TENTH ITEM ON THE AGENDA

Report 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 before it the report of the Working Party on Policy regarding the Revision of Standards. (1)

2. The representative of the Government of France, Chairperson of the Working Party, reminded the Committee of the four items on the meeting's agenda: information note on the progress of work and decisions taken regarding the revision of standards; (2) methods of revision; (3) deferred examination of Convention No. 132 (short survey); (4) and examination of Recommendations. (5) Regarding the information note, he mentioned two main points. First, following up the decisions of the Governing Body was no easy matter, and the Working Party had emphasized the importance of involving the social partners in the operation in the interests of the principle of tripartism and of efficiency. The difficulty was that member States were being called upon simultaneously to ratify up-to-date Conventions and to denounce the corresponding old Conventions. The Office had accordingly started to draw up country profiles showing the situation of individual States in terms of the Conventions they had already ratified. The second point concerned the number of ratifications or acceptances of the constitutional amendment of 1997. Ratification was continuing steadily but it was still relatively slow considering the very broad support that had been given to its adoption.

3. Regarding the methods of revision, he noted that, although there had been extensive discussion, the two non-governmental groups had stated that they were not at present in a position to reach definitive conclusions. The document submitted by the Office was extremely good and warranted a general discussion in the LILS Committee so as to make constituents aware of the whole range of methods that could be used, especially for avoiding virtually routine recourse to cumbersome procedures. The paper could serve as a guide for any future revision operation. As to the examination of the Holidays with Pay Convention (Revised), 1970 (No. 132), he noted that this had been entrusted to a professor of law and would be submitted to the next session of the Governing Body. Regarding the fourth point on the agenda, he observed that the Working Party had submitted conclusions on 43 Recommendations; this was in addition to the 147 Conventions and 33 Recommendations on which the Governing Body had already taken a decision. So far, the most radical steps proposed by the Working Party were as follows: 11 Conventions that had not entered into force had been recommended for withdrawal; five other Conventions were suitable for abrogation, subject to the entry into force of the constitutional amendment; the replacement of 11 Recommendations had been noted; and the withdrawal of 25 other Recommendations had been proposed. In conclusion, he expressed his appreciation of the constructive climate in which the Working Party had conducted its discussions, for which he thanked the spokespersons of the two groups; he also thanked the secretariat for its assistance.

4. The Worker members expressed their satisfaction with the work accomplished in the Working Party
and commended the Office for keeping the information note up to date, as it contained a valuable summary of the work accomplished by the Working Party. In their opinion it was important to ensure that this information note be more widely disseminated. The Working Party had now, with a few exceptions, concluded its examination of the Conventions within its mandate. The Worker members reviewed the various decisions taken by the Governing Body resulting from this examination, and emphasized that the focus now had to be on the follow-up to these decisions by the Office, particularly at the national level. For example, the decision to abrogate five Conventions could only be implemented upon the entry into force of the constitutional amendment enabling such abrogations and depended on the efforts made by member States to ratify or declare their acceptance thereof. It was now incumbent on the governments to assume their responsibility, to engage in a tripartite examination of how to implement these decisions nationally, with technical assistance from the Office if needed, and to bring about the ratification of recent and up-to-date Conventions. Otherwise the work carried out by the Working Party would have been in vain. As regards the decisions to withdraw 11 Conventions, they observed that the question of the withdrawal of five of these Conventions was on the agenda of the 88th Session (2000) of the Conference. With reference to the preliminary discussion that had been conducted regarding the methods of revision, the Worker members noted that it had been agreed to engage in a more concrete discussion at a later stage on various suitable options for revising the 11 remaining Conventions which the Governing Body had decided should be revised. The document on the methods of revision revealed that the Office had in the past engaged in review processes -- similar to the review process carried out by the Working Party -- at regular intervals of nine to ten years. These intervals were not particularly long, particularly compared with the practice of other international organizations. However, the need to carry out a regular review of this kind stemmed from the fact that no follow-up measures had been instituted after previous review processes. This further underscored the importance of the follow-up measures to the work of the Working Party. Finally, the Worker members noted that the Working Party was in full agreement on all the decisions taken regarding the Recommendations examined and said that they supported the point for decision.

5. The Employer members approved the report of the Working Party and congratulated it, along with the Office, on its work. The information note was a highly useful summary of the work carried out. The document on methods of revision was important but needed to be examined in the broader context of standard-setting policy. Though they supported the paper prepared by the Office, they were not altogether satisfied with the prevailing situation in the matter of standard setting. The future work of the Working Party would depend on the definition that would be given of the standard-setting policy.

6. The representative of the Government of Croatia noted that the constitutional amendment of 1997 seemed to raise certain legal issues regarding the law of treaties. She hoped to see these questions addressed in the document on possible improvements in the ILO's standard-setting activities that the Office was to submit to the March 2000 session of the Governing Body. It was questionable whether governments were really influential in the standard-setting process and in the context of the ratification of the constitutional amendment of 1997.

7. The representative of the Government of Germany thanked the Chairperson and two Vice-Chairpersons of the Working Party, as well as the Office. He noted that, in its report, the Working Party
proposed that member States be invited to provide additional information on seven Recommendations. He hoped that these requests would not all be sent to the member States simultaneously, so that they could have time to answer them.

8. The representative of the Government of India congratulated the Working Party on its excellent work. Regarding the document on the methods of revision, he emphasized the need to carry out the revisions decided upon by the Governing Body systematically and within a reasonable period of time. In practice, Conventions had been revised by the adoption of new highly detailed and binding Conventions. As a result, the Conference had spent a lot of time discussing the text of revised Conventions which had subsequently been ratified by only a few member States. This way of proceeding needed to be changed in order to increase the rate of ratification of revised Conventions. Specifically, recourse should be had to the simplified procedure of 1965 for revisions that did not pose any particular difficulty.

9. In reply to a question from the representative of the Government of Portugal, a representative of the Director-General explained that there might have been some overlapping of Governing Body decisions in a few cases, since not all the Conventions dealing with a particular subject had been examined at the same meeting of the Working Party. He confirmed that the decision concerning the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), was that it should be revised.

10. The Committee recommends that the Governing Body:

   (a) take note of the report of the Working Party on Policy regarding the Revision of Standards (Appendix I), as well as of the opinions expressed during the Committee meeting;

   (b) approve the recommendations that appear in the corresponding paragraphs of the report on which there is a consensus in the Working Party and in the Committee.

II. Ratification and promotion of fundamental ILO Conventions

11. The Committee had before it a paper on technical assistance provided by the ILO as part of the campaign to promote ratification of the fundamental ILO Conventions.

12. A representative of the Director-General (Mr. Swepston, Chief, Equality and Employment Branch, Coordinator for Human Rights) commented on this paper and brought the information it contained up to date. Since the paper before the Committee had been issued, the ILO had registered two new ratifications: Abolition of Forced Labour Convention, 1957 (No. 105), by Tajikistan, and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), by the Seychelles. The Office had also received the instrument of ratification of the Minimum Age Convention, 1973 (No. 138), from the Republic of Moldova, but the declaration specifying the minimum age for admission to employment or work on its territory, required under Article 2, paragraph 1, of the Convention, had not been attached. The ILO had been informed that the Parliament of Gambia had recently approved the ratification of the

seven fundamental Conventions and that Madagascar had decided to ratify Convention No. 138. As to the Worst Forms of Child Labour Convention, 1999 (No. 182), the ILO had been informed that a number of countries (Algeria, Azerbaijan, Belarus, Brazil, New Zealand, Poland) had begun consultations on the desirability of ratifying this instrument, while others (Costa Rica, El Salvador, Luxembourg, Rwanda, Spain, Switzerland, United States) had announced that the formal ratification procedure had already been initiated.

13. The Employer members took note of the document and of the latest information that had just been submitted to the Committee. They expressed their satisfaction at the positive developments in the campaign to promote ratification of the fundamental Conventions. However, they stressed the need for the Office to step up its technical cooperation activities in order to attain the campaign's objective, i.e. the universal ratification of these instruments, and actively to pursue its promotional campaign.

14. The Worker members considered that the campaign launched by the Director-General in 1995 was most encouraging. Since the beginning of 1999 the ILO had registered 39 ratifications; 53 member States had now ratified the seven fundamental Conventions and more than 50 had ratified six. They were very satisfied at these figures. That said, they could not ignore the fact that the Convention that had benefited least from the promotional campaign was the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); this was particularly regrettable because it was the most highly populated countries that had not yet ratified it. Ratification was not an objective in itself and must always go hand in hand with effective implementation, and they hoped that the follow-up to the Declaration would take this on board. The Worker members also drew attention to the priority Conventions, which they hoped would also benefit from the Office's active technical assistance.

15. Regarding Convention No. 182, the Worker members welcomed the campaign that had been launched in favour of its ratification; they congratulated the Seychelles Government on the speed with which it had ratified the Convention and trusted that its example would be followed by the other member States. Concerning paragraph 12 of the paper before the Committee, they stressed the importance of Convention No. 138 -- which they saw as the twin of Convention No. 182 -- and very much hoped that the ILO's promotional activities as regards child labour would cover Convention No. 138 as well as Convention No. 182. The Worker spokesperson told the Committee that some of his colleagues had the impression that the technical assistance and promotional activities for the Convention were mainly conducted in Africa and the Americas, and he therefore urged the Office not to disregard Europe and Asia. Finally, the Worker members expressed their concern at the absence of trade union organizations in the activities conducted by the International Programme for the Abolition of Child Labour (IPEC). They stressed how important they thought it was for employers' and workers' organizations to participate in IPEC and said they were convinced that it was the deliberate intention of the Programme to work with non-governmental organizations rather than trade union organizations.

16. The representative of the Government of the Netherlands thanked the Office for the comprehensive paper it had submitted and applauded the results of the campaign to promote ratification of the fundamental ILO Conventions. She wondered, however, whether the increased rate of ratification might not, somewhat cynically, be ascribed to the adoption of the Declaration and its follow-up in 1998. She
stressed her Government's view that the most important feature of this campaign was the effective application of the ratified Conventions and that ratification of the fundamental Conventions was only a first step. She congratulated the Government of Seychelles on being the first ILO member State to ratify Convention No. 182 and hoped that this example would be followed by the other countries. Finally, she hoped that, in future, the documents on the ratification campaign submitted to the LILS Committee at its March and November sessions would also cover Convention No. 182.

17. The representative of the Government of Portugal congratulated the Seychelles Government on being the first to ratify Convention No. 182. She took advantage of the opportunity to inform the Committee that her Government had embarked upon the necessary consultations to submit a proposal to Parliament to ratify this instrument when it came before it, in accordance with article 19, paragraph 5, of the ILO Constitution.

18. The representative of the Government of France wondered what was the status of Convention No. 182. Though all ILO Conventions were important, in practice some were fundamental. He wondered if a formal decision on the fundamental nature of Convention No. 182 might not be taken until it actually came into force.

19. The representative of the Government of Malaysia thanked the Office for an excellent paper and congratulated it on its campaign. His Government believed that technical assistance was the appropriate strategy for achieving the objectives of the campaign and invited the Office to continue its work. He informed the Committee that his country had benefited from ILO assistance in connection with Conventions Nos. 138 and 182 and that it was thanks to that assistance that the Government had been able to initiate tripartite consultations on the desirability of ratifying the two instruments.

20. The representative of the Government of Pakistan thanked the Office for its paper, though he disagreed with the statement in paragraph 5 that "promoting the Declaration can be synonymous with promoting the ratification and application of the fundamental Conventions". In fact, only the ratification of a Convention constituted a formal engagement on the part of a member State to apply the provisions of a given ILO instrument, whereas the Declaration was a promotional instrument.

21. The representative of the Government of the Dominican Republic congratulated the ILO on the success of the campaign to promote fundamental rights at work. One of the fruits of the campaign was that, thanks to ILO technical assistance provided mainly by the "standards" specialist of the multidisciplinary team based in San José (Costa Rica), his country had been able to ratify Convention No. 138 on 15 June 1999. He also welcomed the adoption by the ILO of the Worst Forms of Child Labour Convention, 1999 (No. 182); he said that his country had the firm intention to ratify this instrument and that it had already initiated the necessary tripartite consultations.

22. The representative of the Government of Chile mentioned that on 1 February 1999 his country had ratified the four fundamental Conventions that it had not yet ratified, namely Conventions Nos. 87, 98, 105 and 138. Concerning footnote 10 in paragraph 7 of the paper before the Committee, he said that his
country could have been included among those listed since it had in fact initiated the ratification procedure for Convention No. 182.

23. The representative of the Government of Switzerland congratulated the ILO on its technical assistance efforts under the campaign to promote the ratification of the fundamental ILO Conventions. He observed that his country had been omitted from the table appearing in Appendix II of the Office paper.

24. The representative of the Government of Slovakia congratulated the Seychelles Government and informed the Committee that a proposal to ratify Convention No. 182 was currently before Parliament.

25. The representative of the Government of Mexico agreed with the comment of the Government representative of Chile regarding footnote 10 and said that his Government had virtually completed the ratification process for Convention No. 182.

26. The representative of the Government of Venezuela agreed with the previous speakers who had praised the campaign to promote the ratification of the fundamental Conventions. Though he believed that all ILO Conventions were important, as the representative of the Government of France had observed, Convention No. 182 -- like the other seven Conventions -- was very much a fundamental Convention.

27. A Worker member (Mr. Blondel), while wholeheartedly supporting the statement by the Worker spokesperson, said that he wished to respond to the question posed by the representative of the Government of France as to whether or not Convention No. 182 was a fundamental Convention. He drew the Committee's attention to the sentence in paragraph 2 of the paper before it which, in his opinion, gave a clear answer. Moreover, he believed that this instrument would inevitably become one of the fundamental Conventions as soon as it entered into force. Regarding Convention No. 138, he drew particular attention to the Worker spokesperson's observation that the Worker members considered that Convention No. 182 was the twin of Convention No. 138 and that, as such, neither one could take the place of the other. Besides, the countries that had ratified Convention No. 138 should have no difficulty ratifying Convention No. 182. He took the opportunity to congratulate the countries that had ratified Convention No. 138 since the 273rd Session (November 1998) of the Governing Body, namely: Burkina Faso, Chile, China, Dominican Republic, Egypt, Ethiopia, Hungary, Indonesia, Republic of Korea, Portugal, Switzerland, United Republic of Tanzania, Turkey and United Arab Emirates; he trusted that the Conventions that had thus been ratified would be applied in practice, otherwise it would all be nothing but propaganda.

28. A representative of the Director-General (Mr. Tapiola, Executive Director), responding to the concerns voiced by the Worker members regarding IPEC, agreed that it was always possible to strengthen tripartism. He wished to dispel the impression of the Worker members that the programme was deliberately ignoring trade union organizations. In every country where IPEC was active, there were national steering committees on which employers and workers were represented. He added that the
Entire IPEC structure would very shortly be examined by the international steering committee meeting in Geneva in the coming week. In practical terms, IPEC made use of the most diverse means of achieving its objective; in doing so it cooperated with national trade union organizations, employers' and workers' organizations, non-governmental organizations and international organizations. IPEC worked closely with the Bureau for Workers' Activities (ACTRAV) and the Bureau for Employers' Activities (ACT/EMP), etc. He stated that it was always possible to improve collaboration between IPEC and the employers' and workers' organizations.

29. Regarding the link between Conventions Nos. 138 and 182, Mr. Tapiola reassured the Worker members that the promotional activities concerning Convention No. 182 were never restricted to that instrument and also served to promote Convention No. 138, where appropriate. He stated that the promotional material prepared by the ILO to promote the ratification of Convention No. 182 dealt extensively with Convention No. 138, showing how the two instruments were complementary and how the link between the two Conventions derived from Convention No. 182 itself.

30. As to the status of Convention No. 182, Mr. Tapiola confirmed that there was no formal procedure for declaring an ILO Convention to be fundamental. He recalled that, with regard to the seven Conventions covered by the campaign launched by the Director-General on 25 May 1995, it was in the wake of the World Summit for Social Development in Copenhagen (March 1995) that the Director-General focused his campaign on those seven instruments, and he stressed that since then the Governing Body had been regularly informed of progress in the campaign. Throughout the debate preceding the adoption of Convention No. 182, the Governing Body had more or less implicitly recognized that, once the Conference had adopted the new Convention, it would join the other seven fundamental Conventions. It was on that understanding that the Director-General had launched his campaign for the rapid and universal ratification of Convention No. 182 at the end of June 1999. The paper before the Committee was the first document on the fundamental Conventions since the adoption of Convention No. 182, and it was only natural that the Office should have included it.

31. The Employer members asked that Mr. Tapiola's explanation of the nature and essence of Convention No. 182 be recorded as faithfully as possible in the report of the LILS Committee so that all the members of the Governing Body could be made aware of it.

32. A Worker member (Ms. Rozas) agreed with the statement of the representative of the Director-General regarding the fundamental nature of Convention No. 182, but was not convinced by what he had said regarding relations between IPEC and trade union organizations. In her country, Chile, for example, the trade union organizations' activities in favour of the abolition of child labour were supported by ACTRAV but not by IPEC. She therefore wondered whether IPEC was a completely independent structure from the ILO -- which would explain why none of its activities was directed at trade union organizations -- or whether it was an integral part of the ILO, in which case the concerns expressed by the Worker members were founded.

33. Mr. Tapiola replied that he was not aware of the specific situation of the IPEC programme in Chile,
but he informed the Committee that, following the restructuring of the ILO by the Director-General, the Office's activities in the area of child labour since 1 October 1999 all came under a single sector. In addition to the InFocus Programme on Child Labour or IPEC, the sector comprised the International Labour Standards Department and the InFocus Programme on Promoting the Declaration. This new structure was a recent development and was far from finished. He explained that the management structure of IPEC was currently being examined and strengthened and that, since the Programme was an integral part of the ILO, it was administered as such.

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

34. The Committee had before it a paper\(^{(9)}\) reporting on the work done by the multidisciplinary teams directly relating to international labour standards.

35. The Worker members welcomed the information provided, but hoped that next time the structure of the paper would be improved so as to show what the standards specialists had actually done regarding follow-up in various areas (ratifications, obstacles to implementation, recommendations of reports, conclusions of the Working Party on Policy regarding the Revision of Standards, etc.). They requested information on the content of the new regulation on unions in Costa Rica referred to in paragraph 11. They reiterated their view that every multidisciplinary team should include a standards specialist. They also requested that information be included in the next paper on activities for the promotion of social protection standards, particularly in Latin America.

36. The Employer members stressed the need for activities to promote social dialogue relating to standards. The information provided was insufficient in this respect and there should be more on this point in future documents. They also noted that some posts of standards specialists were still vacant, and emphasized their main task of promoting fundamental principles and rights at work, as provided in the Declaration.

37. The representative of the Government of Brazil looked forward to the vacancy for a standards specialist in the Santiago team being filled soon. She hoped that the question of the constitution of a social and labour commission for MERCOSUR would be clarified in due course.

38. The representative of the Government of Lithuania praised the work of the Budapest MDT, especially in relation to the drafting of labour legislation which might help countries in the region interested in negotiating accession to the European Union. She hoped that there would be more of this kind of cooperation in the future.

39. The representative of the Government of Slovakia supported this statement and hoped that the new MDT director in Budapest would be appointed soon.

40. The Committee took note of the Office paper.
IV. Form for reports on the application of a ratified Convention (article 22 of the Constitution):
Worst Forms of Child Labour Convention, 1999 (No. 182)

41. In reply to a query by the Worker members, a representative of the Director-General explained that the term "employers' and workers' organizations" was used in the report form without the adjective "representative" in order to be consistent with the provisions of the Convention.

42. The Worker members proposed an addition to the third question concerning Article 4 of the Convention.

43. The Committee recommends to the Governing Body that it approve the form for reports on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), as reproduced in Appendix II.

V. UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997: Monitoring

44. The Committee had before it a paper(10) summarizing the results of consultations with UNESCO to determine the feasibility of an extended mandate for the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers (CEART), so as to permit its monitoring of the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997. The paper noted that the Office had concluded that there were no legal obstacles to the extension, that the extension could be accommodated with a minimum of resources, and that the extension was desirable from the perspective of the ILO's normative concerns, including the viewpoints on this matter expressed by the Governing Body since 1995. The proposed new mandate was attached to the Office paper.

45. The Employer members noted that the Office paper essentially summarized work already done by the ILO and UNESCO, work resulting from prior commitments by the two organizations. There was no objection to this work; therefore the Employer members supported the point for decision in paragraph 8.

46. The Worker members also supported the point for decision, and hoped that this would finally decide the question of monitoring the UNESCO instrument.

47. The Committee recommends that the Governing Body --

(a) take note of and approve the draft Revised Mandate of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers so as to extend its mandate to include monitoring and promotion of the UNESCO Recommendation
concerning the Status of Higher-Education Teaching Personnel, 1997;

(b) invite the Director-General to communicate its decision to the Director-General of UNESCO.

VI. 17th Ordinary Session of the Intergovernmental Committee of the Rome Convention, 1961

48. The Committee had before it a paper(11) communicating the report of the above meeting. The Committee took note of the report.

VII. Other questions

49. The representative of the United Arab Emirates, speaking on behalf of the Arab members of the Governing Body, sought clarification as to when a document would be submitted to the Governing Body with information concerning follow-up on the special sitting for the consideration of the Director-General's report on the situation of workers of the occupied Arab territories, held at the 87th (1999) Session of the Conference. A resolution would be submitted to the Governing Body with a draft procedural decision for the inclusion of an item on the agenda of the next session of the Governing Body. This would concern the way in which the Director-General's annual report on the situation of the occupied Arab territories would be dealt with at the International Labour Conference in June 2000. They would ask the Director-General to submit a paper in March containing his views on the ways in which the resolution concerning the implications of Israeli settlements in Palestine and other occupied Arab territories in connection with the situation of Arab workers, adopted by the Conference at its 66th Session (1980), could be implemented. The paper would present an objective vision on how best to tackle this issue.

50. The Committee took note of this statement. A representative of the Director-General indicated that the Committee was usually informed of the contents of the previous report and of ongoing work in the occupied Arab territories at the March sessions of the Governing Body in the context of a general status report on ILO action concerning discrimination in employment and occupation.


Points for decision:

Paragraph 10;
Paragraph 43;
Paragraph 47.
1. Document GB.276/LILS/5.


6. GB.276/LILS/6.

7. In addition to the fundamental Conventions the priority Conventions include Conventions Nos. 81, 122, 129 and 144.

8. "As it was always assumed that the new Convention would eventually be included in the category of fundamental Conventions, the second part of this document will examine the implementation of the campaign for the ratification of the new Convention."

9. GB.276/LILS/7.

10. GB.276/LILS/9.

11. GB.276/LILS/10/1.

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