THIRD ITEM ON THE AGENDA

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

Contents

Introduction

A. Follow-up on the recommendations of the Working Party

B. Examination of the needs for revision of Conventions (fourth stage)

I. Introduction
II. Human rights
III. Labour administration
IV. Social security
V. Employment of children and young persons
VI. Indigenous and tribal peoples
VII. Other special categories

C. Various proposals

I. Introduction
1. In accordance with the decision adopted by the Governing Body at its 268th Session (March 1997), the Working Party met on 11 November 1997 under the chairmanship of Mr. J.-L. Cartier (Government, France). The Employer Vice-Chairman and the Worker Vice-Chairman were Mr. D. Funes de Rioja (Argentina) and Mr. J.-C. Parrot (Canada), respectively.

2. The Chairman pointed out that the Working Party now had working methods allowing it to proceed in an organized way. He recalled that warm appreciation of the work of the Working Party had been expressed at the 85th Session of the International Labour Conference. The proposed constitutional amendment, the initiative of which had come from the Working Party, had been adopted by the Conference with a very large majority; the Office subsequently sent a communication to the member States inviting them to ratify this amendment. It was to be hoped that these ratifications would be forthcoming as soon as possible, so that the amendment could enter into force in the near future. Three documents had been submitted to the Working Party for this meeting: the first concerned the follow-up on the recommendations of the Working Party, the second on the follow-up on consultations concerning the need for revision and obstacles to the ratification of 13 Conventions, and the third on the examination of the need for revision of Conventions (fourth stage). The Working Party decided to defer examination of the second document to its next meeting.

A. Follow-up on the recommendations of the Working Party

3. The Chairman pointed out that the document on the follow-up on the recommendations of the Working Party represented a new development: it proved that the work of the Working Party had advanced sufficiently to be able to examine the various reactions provoked by this work. This was a clear sign of the beginning of dialogue with the member States as well as with the employers' and workers' organizations. The Office had a vital role to play in this dialogue. The information note which had been distributed as a document of the Conference Committee on the Application of Standards last June contained an excellent summary of the recommendations of the Working Party which should be updated on a regular basis.

4. The Employer members pointed out that the Office had submitted an excellent document which objectively reflected the situation with respect to the follow-up on the recommendations of the Working Party. The technical quality of the document made it possible to examine the way in which decisions taken by the Governing Body were evolving in practice. In this respect, the Employer members stated that they were not satisfied with the outcome to date. They pointed out that the objective of the policy regarding the revision of standards was to strengthen the standard-setting system in three areas: to reaffirm Conventions on fundamental human rights at work; to revise standards outdated for technological or social reasons; and to abrogate standards considered completely outdated and obsolete. When examining the document, it would seem that few decisions to carry out firm or conditional revisions had been taken. The Working Party had been extremely reticent to shelve Conventions with a low rate of ratification. Many Governments and Employer members felt that care should be taken not to...
widen the divide between standards and reality, while maintaining Conventions liable to be ratified but also applied in practice. The ratification of very old and outdated Conventions should be discouraged.

5. The Employer members hoped that the Working Party would maintain a certain pace and retain its clear thinking -- a prerequisite for its decision-making -- so that the standard-setting system would remain effective. The Employer members agreed with the promotion of the ratification of certain Conventions, but also requested the revision of other instruments which had proven impossible to apply. If relevant decisions were not adopted, the work of the Working Party would cease to be effective, undermining the opportunities of the Organization to play an important role in the next millennium.

6. Referring to the discussions held during the 85th Session of the Conference on the Report of the Director-General, *The ILO, standard setting and globalization*, the Employer members recalled that globalization did not imply abrogation, but the need to revise a certain number of Conventions. What was needed was an adequate standard-setting framework to cope with the challenges of globalization. This required making better use of the means of tripartite consultation, such as those proposed in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The Employer members felt it positive that the revision of instruments on maternity protection had been included in the agenda of the Conference. They nevertheless felt it important that the Governing Body should receive a clear message from the Working Party concerning the standard-setting issues to be included as a priority on the Conference agenda.

7. The Worker members stated that the progress achieved by the Working Party was significant. It had adopted decisions following an objective examination and on the basis of consensus. 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, and without prejudice, strive for consensus. The Worker members reminded the Employer members that they had proposed, at the March 1997 session, the adoption of a decision of revision of Conventions Nos. 27, 127 and 136.

8. The Worker members stressed the importance of the statement made by the Chairman of the Working Party at the Committee on the Application of Standards of the International Labour Conference in June, particularly when he stated that the success of follow-up measures was entirely contingent upon the will and active role of governments and the social partners. It was up to the Organization to promote such national participation and to back it up by providing the necessary technical assistance. Concerning follow-up action at the level of the Organization, several decisions taken by the Conference and the Governing Body had already followed up recommendations from the Working Party (adoption of the constitutional amendment, inclusion of the revision of instruments on maternity protection on the agenda of the 1999 Conference, General Survey on instruments on migrant workers in 1998 and incorporation of certain recommendations in the portfolio). This was encouraging inasmuch as the recommendations of the Working Party were taken up in a positive way in other ILO bodies. Furthermore, the information contained in Appendix II concerning ratifications and denunciations registered during the 1995-97 period showed that member States acted in accordance with the recommendations of the Working Party. Although it would be better if the number of ratifications were higher, especially on the part of industrialized countries, it seemed that progress was being made.
9. The Worker members pointed out that the real challenge for the ILO was to formulate a global strategy to follow up the recommendations of the Working Party. The Office had to obtain the necessary means to allow it to guarantee this follow-up. The Office had already understood what was at stake and identified a number of vital aspects and it was necessary to insist on the need to have targeted activities at national level within the framework of the global strategy. The Office had started to prepare technical documents on a country-by-country basis and these seemed to constitute an extremely important tool for work in this respect. The Worker members requested the Office to provide their country-by-country studies to the best of its ability and hoped that funds would be earmarked for this purpose.

10. The Worker members pointed out that the structures already introduced by States having ratified Convention No. 144 were extremely important for tripartite consultations concerning the policy of the revision of standards. It was also vital that all the Office officials concerned, particularly experts in standards in the multidisciplinary teams, should participate actively in the work in order to follow up the recommendations of the Working Party. It was regrettable that there were still problems concerning posts for experts in standards which still had to be filled in a number of multidisciplinary teams.

11. The representative of the Government of Sweden congratulated the Office for the work already carried out and for the documents prepared. She noted with satisfaction that the constitutional amendment to abrogate obsolete international labour standards had been adopted and specified that the five Nordic countries had already embarked on the process to ratify this amendment. She thanked the Chairman for his statement to the Committee on the Application of Standards at the Conference. The Nordic countries were particularly pleased that work was under way concerning maternity protection and migrant workers. Concerning the importance of the multidisciplinary teams, she regretted that only six of the 14 multidisciplinary teams had an expert in standards. Referring to the document concerning the follow-up on consultations concerning the needs for revision and obstacles to the ratification of 13 Conventions she wondered if the member States would have an extended deadline to communicate the information requested by the Office and if they would receive a further communication on this subject.

12. A representative of the Director-General noted that it seemed reasonable to give the constituents a new opportunity to express their views on the 13 Conventions, because the deadlines originally established were relatively short. A reminder would be sent to constituents, using the same procedure as before. A copy of the communications sent to the governments concerning the policy on the revision of standards would be transmitted to the Employers' and Workers' groups.

Follow-up action at the level of the Organization

13. The Working Party agreed with the Office's proposal that the Working Party might be able to examine once again, in a forthcoming document, the situation concerning Convention No. 96, with account being taken of the adoption of Convention No. 181.
14. The Chairman was pleased that, following the recommendation of the Working Party, the question of the revision of instruments on maternity protection would be placed on the agenda of the 1999 Conference.

15. Another representative of the Director-General pointed out that the Office would attempt to use adequate terminology by distinguishing between the General Surveys submitted by the Committee of Experts to the Conference, in a volume published separately from its report, and special studies which regularly set out to examine the situation of a certain number of Conventions regarding fundamental human rights.

16. The Chairman felt that the campaign for the ratification of Conventions on fundamental human rights at work had registered considerable progress in the space of several months. The Governing Body and the secretariat should increase their efforts in this respect.

17. As regards the Human Resources Development Convention, 1975 (No. 142), it was relevant to note that the Office was preparing a practical guide to facilitate the formulation and application of policies and programmes for the development of human resources. Nevertheless, the Employer members pointed out that this guide should allow for a balanced examination of various existing situations, even within regions which seemed to be heterogeneous.

18. Furthermore, the Employer members recalled that the Paid Educational Leave Convention, 1974 (No. 140) would be taken into account within the framework of the promotional activities on the standards respecting conditions of work. This was a positive aspect which proved that the recommendations of the Working Party prompted specific reactions.

19. The Chairman pointed out that the information note constituting Appendix I of the document would be constantly updated by the Office. It was vital to have permanently on hand a note on the development of work.

20. The Employer members referred to the various possibilities at the disposal of the multidisciplinary teams to carry out activities to ensure the follow-up of decisions on the policy to revise standards. When undertaking these activities it was necessary to guarantee that the issues were presented in an objective way, maintaining the spirit in which the work of the Working Party was carried out. The Office should help to identify the difficulties of ratification and application of certain Conventions, as mentioned by the representative of the Government of Sweden.

21. The Worker members insisted on the usefulness of multidisciplinary teams in the framework of a global strategy concerning follow-up measures to the recommendations of the Working Party.

22. A representative of the Director-General recalled that it had been possible, within the framework of a subregional tripartite seminar recently held in Santiago (Chile) and thanks to the funding of the International Labour Standards Department, to ensure the participation of a skilled official who had
contributed to the drafting of the documents submitted by the Office to the Working Party. The Office had wished to communicate to the participants the spirit and the letter of the decisions on the policy to revise standards. In this respect, the representative of the Director-General was also pleased to note that the Government of Mexico had agreed to host a subregional tripartite seminar on the ILO’s standard-setting activities and the policy regarding the revision of standards in December 1997. The message of the Working Party might take some time to get through completely, but the Office would continue to carry out a real information campaign.

23. The representative of the Government of France mentioned the drafting of technical documents on a country-by-country basis. In the case of France, this document would be examined in the very near future by a tripartite technical group which would report to the French Committee for the ILO, set up in application of Convention No. 144; this document would serve as a basis for proposals submitted to the Minister of Labour concerning the attitude to be adopted towards various ILO Conventions. The Office should continue to prepare such country-by-country studies which were extremely useful for tripartite consultations.

Follow-up action at the level of the member States

24. The Chairman indicated that there seemed to be a movement in favour of the revision of Conventions Nos. 27, 127 and 136. Furthermore, ratifications registered between November 1995 and September 1997 were evidence that considerable efforts had been made. It would also be advisable to look at denunciations from a new perspective. While up until now they have been considered as regrettable, denunciations made in the manner advocated by the Working Party, that is to say in conjunction with the ratification with other more modern Conventions, are to be encouraged.

25. The Employer members stressed the fact that decisions relating to the policy regarding the revision of standards should underline the difficulties in the application of certain Conventions. For example, it was clear that in cases where application difficulties resulted in the denunciation of a specific Convention -- as occurred with the Termination of Employment Convention, 1982 (No. 158) -- there was a snowball effect which prevented States from ratifying certain Conventions. Emphasis should be placed on the fact that the government authorities should make every possible effort to enter into tripartite consultations with the social partners at the national level, and to take decisions that would give concrete expression to the work of the Working Party.

26. The representative of the Government of the United States stated that the work of member States would be greatly facilitated if the Office provided more precise instructions on the specific points for which information was requested. It would also be useful to include in Office communications to member States a summary of discussions held within the Working Party.

27. The Worker members asked the Office to tread carefully; its role was to implement the Recommendations adopted by the Working Party, but not to indicate the direction to take.
28. A representative of the Director-General stated that in no circumstances would the Office substitute itself for the constituents. The Working Party must give precise instructions concerning the way in which to formulate the questions serving to guide future work.

29. The Chairman recalled the importance of Convention No. 144 in the framework of the policy regarding the revision of standards. This Convention had been widely ratified, six ratifications being recent ones. This trend should be publicly encouraged in all Office action and could prove beneficial in giving effect to the decisions of the Governing Body in member States.

30. The Employer members insisted that the conclusions of the discussion should reflect the need to discourage the ratification of outdated Conventions and the possibility of the Office providing technical assistance in order to achieve progress in respect of policy regarding the revision of standards. The idea whereby the ratification of earlier Conventions was seen as a preliminary stage to the ratification of more recent ones should be avoided in so far as modern instruments offered sufficient flexibility to be ratified without there being the need to ratify outdated Conventions.

31. The Worker members stressed that promoting the non-ratification of Conventions would lead to confusion as regards the Organization's campaign to promote the ratification of certain Conventions and the Working Party's follow-up measures for Recommendations. In keeping with the global strategy, if a State prepared to ratify an earlier Convention, the multidisciplinary teams should bring to its notice that it would be preferable to ratify the revised one.

32. The Chairman noted that the ratifications of some obsolete Conventions had in fact been registered fairly recently, but that had been before the work relating to the policy regarding the revision of standards had begun. It was therefore hoped that the move towards the modern Conventions would occur automatically in future. The Chairman also underlined that no differences existed as to substance within the Working Party, the objective was to encourage the ratification of up-to-date Conventions.

33. The Employer members expressed reservations concerning the inclusion of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) among the Conventions put forward for ratification, which appeared in the information note reproduced in Appendix I to the document submitted by the Office. They would give the reasons for their position during the examination of Convention No. 107.

34. The Employer members proposed two amendments to clauses (a) and (b) of the draft conclusions, and these were accepted by the Working Party.

35. The Working Party proposes that the Committee on Legal Issues and International Labour Standards request the Governing Body:

(a) to invite the Office to continue to request the information required for Governing Body decisions in respect of policy regarding the revision of standards, and to take steps to promote the ratification of revised or up-to-date Conventions and the denunciation of earlier or obsolete ones, and to promote
the ratification of revised or up-to-date Conventions rather than earlier or obsolete ones;

(b) to remind member States of the importance of the implementation of follow-up measures at the national level, namely by providing detailed replies to requests for information sent by the Office, in order to contribute to the future work of the Organization in respect of policy regarding the revision of standards;

(c) to invite the Office, in its communications with the competent authorities and the employers' and workers' organizations, to recall the primordial importance of tripartite consultation in order to ensure the success of the policy regarding the revision of standards;

(d) to invite the Office to prepare a detailed document on the follow-up measures for decisions relating to the policy regarding the revision of standards for its November 1998 meeting.

* * *

B. Examination of the needs for revision of Conventions
   (fourth stage)

I. Introduction

36. The Chairman recalled that the document examined 21 Conventions individually and in detail. Once the examination of these Conventions was over, the Working Party would have completed its examination of all Conventions within its mandate (that is to say, Conventions adopted before 1985), with the exception of the maritime Conventions, the Conventions on fundamental human rights and the priority Conventions.

II. Human rights

Freedom of association

C. 141 -- Rural Workers' Organisations Convention, 1975

37. The Employer members said that they shared the concerns of the Office regarding the relatively slow rate of ratification of Convention No. 141 and for this reason wished to obtain more detailed information on the difficulties of ratification.

38. After an exchange of views, the Working Party expressed its agreement with the Office's proposals. The Working Party proposes:

(a) to recommend to the Governing Body that it invite the member States to contemplate ratifying
Convention No. 141 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of the Convention;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 141 in due course.

III. Labour administration

Statistics

C. 63 -- Convention concerning Statistics of Wages and Hours of Work, 1938

39. The Employer members observed that the rate of ratification of Convention No. 63 would inevitably go on falling. As a result, they considered that this Convention should be shelved and encouragement should be given to the ratification of the Labour Statistics Convention, 1985 (No. 160). The Working Party could determine a ratification threshold below which a Convention would have to be shelved.

40. The Worker members expressed their agreement with the Office's proposals. Even if Convention No. 63 was outdated, it retained an interim value for those countries which had ratified it. The addition at the end of paragraph (a) of the words "as a result of the ratification of Convention No. 160" would indicate clearly that Convention No. 63 would be shelved only following a shift towards ratification of Convention No. 160.

41. The representative of the Government of Sweden noted that Convention No. 160 was a good example of a successful revision, but that it appeared too early to consider shelving Convention No. 63, which was still of value to the 15 States which had ratified it. The Office could draw the attention of the States parties to Convention No. 63 to the flexible and promotional character of Convention No. 160.

42. The Chairman recalled that the Working Party had never before shelved a Convention which was still binding on 15 member States. The Office should send out a mailing to all States bound by Convention No. 63 with a view to encouraging them to ratify Convention No. 160.

43. The Employer members accepted (in this particular case only) the proposal of the Worker members in so far as it is made clear that the decision to shelve Convention No. 63 would be taken once Convention No. 160 had been widely ratified.

44. The Working Party proposes:

(a) to recommend to the Governing Body that it invite the 15 States parties to Convention No. 63 to contemplate ratifying the Labour Statistics Convention, 1985 (No. 160), the ratification of which will, ipso jure, involve the immediate denunciation of Convention No. 63;
(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 63 in due course including the possibility of shelving, when the ratification level of Convention No. 63 has substantially decreased as a consequence of ratification of Convention No. 160.

IV. Social security

45. The Employer members said that certain basic principles of social security as set out in ILO standards were outdated. This applied not only to retirement schemes but to all those branches of social security which had undergone substantial reforms in recent years. Historically, mistakes had been made in the area of social security and there had been fundamental changes in terms of life expectancy, difficulties of entering the labour market and globalization of the economy. The capitalization model introduced in Chile in 1980 had inspired many other countries of Latin America, but certain members of the ILO's staff still insisted that the system was incompatible with previous ILO Conventions. Social security was a sector where the policy of revising standards needed to be applied, and this would mean the immediate abrogation of some Conventions. It would not be acceptable for certain instruments such as the Social Security (Minimum Standards) Convention, 1952 (No. 102), to become hallowed, which would inhibit any decision to revise them.

46. The Chairman recalled the eminently technical nature of the field of social security, which often required the assistance of highly qualified specialists. During its discussions, the Working Party would need to adhere to the established methodology -- which did not rule out the possibility of this issue being taken up by the LILS Committee and the Governing Body.

Comprehensive standards

C. 102 -- Social Security (Minimum Standards) Convention, 1952

47. The Employer members considered that support should be given to revision of Convention No. 102 and ratification should not be encouraged. They stated that the rate of ratification of Convention No. 102 was too low. The situation had changed since 1952 and the subjects covered by the Convention needed to be re-examined.

48. The Worker members noted that Convention No. 102 laid the foundations of social security and its importance was beyond question. Moreover, the Programme and Budget proposals for 1998-99 included provisions for an in-depth study on the principles of social security. A proposal relating to this question had been included in the portfolio of proposals for the Conference agenda. In view of these considerations, the Worker members expressed their agreement with the Office's proposals.

49. The representative of the Government of Sweden emphasized that reports on the application of this Convention were particularly difficult to draft and this led to questions being raised by certain member States considering ratification.
50. A representative of the Director-General recalled that the provisions of Convention No. 102 had been fully incorporated in the European Code of Social Security (except for article 69). The Convention was thus an ILO reference for an area of the world where social security had reached a high level of technical development. For the member States bound by the European Code of Social Security and considering ratification of Convention No. 102, shelving the Convention would be incomprehensible. At the 13th Conference of American States Members of the ILO (Caracas, 1992) it had not been possible to reach any tripartite conclusions on social security.

51. The Employer members recalled that it was not the abrogation or shelving of Convention No. 102 that was under discussion, but only its revision. Since the Caracas meeting and the Meeting of Experts in Mexico, new social security schemes had been introduced in all parts of the world. Looking beyond Convention No. 102, the Organization needed to approach social security matters in a different spirit. In the opinion of the Employer members, there were no reasons to encourage ratification of Convention No. 102.

52. The Chairman noted that Convention No. 102 was important in terms of its subject-matter and of the image and influence of the ILO's standard-setting system in the outside world. Extra caution was therefore needed.

53. The Worker members recalled that social security issues needed to be made more relevant by the adoption of a novel and more appropriate approach than the one hitherto adopted by some ILO staff members.

54. The Chairman said that despite the apparent differences, there was a consensus within the Working Party on the importance of this issue. He reiterated his proposal to include in the conclusions a reference to the fact that high-level specialists should determine objectively whether Convention No. 102 really corresponded to the vision which the ILO should have of social security systems throughout the world. This initiative would not prevent the Working Party from considering the reasons for the low ratification rate and the limited recourse to the flexibility clauses included in the Convention. However, it did not appear possible to make any further commitments without the benefit of outside analysis. What was therefore needed was a two-pronged initiative.

55. The representative of the Government of Chile endorsed the Chairman’s statement.

56. The Working Party proposes:

(a) to draw the attention of the Governing Body to the importance the Working Party attaches to the substantive content of Convention No. 102;

(b) to recommend to the Governing Body that it invite member States to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention, and of the reasons for the limited recourse to the flexibility clauses included in this
Convention;

(c) to recommend to the Governing Body that it invite the Office to carry out a high-level technical study on the principles contained in the Convention as provided in the Programme and Budget for 1998-99 (see paragraph 110.12);

(d) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 102 in due course including the possible need for a full or partial revision of this Convention, in the light of the information available.

C. 118 -- Equality of Treatment (Social Security) Convention, 1962

57. The Employer members considered that this Convention addressed a number of different and important topics, as the Office's document indicated. It was not necessary to promote its ratification, given the difficulties of application that had been identified.

58. The Worker members said that the Convention was important and complex, but merited a greater number of ratifications. In view of this, they expressed their agreement with the Office's proposals.

59. A representative of the Director-General said that Convention No. 118 and Convention No. 102 (which was examined previously) were not comparable. The objective of Convention No. 118 was the coordination of different national schemes, whether these were private or public social security administrations. Convention No. 118 favoured the application of bilateral social security Conventions, including Conventions between States with different systems of administration. Convention No. 118 was compatible both with public and private social security systems.

60. The Employer members thanked the Office for these clarifications. They noted that Convention No. 118 was compatible with different social security systems. In addition, the Employer members emphasized that, from their point of view, the funded systems were also based on the principles of solidarity. In view of the questions raised, they proposed that the Office should prepare a report on the subject.

61. After an exchange of views, the Working Party accepted the Office's proposals. The Working Party proposes:

(a) to recommend to the Governing Body that it invite member States to contemplate ratifying Convention No. 118 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 118 in due course.
Employment injury benefit

C. 12 -- Workmen's Compensation (Agriculture)
Convention, 1921

C. 17 -- Workmen's Compensation (Accidents)
Convention, 1925

C. 18 -- Workmen's Compensation (Occupational Diseases)
Convention, 1925

C. 42 -- Workmen's Compensation (Occupational Diseases)
Convention (Revised), 1934

C. 121 -- Employment Injury Benefits Convention, 1964
[Schedule I, amended 1980]

62. As regards the relation between Conventions Nos. 18 and 42, a representative of the Director-General explained that both instruments were based on the double list system, with a list of occupational activities and another list of occupational diseases. Convention No. 42 added certain activities and occupational diseases while including all those listed in Convention No. 18. Nevertheless, the relationship between the two instruments and between them and Convention No. 121 was different, given that Convention No. 121 belonged to a more recent generation of instruments. Convention No. 121 prescribed a minimum level of benefits and included provisions requiring payments to be made in some cases in the form of a pension. Previous Conventions authorized payment in the form of capital. In some countries, it was not possible to attain the level required by Convention No. 121, although this was not an obstacle to promoting its future ratification.

63. The Working Party acknowledged that the issues at stake were particularly delicate and extremely complex, and requested that the Office undertake a detailed technical study.

64. The Working Party requested the Office to prepare a report on these Conventions, and postponed consideration of Conventions Nos. 12, 17, 18, 42 and 121 to its next meeting.

C. 19 -- Equality of Treatment (Accident Compensation)
Convention, 1925

65. The Working Party expressed its agreement with the Office's proposals. The Working Party proposes:

(a) to recommend to the Governing Body that it invite the States parties to Convention No. 19 to
contemplate ratifying the Equality of Treatment (Social Security) Convention, 1962 (No. 118), accepting the obligations of this Convention in particular in respect of its branch (g) (employment injury benefit);

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 19 in due course.

V. Employment of children and young persons

Minimum age

C. 5 -- Minimum age (Industry) Convention, 1919

66. The Employer members stated that their main concern was to encourage ratification of the Minimum Age Convention, 1973 (No. 138), and to discourage ratification of previous Conventions.

67. The Worker members stated that it was important for States that were bound by a previous Convention but had taken steps towards ratification of Convention No. 138 to benefit from the ILO's technical assistance.

68. After an exchange of views, the Working Party proposes:

(a) to recommend to the Governing Body that it invite, on a priority basis, the States parties to Convention No. 5 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), and denouncing Convention No. 5 at the same time, with a recourse to technical assistance as required;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 5 in due course.

C. 10 -- Minimum Age (Agriculture) Convention, 1921

69. The Working Party proposes:

(a) to recommend to the Governing Body that it invite, on a priority basis, the States parties to Convention No. 10 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which will involve the denunciation of Convention No. 10 on the condition stated in Article 10(5)(b) of Convention No. 138, with a recourse to technical assistance as required;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 10 in due course.
C. 33 -- Minimum Age (Non-Industrial Employment) 
Convention, 1932

70. The Working Party proposes:

(a) to recommend to the Governing Body that it invite, on a priority basis, the States parties to Convention No. 33 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which will, ipso jure, involve the immediate denunciation of Convention No. 33 on the condition stated in Article 10(4)(b) of Convention No. 138, with a recourse to technical assistance as required;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 33 in due course.

C. 59 -- Minimum Age (Industry) Convention (Revised), 1937

71. The Working Party proposes:

(a) to recommend to the Governing Body that it invite, on a priority basis, the States parties to Convention No. 59 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which will, ipso jure, involve the immediate denunciation of Convention No. 59 on the condition stated in Article 10(4)(a) of Convention No. 138, with a recourse to technical assistance as required;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 59 in due course.

C. 123 -- Minimum Age (Underground Work) 
Convention, 1965

72. The Working Party proposes:

(a) to recommend to the Governing Body that it invite, on a priority basis, the States parties to Convention No. 123 to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which will, ipso jure, involve the immediate denunciation of Convention No. 123 on the condition stated in Article 10(4)(f) of Convention No. 138, with a recourse to technical assistance as required;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 123 in due course.

Medical examination
73. The Employer members accepted the Office’s proposal relating to the consolidation of instruments on the medical examination of young persons. This was an original idea which should have priority treatment in the future work of the Office.

74. The Worker members pointed out that the consolidation came within the framework of revision methods.

75. A representative of the Director-General affirmed that relevant studies would be undertaken as long as sufficient resources were available in the programme and budget, in conformity with the priorities it sets.

76. The Employer members stressed the need to achieve, as far as possible, a positive result in a reasonable amount of time.

C. 77 -- Medical Examination of Young Persons (Industry) Convention, 1946

77. Following an exchange of views, the Working Party proposes:

(a) to recommend to the Governing Body that it invite the member States:

(i) to contemplate ratifying Convention No. 77 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention;

(ii) to contemplate the need for a full or partial revision of this Convention including its possible consolidation with the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78) and the Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124);

(b) to recommend to the Governing Body to invite the Office to examine the possibilities to consolidate Conventions Nos. 77, 78 and 124;

(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 77 in due course.

C. 78 -- Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946

78. The Working Party proposes:
(a) to recommend to the Governing Body that it invite the member States:

(i) to contemplate ratifying Convention No. 78 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention;

(ii) to contemplate the need for a full or partial revision of this Convention, including its possible consolidation with the Medical Examination of the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) and the Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124);

(b) to recommend to the Governing Body to invite the Office to examine the possibilities to consolidate Conventions Nos. 77, 78 and 124;

(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 78 in due course.

C. 124 -- Medical Examination of Young Persons (Underground Work) Convention, 1965

79. The Working Party proposes:

(a) to recommend to the Governing Body that it invite the member States:

(i) to contemplate ratifying Convention No. 124 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention;

(ii) to contemplate the need for a full or partial revision of this Convention including its possible consolidation with the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77) and the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78);

(b) to recommend to the Governing Body to invite the Office to examine the possibilities to consolidate Conventions Nos. 77, 78 and 124;

(c) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 124 in due course.

VI. Indigenous and tribal peoples

C. 107 -- Indigenous and Tribal Populations Convention, 1957
80. The Employer members recalled the low rate of ratification achieved by Convention No. 169 (only ten ratifications) due to its complexity and the difficulties of application it involved. They suggested that a detailed study be carried out on this Convention before promoting its ratification. It would be necessary to review the issue in the light of the experience gained in recent years. It would also be advisable to seek information on the obstacles and difficulties encountered to the ratification of Convention No. 169 before proposing its ratification directly.

81. The Worker members strongly supported the Office's proposal. They recalled that inside the ILO and even outside the Organization, Convention No. 169 was recognized as being important.

82. The representative of the Government of Sweden welcomed the fact that the ratification of Convention No. 169 was being encouraged. She did however emphasize that that did not mean that the Convention was readily ratifiable. Difficulties remained, notably in respect of the provisions under Article 14 of the Convention.

83. The Employer members asked for a study to be prepared on the difficulties and the obstacles to the ratification of Convention No. 169.

84. The Chairman explained the different conceptions behind Convention No. 107 and Convention No. 169 as regards policies pertaining to indigenous and tribal peoples and the delicate aspects of the issues raised in these Conventions.

85. Following an exchange of views, the Working Party proposes:

(a) to recommend to the Governing Body that it invite the States parties to Convention No. 107 to contemplate ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which will, ipso jure, involve the immediate denunciation of Convention No. 107;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 107 in due course.

VII. Other special categories

Dockworkers

C. 137 -- Dock Work Convention, 1973

86. A representative of the Director-General indicated that the examination of Conventions depended to a large extent on the Office's technical services. These services considered that Convention No. 137 had become outdated as a result of modern cargo handling methods. The Office considered that given this situation it was neither appropriate to propose promoting the ratification of Convention No. 137 nor its revision, but instead was preferable to maintain a status quo.
87. In view of the conclusions of the Tripartite Meeting on the Port Industry and the positions adopted on that occasion by the Employers' group, the Employer members questioned the Government members as to the need to revise Convention No. 137, a need which, in their view, was clearly essential to anyone following the technological advances in the port sector. The Employer members were of the opinion that the subject was ripe for revision.

88. The Chairman recognized that spectacular developments had been seen in this sector, but noted that the question to be asked was whether those developments were now complete. He raised the question of whether the changes seen in the area lent themselves to the type of Convention under consideration. He thought that specialists should assess this matter and that in the meantime it was best to remain prudent. The General Survey which had been proposed for 1998 had not been accepted by the Governing Body. However, the Working Party could again put forward a similar suggestion. That approach appeared to be more dynamic than the proposal to retain the status quo, which seemed not entirely appropriate for such an important sphere.

89. The representative of the Government of Sweden supported this proposal and wished to provide a clarification. In 1996, the ILO tripartite committee set up within her Government's Ministry of Labour had examined the possibility of denouncing Convention No. 137. Following long discussions it had been decided to maintain the status quo for this Convention and therefore not to denounce it. The Swedish Government had just sent the Office a summarized account of the discussions held in this connection.

90. Following an exchange of views, the Working Party proposes:

(a) to recommend to the Governing Body:

(i) the maintenance of the status quo with regard to Convention No. 137;

(ii) that it invite member States to submit reports under article 19 of the Constitution in respect of Convention No. 137 and request the Committee of Experts to carry out a General Survey on the matter;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 137 in due course.

Nursing personnel

C. 149 -- Nursing Personnel Convention, 1977

91. The Working Party expressed its agreement with the Office's proposals. The Working Party proposes:
(a) to recommend to the Governing Body that it invite member States to contemplate ratifying Convention No. 149 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention;

(b) that the Working Party (or the LILS Committee) re-examine the status of Convention No. 149 in due course.

C. Various proposals

Next meeting of the Working Party

92. The Chairman proposed that the following points be considered during the March 1998 meeting of the Working Party:

(1) the examination of Conventions of which the examination had been deferred;

(2) the first examination of the revision needs of Recommendations, using similar criteria and methodology to that applied for the examination of Conventions (it was expected that approximately one-third of all Recommendations would be examined);

(3) the examination of the follow-up measures for consultations concerning revision needs and obstacles to the ratification of certain Conventions.

93. The Chairman also reiterated the hope that the deliberations of the Working Party would be published in a simple and easily updated form. He suggested that this question should be the subject of an exchange of views during the next meeting of the Working Party.

Withdrawal of Conventions that have not come into force

94. The Chairman recalled that during its March 1996 meeting, the Working Party had earmarked five shelved Conventions as possible candidates for abrogation. These were Conventions that had never come into force (Conventions Nos. 31, 46, 51, 61 and 66). During the adoption of the constitutional amendment last June, the Conference had reasserted that it was necessary to distinguish between actual abrogation and the withdrawal of Conventions. In order to abrogate a Convention which created legal obligations between two or more States, the Conference must be formally empowered by the Constitution. In contrast, the Conference could withdraw a Convention that had not come into force. It would therefore not be necessary to wait for the constitutional amendment to come into force before withdrawing these five Conventions.

95. The Working Party proposes to recommend to the Governing Body that it invite the Office to place before the Governing Body a report with a view to placing on the agenda of the Conference the
withdrawal of Conventions Nos. 31, 46, 51, 61 and 66.

* * *

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

(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, based on the document submitted by the Office;\(^{(6)}\)

(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 Convention (fourth stage), based on the document submitted by the Office;\(^{(7)}\)

(c) examine the proposals in the corresponding paragraphs of this report on which the Working Party has 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;\(^{(8)}\)
- a document examining the needs to revise Recommendations;
- a document examining the possibilities to publish the work of the Working Party.


Points for decision:

Paragraph 35;
Paragraph 38;
Paragraph 44;
Paragraph 56;
Paragraph 61;
Paragraph 64;
Paragraph 65;
Paragraph 68;
Paragraph 69;
Paragraph 70;
Paragraph 71;
Paragraph 72;
Paragraph 77;
Paragraph 78;
Paragraph 79;
Paragraph 85;
Paragraph 90;
Paragraph 91;
Paragraph 95;
Paragraph 96.

5. GB.270/LILS/WP/PRS/1/2.
6. GB.270/LILS/WP/PRS/1/1.
7. GB.270/LILS/WP/PRS/2.
8. GB.270/LILS/WP/PRS/1/2.


For further information, please contact the Official Relations Branch at Tel: +41.22.799.7732, Fax: +41.22.799.8944 or by e-mail: RELOFF@ilo.org

International Labour Conference: [ Home ]