Government and the social partners in his country to ratify all the fundamental Conventions. He informed the Committee that the President of the Republic had initiated the procedure for the ratification of Convention No. 138, following in particular the assistance provided by the Office as well as the work of the Oslo Conference (27-30 October 1997), in which Chile participated actively. Convention No. 105 should be ratified shortly and the ratification of Conventions Nos. 87 and 98 was under study.

48. The representative of the Government of Brazil hoped that the forthcoming reports prepared by the Office would emphasize the efforts of countries to overcome obstacles to the ratification of the fundamental Conventions and to ensure the effective application of the Conventions ratified in all countries. She recalled that the assistance provided by the ILO for the application of Convention No. 111, which was very appreciated by her Government, did not concern only discrimination in employment based on sex but also discrimination based on race.

49. The representative of the Government of Finland congratulated the ILO on its document which reflected the dynamism of its promotion of the ratification campaign and above all the fact that concrete results could be expected from such an initiative. He recalled that when the Director-General launched the campaign for the universal ratification of the fundamental ILO Conventions, only 23 countries had ratified all the seven Conventions on fundamental human rights at work and that much therefore remained to be done. He said that this campaign to promote fundamental ILO standards should be
considered as a practical implementation of the future Declaration even before its adoption. He concluded by expressing the hope that the Office would periodically present a report on the technical assistance provided to its constituents with a view to the ratification and application of the fundamental ILO standards.

50. The representative of the Government of Uganda thanked the Office for having organized recently in his country a tripartite seminar on fundamental ILO standards which enabled the different participants to gain a better understanding of the provisions of the four fundamental Conventions not yet ratified by his country and to recommend unanimously the ratification of these instruments. He pointed out that his country had also participated in a subregional seminar on Convention No. 87 which concluded that the relevant legislation of the three participating countries from East Africa should be amended. Finally, he stated that some of the major principles enshrined in these Conventions had already been incorporated into the new Constitution of his country.

51. The representative of the Government of Namibia believed that paragraph 4, as worded, might suggest that the Constitution of his country was not in conformity with the provisions of the fundamental Conventions, whereas Namibia had ratified Conventions No. 87 and 98. He explained that if the ratification of the other Conventions was slow in coming, this was due to the fact that the Government wished to establish beforehand a system for monitoring the application of the ratified instruments. The speaker therefore requested the Office to delete the name of his country from paragraph 4.

52. The representative of the Government of Mongolia informed the Committee that Parliament in his country had approved in October 1997 the ratification of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and that his Government intended to ratify shortly several fundamental Conventions.

53. The representative of the Government of Slovakia thanked the Office for its document and asked whether there were any countries which had not replied to any of the circular letters of the Director-General on the ratification prospect for the fundamental ILO Conventions. He endorsed the statement by the representative of the Government of Germany that a reading of this document suggested that it did not go far enough and he expressed the hope that the new reporting procedure on ratification difficulties, under article 19 of the Constitution, would provide additional information. Finally, he said that the position of his country, as reflected in paragraph 8, did not constitute an obstacle but an explanation.

54. The Employer members said they were particularly satisfied with the discussion, and in particular with the intervention of the Government representative of Egypt whose concerns about the lack of flexibility of ILO standards reflected many of their own views.

55. The Worker members believed that the discussion had been fruitful. They particularly appreciated the fact that the discussions had shown that the obstacles to ratification invoked by countries were not insurmountable. There seemed to be in fact a real determination by countries to overcome them. The Worker members wished to return to a few points raised by the Employers. First of all, as regards the
revision of standards, they recalled the decision taken by the Governing Body that the fundamental Conventions do not appear on the agenda of the Working Party on Policy regarding the Revision of Standards. They also expressed their agreement with the position of the Government representative of Egypt and reaffirmed their belief that fundamental human rights were inalienable and may not be considered as rigid, insufficiently flexible or evolving. As regards countries which had never replied to the circular letters from the Director-General, they recalled the suggestion that they had made in March 1997 -- namely that the next circular letter from the Director-General should be addressed to the occupational organizations of these countries asking them to bring pressure to bear on their governments to ensure that the latter provide the Office with information on the ratification prospects of fundamental Conventions.

56. A representative of the Director-General (Chief of the Equality and Human Rights Coordination Branch) stated that the following 32 countries had still not replied to the different circular letters from the Director-General: Afghanistan, Albania, Belize, Bosnia and Herzegovina, Cape Verde, Chad, Congo, Djibouti, El Salvador, Equatorial Guinea, Grenada, Guinea, Haiti, Indonesia, Kenya, Liberia, Libyan Arab Jamahiriya, Malawi, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, Swaziland, Tajikistan, Trinidad and Tobago, Turkmenistan, Ukraine, Uzbekistan, Yemen, Yugoslavia. He added that the Director-General would shortly send out the next circulars to the countries which had not ratified all the fundamental Conventions in order to obtain updated information for the preparation of the document on the ratification prospects of fundamental Conventions for the 271st Session (March 1998).

III . Review of the activities of the multidisciplinary teams in relation to standards

57. The Deputy Director-General (Mr. Tapiola) wished to provide some additional information concerning the vacant posts for experts on international labour standards within the multidisciplinary teams, stressing that it was imperative for these posts to be filled by competent officials, just as posts at headquarters must be. The mobility and career development policy should contribute to achieving this requirement. Provision was made for 12 posts for the 1996-97 biennium, and for 14 for the 1998-99 biennium, including the two new posts in Moscow and Cairo. As regards the six posts which were currently vacant, measures had been taken to ensure that at least three of them -- those in Abidjan, Addis Ababa and Harare -- would be filled by summer 1998 at the latest, and the same would probably apply to Beirut. No solution had as yet been found for the post in New Delhi. There was a possible short-term solution for the Manila post, which would serve as a stopgap until an appointment was made, probably before the beginning of 1999. The Moscow post was currently in the process of being filled and a prompt decision could be expected for the Cairo post.

58. The representative of the Government of Egypt stressed the importance of the contribution of the multidisciplinary teams to upgrading labour law and strengthening tripartite dialogue. Coordination with the governments concerned was essential in order to identify the priorities and enhance their effectiveness. It was regrettable that in all too many teams not all posts were filled by the necessary
experts. The question was raised each year and urgent steps were needed to remedy the situation. The next document on the issue should clearly present all the facts, show what progress has been made and assess the extent of the remaining problems. As far as the Cairo team was concerned, it was imperative for it to include an expert on international labour standards, because that specific field was critically important for the promotion of democracy and human rights. Greater emphasis should also be placed on the importance of Arabic.

59. The Employer members recalled that they had already voiced their concern as to the excessive number of vacant posts for standards experts within the multidisciplinary teams during the previous examination of the question. Further insistence was therefore needed in order to increase the effort being put into resolving this problem and to ensure that the posts were filled by well-qualified individuals. In order to be truly effective and useful, the task of assisting in the revision of labour legislation could only be properly performed by qualified multidisciplinary teams in collaboration with headquarters. Furthermore, the teams must also take into consideration the work of the Working Party on Policy regarding the Revision of Standards when evaluating labour legislation. Paragraph 23 of the document indicated that the focus given by teams to the promotion of fundamental Conventions "seems" to be confirmed. If it only "seemed" to be confirmed, then more energetic measures were needed. In its current form, the document was not entirely satisfactory. It should not limit itself to simply mentioning the various seminars or symposia, but should also contain an assessment of the quality and success of each of those activities.

60. The Worker members were of the view that the form of this fourth annual report on the activities of the multidisciplinary teams had improved and that the presentation of activities by theme rather than by region presented a clearer picture. Just like the previous year, and in spite of the assurances given at that time, six posts for standards experts remained vacant. No progress had been made towards remedying this intolerable situation which affected the quality of activities. The problem was not in fact restricted to standards experts -- in Asia a total of nine posts were vacant, a fact that could be nothing but detrimental to team work. There was the temptation to ask the ILO the customary question about the "obstacles and difficulties" that it was encountering in that area. A serious effort was needed. As to the nature of the teams' activities, the Worker members welcomed those relating to the promotion of fundamental Conventions, social dialogue, tripartism, gender issues, child labour and export processing zones. Concerning the preparatory symposia for the Conference, it was important to make sure that they were confined to discussions of procedure, because it would not be acceptable to extend their scope to other areas. Lastly, while standards should be the focus of the review of country objectives, the report had little to say on that essential aspect of the Active Partnership Policy.

61. The representative of the Government of Ethiopia welcomed the additional information provided by the Deputy Director-General concerning the posts of standards experts in the Abidjan, Harare and Addis Ababa teams. He said that it would be helpful to receive more detailed information and that the discussion of the activities of the multidisciplinary teams should be associated with that of the promotion of the ratification of fundamental Conventions. A particular effort should be made to assess technical cooperation needs in the field of standards.
62. The representative of the Government of the Russian Federation stated that during his recent visit the Director-General had concluded an agreement with the Government making provision for the establishment of a multidisciplinary team in Moscow for all the countries belonging to the Commonwealth of Independent States. Such teams had a decisive, consultative, awareness-raising and incentive-building role. The Government of the Russian Federation was particularly interested by the contribution that the Moscow team could make in respect of employment policy and social protection.

63. The representative of the Government of Suriname, also speaking on behalf of the Governments of the Caribbean Community, expressed his gratitude for the work carried out by the multidisciplinary team in that region. The team's activities could not have been successfully carried out without a standards expert. That was why it was important to make sure that the vacant posts for standards experts in the other teams were promptly filled.

64. The representative of the Government of Uganda urged that the vacant posts in the multidisciplinary teams, in particular those for standards experts, be rapidly filled. He stated that, following a resolution by the Labour and Social Affairs Commission of the Organization of African Unity, a joint subregional ILO/OAU meeting on the issue of child labour would be held in Kampala the following February.

65. The representative of the Government of Japan recalled that the Asian-Pacific Regional Symposium on Standards-Related Topics had been funded by his country and that his Government would continue to provide support for this type of activity, in particular with a view to promoting ratification of the fundamental Conventions. Japan was already involved in the preparation of future symposia.

66. The representative of the Government of Germany considered that a situation in which numerous posts for standards experts had remained vacant for so long was unacceptable. The reasons related perhaps to the reluctance of certain persons to leave Geneva or the difficulty of finding appropriate outside candidates. The proposal by the representative of the Government of Egypt should be taken up, and the assessment should not focus solely on standards experts but on the whole range of skills found in multidisciplinary teams. The question would however then come under the jurisdiction of the Programme, Financial and Administrative Committee rather than that of the present Committee.

67. The Deputy Director-General (Mr. Tapiola) pointed out that on occasion associate experts had made up for the lack of standards experts with their work; this had been the case in the three teams in Africa. Moreover, the lack of a standards expert did not imply the lack of any standards-related activities in the countries concerned. Meetings and seminars had been held and others were scheduled. There were both objective and subjective reasons for the difficulty in filling these posts. The personnel who could be called upon was essentially limited to current and former officials of the International Labour Standards Department because the post presupposed an in-depth knowledge of standards and procedures. As regards the proposal to add to the document an assessment of activities, going beyond certain criteria such as the number of ratifications obtained, there would be a risk of subjectivity. The Government of Japan should be thanked for its contribution to the regional symposia on labour standards. The preparations for the subregional meeting on child labour to be held in Kampala, were already under way.
68. The Employer members thought that in view of the fact that associate experts were renumerated by their governments, they did not offer the necessary guarantees of independence for the fulfilment of the tasks required in multidisciplinary teams. Concerning the assessment of activities, rather than being a matter of apportioning praise or blame, it was a question of ensuring that the Committee and each of the groups had access to objective information concerning, for example, regional coverage or the nature and level of participation in the various activities.

IV. Forms for reports on the application of ratified Conventions
(article 22 of the Constitution)

Labour Inspection (Seafarers) Convention, 1996 (No. 178),
Recruitment and Placement of Seafarers Convention,
1996 (No. 179), Seafarers' Hours of Work and the
Manning of Ships Convention, 1996 (No. 180),
Protocol of 1996 to the Merchant Shipping (Minimum
Standards) Convention, 1976, Private Employment
Agencies Convention, 1997 (No. 181)

69. The forms for reports on the application of the Labour Inspection (Seafarers) Convention, 1996 (No. 178), the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 were adopted.

70. The form for reports on the application of the Private Employment Agencies Convention, 1997 (No. 181), was adopted as amended following a proposal by the Employer members.

71. The representative of the Government of Cuba considered that it would be advisable for report forms to be approved more rapidly following the adoption of new Conventions because they often contained information that could also be useful in conjunction with the submission of new instruments to the competent authorities.

72. The Chief of the Application of Standards Branch stated that the secretariat was making every effort to ensure that report forms could be submitted for approval to the session of the Governing Body following the adoption of the corresponding Conventions, as is the case in this instance for Convention No. 181. As the maritime Conventions had been adopted at the end of October 1996, it had not been possible to prepare draft forms for the November 1996 session and the agenda of the March 1997 session was too full to include this item on it.

V. Other questions

73. The representative of the Government of Japan, speaking on behalf of the Asian and Pacific
Government members, stated that the group, after several meetings, wished to highlight two issues. He would make a statement in the Governing Body plenary session on the first, concerning a possible declaration on fundamental rights. On the second, the group repeated its request for a review of the standards supervisory system, a request that had been echoed by representatives of the IMEC governments, the non-aligned countries and the Employer members. The review should cover the mandates of the various ILO bodies and their role under the Declaration of Philadelphia. The member States involved strongly requested the inclusion in the March 1998 agenda of the Committee an item on the review and improvement of the supervisory system, and requested the Office to prepare a document to facilitate the discussion of such an item.

74. The representative of the Government of Egypt supported the request by the Asian and Pacific Government members for a review of the standards supervisory system. The efficiency and transparency of the existing machinery had to be examined, and clear criteria set for lodging complaints. The administrative side of the procedures needed to be simplified given the burden on administrations, especially in developing countries.

75. Speaking on a point of order, the Worker Vice-Chairperson stated that the representative of the Government of Egypt was entering into a debate over an issue which by the agreement of all parties was not on the Committee's agenda. The debate must cease immediately, as the Workers' group and others also had a position on this issue and on the statement by the representative of the Government of Japan.

76. The Employer Vice-Chairperson agreed with the previous speaker that the question was not on the agenda.

77. The representative of the Arab Labour Organization, speaking on behalf of the Arab Government members, stated that they would have liked an agenda item concerning the conditions of Arab workers in the occupied Arab territories for discussion at the present meeting, but recalling the procedural and legal difficulties that had prevented that, expressed their wish to have such an item on the Committee's agenda in March 1998. The conditions of those workers continued to deteriorate: since March 1997 there had been major developments in the territories, and violations of human rights persisted. Recalling the most recent annual report of the Director-General to the International Labour Conference, based on the mission to the areas under the control of the Palestinian Authority and the Golan Heights, he stated that the Arab group would present a draft resolution on the procedure to the Governing Body in the coming week, the thrust of which would be to return to the arrangements that had applied, during the period of 1990-95, to the discussion of the Report of the Director-General. He hoped that the Director-General would present this to the March 1998 Governing Body so as to enhance the discussion of his report on the situation of workers of the occupied Arab territories.

78. The Chairperson indicated that the Committee took note of these statements.

79. Concerning the future work of the Committee, the Legal Adviser indicated that, at the next session of the Governing Body, three possible legal questions could be examined, subject to any other questions...
that the Governing Body might itself decide to refer to the Committee.

80. The first question related to the various reforms in the functioning of the International Labour Conference, which had been introduced on an experimental basis. The Committee might wish to examine whether these reforms were now ripe for introduction into the Standing Orders of the Conference or for consolidation. The second question concerned the possible revision of the procedure governing representations submitted under article 24 of the Constitution, taking into account the significant recourse now being made to that procedure and the difficulties that had surfaced during the 85th Session of the Conference. The third question related to an examination of the need to revise the Statute of the ILO Administrative Tribunal in order to enable international organizations that did not fully meet the present requirement concerning their intergovernmental character to join. There was a growing number of requests from such organizations. Although matters relating to the Administrative Tribunal were normally dealt with in the Programme, Financial and Administrative Committee, in consultation with the Officers of that Committee, taking into account the nature of the question this matter should rather be considered by the Committee on Legal Issues and International Labour Standards.


Point for decision: Paragraph 23.

Appendix II

Appl. 22.178

178, Labour Inspection (Seafarers), 1996

International Labour Office

Report form for the Labour Inspection (Seafarers)
Convention, 1996 (No. 178)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

* * *
The Government may deem it useful to consult the appended text of the Labour Inspection (Seafarers) Recommendation, 1996 (No. 185), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

**Practical guidance for drawing up reports**

**First reports**

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

**Subsequent reports**

In subsequent reports, information need normally be given only:

(a) on any new legislative or other measures affecting the application of the Convention;

(b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

(c) in reply to comments by the supervisory bodies: the report must contain replies to any comments regarding the application of the Convention in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

**Article 22 of the Constitution of the ILO**

Report for the period ........................................ to...........................................
made by the Government of ................................................................. on the

**Labour Inspection (Seafarers) Convention, 1996 (No. 178)**

(ratification registered on ........................................)

I. Please give a list of laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office
with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned laws and regulations, etc., or other measures, which give effect to each Article.

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional texts the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Part I. Scope and definitions

Article 1

1. Except as otherwise provided in this Article, this Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of a Member for which the Convention is in force and is engaged in the transport of cargo or passengers for the purpose of trade or is employed for any other commercial purpose. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. National laws or regulations shall determine which ships are to be regarded as seagoing ships for the purpose of this Convention.

3. This Convention applies to seagoing tugs.

4. This Convention does not apply to vessels less than 500 gross tonnage and, when not engaged in navigation, vessels such as oil rigs and drilling platforms. The decision as to which vessels are covered by this paragraph shall be taken by the central coordinating authority in consultation with the most representative organizations of shipowners and seafarers.

5. To the extent the central coordinating authority deems it practicable, after consulting the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall apply to commercial maritime fishing vessels.
6. In the event of any doubt as to whether or not any ships are to be regarded as engaged in commercial maritime operations or commercial maritime fishing for the purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

7. For the purpose of this Convention:

(a) the term "central coordinating authority" means ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers' working and living conditions in relation to any ship registered in the territory of the Member;

(b) the term "inspector" means any civil servant or other public official with responsibility for inspecting any aspect of seafarers' working and living conditions, as well as any other person holding proper credentials performing an inspection for an institution or organization authorized by the central coordinating authority in accordance with Article 2, paragraph 3;

(c) the term "legal provisions" includes, in addition to laws and regulations, arbitration awards and collective agreements upon which the force of law is conferred;

(d) the term "seafarers" means persons who are employed in any capacity on board a seagoing ship to which the Convention applies. In the event of any doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the central coordinating authority after consulting the organizations of shipowners and seafarers concerned;

(e) the term "seafarers' working and living conditions" means the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, articles of agreement, food and catering, crew accommodation, recruitment, manning, qualifications, hours of work, medical examinations, prevention of occupational accidents, medical care, sickness and injury benefits, social welfare and related matters, repatriation, terms and conditions of employment which are subject to national laws and regulations, and freedom of association as defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948, of the International Labour Organization.

Paragraph 2. Please indicate which ships are to be regarded as seagoing ships for the purpose of this Convention.

Paragraph 4. Please indicate the consultations which have been held in conformity with this paragraph.

Paragraphs 5 and 6. Please indicate to what extent the provisions of this Convention apply to commercial maritime fishing, and provide information on the consultations which have been held in
Paragraph 7(d). Please indicate whether any consultations have been held in conformity with this paragraph and any decisions made.

Part II. Organization of inspection

Article 2

1. Each Member for which the Convention is in force shall maintain a system of inspection of seafarers' working and living conditions.

2. The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers' working and living conditions and shall establish principles to be observed.

3. The central coordinating authority shall in all cases be responsible for the inspection of seafarers' working and living conditions. It may authorize public institutions or other organizations it recognizes as competent and independent to carry out inspections of seafarers' working and living conditions on its behalf. It shall maintain and make publicly available a list of such institutions or organizations.

Paragraph 2. Please specify the central coordinating authority, how it coordinates inspections and which ministries, government departments or other public authorities, organizations or institutions are involved.

Please indicate the established principles to be observed during inspections.

Paragraph 3. Please indicate, where applicable, which public institutions or other organizations are recognized as competent to carry out inspections of seafarers' living and working conditions and the basis on which such recognition is granted. Please provide, where applicable, a copy of any list maintained and published in this respect.

Article 3

1. Each Member shall ensure that all ships registered in its territory are inspected at intervals not exceeding three years and, when practicable, annually, to verify that the seafarers' working and living conditions on board conform to national laws and regulations.

2. If a Member receives a complaint or obtains evidence that a ship registered in its territory does not conform to national laws and regulations in respect of seafarers' working and living conditions, the Member shall take measures to inspect the ship as soon as practicable.
3. In cases of substantial changes in construction or accommodation arrangements, the ship shall be inspected within three months of such changes.

Paragraph 1. Please provide information as to the intervals at which ships are inspected and what the inspection covers (cf. Article 1, paragraph 7(e)).

Paragraph 2. Please describe the procedures for inspecting ships following a complaint.

Article 4

Each Member shall appoint inspectors qualified for the performance of their duties and shall take the necessary steps to satisfy itself that inspectors are available in sufficient number to meet the requirements of this Convention.

Please indicate (i) the number of inspectors available; (ii) whether the inspectors have any other responsibilities, e.g. maritime safety inspections, etc; and (iii) the qualifications required for these inspections.

Article 5

1. Inspectors shall have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.

2. Inspectors provided with proper credentials shall be empowered:

(a) to board a ship registered in the territory of the Member and to enter premises as necessary for inspection;

(b) to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed;

(c) to require that deficiencies are remedied; and

(d) where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health and safety, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken, the ship not being unreasonably detained or delayed.

Paragraph 1. Please describe the status and conditions of service of inspectors.

Paragraph 2. Please describe the measures taken to give effect to this paragraph and, in particular, the
Article 6

1. When an inspection is conducted or when measures are taken under this Convention, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

2. If a ship is unreasonably detained or delayed, the shipowner or operator of the ship shall be entitled to compensation for any loss or damage suffered. In any instance of alleged unreasonable detention or delay, the burden of proof shall lie with the shipowner or operator of the ship.

Please provide information on the provisions which give effect to this Article and, if applicable, on cases where the shipowner or the operator of the ship is entitled to compensation.

Part III. Penalties

Article 7

1. Adequate penalties for violations of the legal provisions enforceable by inspectors and for obstructing inspectors in the performance of their duties shall be provided for by national laws or regulations and shall be effectively enforced.

2. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings.

Please indicate the measures taken to give effect to this Article.

Part IV. Reports

Article 8

1. The central coordinating authority shall maintain records of inspections of seafarers' working and living conditions.

2. It shall publish an annual report on inspection activities, including a list of institutions and organizations authorized to carry out inspections on its behalf. This report shall be published within a reasonable time after the end of the year to which it relates and in any case within six months.

Please provide a copy of the annual report on inspection activities

Article 9
1. Inspectors shall submit a report of each inspection to the central coordinating authority. One copy of the report in English or in the working language of the ship shall be furnished to the master of the ship and another copy shall be posted on the ship’s notice-board for the information of the seafarers or sent to their representatives.

2. In case of an inspection pursuant to a major incident, the report shall be submitted as soon as practicable but not later than one month following the conclusion of the inspection.

*Please indicate the measures taken to give effect to this Article.*

III. Please state to what authority or authorities the application of the above-mentioned legislation, regulations, etc., is entrusted, and by what methods such application is supervised.

IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

V. Please give a general appreciation of the manner in which the Convention is applied in your country and supply -- in so far as the information in question has not already been supplied in connection with other questions in this form -- extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements reported, etc.

VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

**Labour Inspection (Seafarers) Recommendation**

[Text not reproduced]
The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

* * *

The Government may deem it useful to consult the appended text of the Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

**Practical guidance for drawing up reports**

**First reports**

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

**Subsequent reports**

In subsequent reports, information need normally be given only:

(a) on any new legislative or other measures affecting the application of the Convention;

(b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

(c) in reply to comments by the supervisory bodies: the report must contain replies to any comments regarding the application of the Convention in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.
Article 22 of the Constitution of the ILO

Report for the period ........................................ to ...........................................
made by the Government of .................................................................

on the

Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
(ratification registered on ...........................................)

I. Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned laws and regulations, etc., or other measures, which give effect to each Article.

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional texts the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Article 1

1. For the purpose of this Convention:

(a) the term "competent authority" means the minister, designated official, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of the recruitment and placement of seafarers;

(b) the term "recruitment and placement service" means any person, company, institution, agency or
other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers;

(c) the term "shipowner" means the owner of the ship or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who on assuming such responsibilities has agreed to take over all the attendant duties and responsibilities;

(d) the term "seafarer" means any person who fulfils the conditions to be employed or engaged in any capacity on board a seagoing ship other than a government ship used for military or non-commercial purposes.

2. To the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen or those of owners of maritime mobile offshore units and seafarers serving on such units, as the case may be, the competent authority may apply the provisions of the Convention to fishermen or to seafarers serving on maritime mobile offshore units.

**Paragraph 2. Please indicate to what extent the provisions of the Convention are applied to fishermen or to seafarers serving on maritime mobile offshore units, and provide information on the consultations which have been held in conformity with this paragraph.**

**Article 2**

1. Nothing in the provisions of this Convention shall be deemed to:

(a) prevent a Member from maintaining a free public recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether it forms part of or is coordinated with a public employment service for all workers and employers;

(b) impose on a Member the obligation to establish a system for the operation of private recruitment and placement services.

2. Where private recruitment and placement services have been or are to be established, they shall be operated within the territory of a Member only in conformity with a system of licensing or certification or other form of regulation. This system shall be established, maintained, modified or changed only after consultation with representative organizations of shipowners and seafarers. Undue proliferation of such private recruitment and placement services shall not be encouraged.

3. Nothing in this Convention shall affect the right of a Member to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers.

**Paragraph 2. Please indicate the consultations which have been held in conformity with this paragraph.**
Article 3

Nothing in this Convention shall in any manner prejudice the ability of a seafarer to exercise basic human rights, including trade union rights.

Article 4

1. A Member shall, by means of national laws or applicable regulations:

(a) ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer; for this purpose, costs of the national statutory medical examination, certificates, a personal travel document and the national seafarer's book shall not be deemed to be "fees or other charges for recruitment";

(b) determine whether and under which conditions recruitment and placement services may place or recruit seafarers abroad;

(c) specify, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by recruitment and placement services including the collection, storage, combination and communication of such data to third parties;

(d) determine the conditions under which the licence, certificate or similar authorization of a recruitment and placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and

(e) specify, where a regulatory system other than a system of licensing or certification exists, the conditions under which recruitment and placement services can operate, as well as sanctions applicable in case of violation of these conditions.

2. A Member shall ensure that the competent authority:

(a) closely supervise all recruitment and placement services;

(b) grant or renew the licence, certificate, or similar authorization only after having verified that the recruitment and placement service concerned meets the requirements of national laws and regulations;

(c) require that the management and staff of recruitment and placement services for seafarers should be adequately trained persons having relevant knowledge of the maritime industry;

(d) prohibit recruitment and placement services from using means, mechanisms or lists intended to
prevent or deter seafarers from gaining employment;

(e) require that recruitment and placement services adopt measures to ensure, as far as practicable, that the employer has the means to protect seafarers from being stranded in a foreign port; and

(f) ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

Please describe the measures taken in conformity with each subparagraph of this Article.

Article 5

1. All recruitment and placement services shall maintain a register of all seafarers recruited or placed through them, to be available for inspection by the competent authority.

2. All recruitment and placement services shall ensure that:

(a) any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;

(b) contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;

(c) seafarers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement; and

(d) proper arrangements are made for seafarers to examine their contracts of employment and the articles of agreement before and after they are signed and for them to receive a copy of the contract of employment.

3. Nothing in paragraph 2 above shall be understood as diminishing the obligations and responsibilities of the shipowner or the master.

Please indicate the measures taken and the arrangements made to give effect to this Article.

Article 6

1. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.
2. All recruitment and placement services shall examine and respond to any complaint concerning their activities and shall advise the competent authority of any unresolved complaint.

3. Where complaints concerning working or living conditions on board ships are brought to the attention of the recruitment and placement services, they shall forward such complaints to the appropriate authority.

4. Nothing in this Convention shall prevent the seafarer from bringing any complaint directly to the appropriate authority.

Please describe the existing machinery and procedures and indicate, if applicable, the role played by representatives of shipowners and seafarers.

III. Please state to what authority or authorities the application of the above-mentioned legislation, regulations, etc. is entrusted, and by what methods such application is supervised.

IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

V. Please give a general appreciation of the manner in which the Convention is applied in your country and supply -- in so far as the information in question has not already been supplied in connection with other questions in this form -- extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements reported, etc.

VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

VII. Please indicate whether you have received from the organizations of employers and workers concerned any observations, either of a general kind or in connection with the present or previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observation received, together with any comments that you consider useful.

Recruitment and Placement of Seafarers Recommendation

[Text not reproduced]
International Labour Office

Report form for the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

* * *

The Government may deem it useful to consult the appended text of the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

Practical guidance for drawing up reports

First reports

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only:

(a) on any new legislative or other measures affecting the application of the Convention;

(b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
(c) in reply to comments by the supervisory bodies: the report must contain replies to any comments regarding the application of the Convention in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

Article 22 of the Constitution of the ILO

Report for the period ........................................ to ........................................ made by the Government of ..............................................................

on the

Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

(ratification registered on ........................................

I. Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned laws and regulations, etc., or other measures, which give effect to each Article.

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional texts the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Part I. Scope and definitions

Article 1
1. This Convention applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of any Member for which the Convention is in force and is ordinarily engaged in commercial maritime operations. For the purpose of this Convention, a ship that is on the register of two Members is deemed to be registered in the territory of the Member whose flag it flies.

2. To the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing.

3. In the event of doubt as to whether or not any ships are to be regarded as seagoing ships or engaged in commercial maritime operations or commercial maritime fishing for the purpose of the Convention, the question shall be determined by the competent authority after consulting the organizations of shipowners, seafarers and fishermen concerned.

4. This Convention does not apply to wooden vessels of traditional build such as dhows and junks.

**Paragraph 1. Please indicate which ships are regarded as seagoing ships.**

**Paragraphs 2 and 3. Please indicate to what extent the provisions of the Convention are applied to commercial maritime fishing, and provide information on the consultations which have been held in conformity with these paragraphs.**

**Article 2**

For the purpose of this Convention:

(a) the term "competent authority" means the minister, government department or other authority having power to issue regulations, orders or other instructions having the force of law in respect of seafarers' hours of work or rest or the manning of ships;

(b) the term "hours of work" means time during which a seafarer is required to do work on account of the ship;

(c) the term "hours of rest" means time outside hours of work; this term does not include short breaks;

(d) the term "seafarer" means any person defined as such by national laws or regulations or collective agreements who is employed or engaged in any capacity on board a seagoing ship to which this Convention applies;

(e) the term "shipowner" means the owner of the ship or any other organization or person, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the
shipowner and who on assuming such responsibility has agreed to take over all the attendant duties and responsibilities.

Subparagraph (d). Please indicate how the term "seafarer" is defined in national laws or regulations or collective agreements.

Part II. Seafarers' hours of work and hours of rest

Article 3

Within the limits set out in Article 5, there shall be fixed either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

Article 4

A Member which ratifies this Convention acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this standard.

Article 5

1. The limits on hours of work or rest shall be as follows:

(a) maximum hours of work shall not exceed:

(i) 14 hours in any 24-hour period; and

(ii) 72 hours in any seven-day period;

or

(b) minimum hours of rest shall not be less than:

(i) ten hours in any 24-hour period; and

(ii) 77 hours in any seven-day period.

2. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in
length, and the interval between consecutive periods of rest shall not exceed 14 hours.

3. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

4. In respect of situations when a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

5. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 3 or 4 are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.

6. Nothing in paragraphs 1 and 2 shall prevent the Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the standards set out but may take account of more frequent or longer leave periods or the granting of compensatory leave for watch-keeping seafarers or seafarers working on board ships on short voyages.

7. The Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:

(a) the schedule of service at sea and service in port; and

(b) the maximum hours of work or the minimum hours of rest required by the laws, regulations or collective agreements in force in the flag State.

8. The table referred to in paragraph 7 shall be established in a standardized format in the working language or languages of the ship and in English.

Paragraph 1. Please state the maximum hours of work or the minimum hours of rest prescribed in accordance with this paragraph.

Paragraph 2. Please state the minimum length of periods of rest and the maximum interval between two such periods.

Paragraph 3. Please describe the measures taken to minimize the disturbance of rest periods as a result of musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations.

Paragraph 4. Please indicate the measures taken to ensure that seafarers required to work during their normal period of rest are given an adequate compensatory rest period.
Paragraph 6. Please describe any exceptions permitted in conformity with this paragraph.

Paragraphs 7 and 8. Please describe, or provide an example of, the format used for the table referred to in these paragraphs.

Article 6

No seafarer under 18 years of age shall work at night. For the purpose of this Article, "night" means a period of at least nine consecutive hours, including the interval from midnight to five a.m. This provision need not be applied when the effective training of young seafarers between the ages of 16 and 18 in accordance with established programmes and schedules would be impaired.

Please provide information on measures taken in conformity with this Article.

Article 7

1. Nothing in this Convention shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea.

2. In accordance with paragraph 1, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored.

3. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

Article 8

1. The Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with the provisions set out in Article 5. The seafarer shall receive a copy of the records pertaining to him or her which shall be endorsed by the master, or a person authorized by the master, and by the seafarer.

2. The competent authority shall determine the procedures for keeping such records on board, including the intervals at which the information shall be recorded. The competent authority shall establish the format of the records of the seafarers' hours of work or of their hours of rest taking into account any available International Labour Organization guidelines or shall use any standard format prepared by the Organization. The format shall be established in the language or languages provided by Article 5,
3. A copy of the relevant provisions of the national legislation pertaining to this Convention and the relevant collective agreements shall be kept on board and be easily accessible to the crew.

**Paragraph 2. Please indicate the measures taken to give effect to this paragraph.**

**Article 9**

The competent authority shall examine and endorse the records referred to in Article 8, at appropriate intervals, to monitor compliance with the provisions governing hours of work or hours of rest that give effect to this Convention.

*Please describe how, and how often, the records of hours of work and hours of rest are examined by the competent authority.*

**Article 10**

If the records or other evidence indicate infringement of provisions governing hours of work or hours of rest, the competent authority shall require that measures, including if necessary the revision of the manning of the ship, are taken so as to avoid future infringements.

*Please explain what action is taken when the provisions governing hours of work or hours of rest are infringed. Please indicate any cases where infringements have led to the revision of the manning of the ship.*

Part III. Manning of ships

**Article 11**

1. Every ship to which this Convention applies shall be sufficiently, safely and efficiently manned, in accordance with the minimum safe manning document or an equivalent issued by the competent authority.

2. When determining, approving or revising manning levels, the competent authority shall take into account:

(a) the need to avoid or minimize, as far as practicable, excessive hours of work, to ensure sufficient rest and to limit fatigue; and

(b) the international instruments identified in the Preamble.
Article 12

No person under 16 years of age shall work on a ship.

Part IV. Responsibilities of shipowners and masters

Article 13

The shipowner shall ensure that the master is provided with the necessary resources for the purpose of compliance with obligations under this Convention, including those relating to the appropriate manning of the ship. The master shall take all necessary steps to ensure that the requirements on seafarers' hours of work and rest arising from this Convention are complied with.

Part V. Application

Article 14

A Member which ratifies this Convention shall be responsible for the application of its provisions by means of laws or regulations, except where effect is given by collective agreements, arbitration awards or court decisions.

Article 15

The Member shall:

(a) take all necessary measures, including the provision of appropriate sanctions and corrective measures, to ensure the effective enforcement of the provisions of this Convention;

(b) have appropriate inspection services to supervise the application of the measures taken in pursuance of this Convention and provide them with the necessary resources for this purpose; and

(c) after consulting shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Convention.

Please specify the sanctions and corrective measures adopted.

Please describe the procedures to investigate complaints.

Please indicate the consultations which have been held in conformity with this Article.
regulations, etc. is entrusted, and by what methods such application is supervised.

IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

V. Please give a general appreciation of the manner in which the Convention is applied in your country and supply -- in so far as the information in question has not already been supplied in connection with other questions in this form -- extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements reported, etc.

VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation

[Text not reproduced]

Appl. 22.147
147, Merchant Shipping (Minimum Standards), 1976
Protocol of 1996

International Labour Office

Report form for the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)

The present report form is for the use of countries which have ratified the Protocol. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such
particulars as the Governing Body may request."

* * *

**Practical guidance for drawing up reports**

**First reports**

If this is your Government's first report following the entry into force of the Protocol in your country, full information should be given on each of the provisions of the Protocol and on each of the questions set out in the report form.

**Subsequent reports**

In subsequent reports, information need normally be given only:

(a) on any new legislative or other measures affecting the application of the Protocol;

(b) in reply to the questions in the report form on the practical application of the Protocol (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

(c) in reply to comments by the supervisory bodies: the report must contain replies to any comments regarding the application of the Protocol in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

**Article 22 of the Constitution of the ILO**

Report for the period ................................. to..............................................
made by the Government of .................................................................

on the

**Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)**

(ratification registered on .................................)

In addition to the information requested in the report form concerning the Convention, please give
details for each of the following Articles of the Protocol.

Article 1

1. Each Member which ratifies this Protocol shall extend the list of Conventions appearing in the Appendix to the principal Convention to include the Conventions in Part A of the Supplementary Appendix and such Conventions listed in Part B of that Appendix as it accepts, if any, in accordance with Article 3 below.

2. Extension to the Convention listed in Part A of the Supplementary Appendix that is not yet in force shall take effect only when that Convention comes into force.

Article 2

A Member may ratify this Protocol at the same time as or at any time after it ratifies the principal Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration.

Article 3

1. Each Member which ratifies this Protocol shall, where applicable, in a declaration accompanying the instrument of ratification, specify which Convention or Conventions listed in Part B of the Supplementary Appendix it accepts.

2. A Member which has not accepted all of the Conventions listed in Part B of the Supplementary Appendix may, by subsequent declaration communicated to the Director-General of the International Labour Office, specify which other Convention or Conventions it accepts.

Please indicate, where applicable, which Conventions listed in Part B of the Supplementary Appendix your country has accepted. (10)

Article 4

1. For the purposes of Article 1, paragraph 1, and Article 3 of this Protocol, the competent authority shall hold prior consultations with the representative organizations of shipowners and seafarers.

2. The competent authority shall, as soon as practicable, make available to the representative organizations of shipowners and seafarers information as to ratifications, declarations and denunciations notified by the Director-General of the International Labour Office in conformity with Article 8, paragraph 1, below.
Please provide information on the consultations which have been held in conformity with this Article. (11)

Article 5

For the purpose of this Protocol, the Repatriation of Seafarers Convention (Revised), 1987, shall, in the case of a Member which accepts that Convention, be regarded as a replacement of the Repatriation of Seamen Convention, 1926.

International Labour Office

Report form for the Private Employment Agencies Convention, 1997 (No. 181)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

* * *

The Government may deem it useful to consult the appended text of the Private Employment Agencies Recommendation, 1997 (No. 188), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

Practical guidance for drawing up reports

First reports

If this is your Government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only:
(a) on any new legislative or other measures affecting the application of the Convention;

(b) in reply to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;

(c) in reply to comments by the supervisory bodies: the report must contain replies to any comments regarding the application of the Convention in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

Article 22 of the Constitution of the ILO

Report for the period ........................................ to ...........................................
made by the Government of ...........................................................

on the

Private Employment Agencies Convention, 1997 (No. 181)

(ratification registered on ......................................................)

I. Please give a list of the laws and regulations, etc., which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office with this report.

Please give any available information concerning the extent to which these laws and regulations have been enacted or modified to permit, or as a result of, ratification.

II. Please indicate in detail for each of the following Articles of the Convention the provisions of the above-mentioned laws and regulations, etc., or other measures, which give effect to each Article.

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional texts the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention,
please supply the information asked for or indicate the action taken by your Government to settle the points in question.

Article 1

For the purpose of this Convention the term "private employment agency" means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

(a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;

(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;

(c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

2. For the purpose of this Convention, the term "workers" includes jobseekers.

3. For the purpose of this Convention, the term "processing of personal data of workers" means the collection, storage, combination, communication or any other use of information related to an identified or identifiable worker.

Paragraph 1(c). Please indicate, where applicable, the other services determined by the competent authority and which employers' and workers' organizations were consulted.

Article 2

1. This Convention applies to all private employment agencies.

2. This Convention applies to all categories of workers and all branches of economic activity. It does not apply to the recruitment and placement of seafarers.

3. One purpose of this Convention is to allow the operation of private employment agencies as well as the protection of the workers using their services, within the framework of its provisions.

4. After consulting the most representative organizations of employers and workers concerned, a Member may:
(a) prohibit, under specific circumstances, private employment agencies from operating in respect of certain categories of workers or branches of economic activity in the provision of one or more of the services referred to in Article 1, paragraph 1;

(b) exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned.

5. A Member which ratifies this Convention shall specify, in its reports under article 22 of the Constitution of the International Labour Organization, any prohibition or exclusion of which it avails itself under paragraph 4 above, and give the reasons therefor.

Paragraph 4. If recourse has been made to the provisions of this paragraph, please indicate which employers' and workers' organizations were consulted and what actions have been undertaken to consult these organizations.

Article 3

1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.

2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice.

Please provide information on the legal status of private employment agencies and on the conditions governing their operation.

Article 4

Measures shall be taken to ensure that the workers recruited by private employment agencies providing the services referred to in Article 1 are not denied the right to freedom of association and the right to bargain collectively.

Please indicate the measures taken to give effect to this Article.

Article 5

1. In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social
 origin, or any other form of discrimination covered by national law and practice, such as age or disability.

2. Paragraph 1 of this Article shall not be implemented in such a way as to prevent private employment agencies from providing special services or targeted programmes designed to assist the most disadvantaged workers in their jobseeking activities.

Paragraph 1. Please indicate the measures taken to give effect to the provisions of this paragraph.

Paragraph 2. Please describe, where applicable, the special services or targeted programmes designed to assist the most disadvantaged workers in their jobseeking activities.

Article 6

The processing of personal data of workers by private employment agencies shall be:

(a) done in a manner that protects this data and ensures respect for workers' privacy in accordance with national law and practice;

(b) limited to matters related to the qualifications and professional experience of the workers concerned and any other directly relevant information.

Please indicate the manner in which workers' personal data is protected.

Article 7

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.

2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.

3. A Member which has authorized exceptions under paragraph 2 above shall, in its reports under article 22 of the Constitution of the International Labour Organization, provide information on such exceptions and give the reasons therefor.

Paragraph 2. Please indicate the categories of workers and the types of services for which exceptions are authorized and which employers' and workers' organizations were consulted.
Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

Paragraph 1. Please indicate the measures taken to give effect to this paragraph and which employers' and workers' organizations were consulted.

Paragraph 2. Please indicate, where applicable, the bilateral agreements concluded to prevent abuses and fraudulent practices in the recruitment, placement and employment of migrant workers.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Please indicate the measures taken to give effect to this Article.

Article 10

The competent authority shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.

Please describe the machinery and procedures for the investigation of complaints concerning the activities of private employment agencies.

Article 11

A Member shall, in accordance with national law and practice, take the necessary measures to ensure adequate protection for the workers employed by private employment agencies as described in Article 1, paragraph 1(b) above, in relation to:
(a) freedom of association;

(b) collective bargaining;

(c) minimum wages;

(d) working time and other working conditions;

(e) statutory social security benefits;

(f) access to training;

(g) occupational safety and health;

(h) compensation in case of occupational accidents or diseases;

(i) compensation in case of insolvency and protection of workers claims;

(j) maternity protection and benefits, and parental protection and benefits.

Please indicate the measures taken to ensure protection for workers in the areas described in this Article.

Article 12

A Member shall determine and allocate, in accordance with national law and practice, the respective responsibilities of private employment agencies providing the services referred to in paragraph 1(b) of Article 1 and of user enterprises in relation to:

(a) collective bargaining;

(b) minimum wages;

(c) working time and other working conditions;

(d) statutory social security benefits;

(e) access to training;

(f) protection in the field of occupational safety and health;
(g) compensation in case of occupational accidents or diseases;

(h) compensation in case of insolvency and protection of workers claims;

(i) maternity protection and benefits, and parental protection and benefits.

Please indicate the way in which responsibilities are allocated between the private employment agencies and the user enterprises in the areas described in this Article.

**Article 13**

1. A Member shall, in accordance with national law and practice and after consulting the most representative organizations of employers and workers, formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies.

2. The conditions referred to in paragraph 1 above shall be based on the principle that the public authorities retain final authority for:

(a) formulating labour market policy;

(b) utilizing or controlling the use of public funds earmarked for the implementation of that policy.

3. Private employment agencies shall, at intervals to be determined by the competent authority, provide to that authority the information required by it, with due regard to the confidential nature of such information:

(a) to allow the competent authority to be aware of the structure and activities of private employment agencies in accordance with national conditions and practices;

(b) for statistical purposes.

4. The competent authority shall compile and, at regular intervals, make this information publicly available.

**Paragraph 1. Please indicate which employers' and workers' organizations were consulted and provide information on conditions to promote cooperation between the public employment service and private employment agencies.**

**Paragraph 3. Please indicate the competent authorities to which this provision refers and provide examples of the information provided to them by the private employment agencies.**
Paragraph 4. Please specify the information that is made publicly available and the intervals at which this is done.

Article 14

1. The provisions of this Convention shall be applied by means of laws or regulations or by any other means consistent with national practice, such as court decisions, arbitration awards or collective agreements.

2. Supervision of the implementation of provisions to give effect to this Convention shall be ensured by the labour inspection service or other competent public authorities.

3. Adequate remedies, including penalties where appropriate, shall be provided for and effectively applied in case of violations of this Convention.

Article 15

This Convention does not affect more favourable provisions applicable under other international labour Conventions to workers recruited, placed or employed by private employment agencies.

III. Please state to what authority or authorities the application of the above-mentioned legislation, regulations, etc. is entrusted, and by what methods such application is supervised.

IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

V. Please give a general appreciation of the manner in which the Convention is applied in your country and supply -- in so far as the information in question has not already been supplied in connection with other questions in this form -- extracts from inspection reports and, where such statistics exist, information on the number of workers covered by the measures giving effect to the Convention, the number and nature of infringements reported, etc.

VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization. If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.

VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous
report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

**Private Employment Agencies Recommendation**

[Text not reproduced]

1. GB.270/LILS/1/1.

2. GB.270/LILS/1/1.

3. GB.270/LILS/1/1.


5. GB.270/LILS/5.

6. GB.268/8/2, paras. 56-75.

7. Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of Article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

8. Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of Article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

9. Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of Article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

10. Part B of the Supplementary Appendix to the Protocol refers to the following Conventions: the Seafarers' Identity Documents Convention, 1958 (No. 108), the Workers' Representatives Convention, 1971 (No. 135), the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164) and the Repatriation of Seafarers Convention (Revised), 1987 (No. 166).

11. Article 8, paragraph 1, reads as follows: "The Director-General of the International Labour Organization shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and acts of denunciation communicated by the Members of the Organization."
12. Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of Article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."