



FIFTH ITEM ON THE AGENDA

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

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Introduction

1. The Working Party on Policy regarding the Revision of Standards met on 8 November 1999. Mr. J.-L. Cartier (Government, France) was elected Chairperson of the Working Party on the nomination of the representative of the Government of the Netherlands, seconded by the representative of the Government of the United States. The Employer Vice-Chairperson and the Worker Vice-Chairperson were, respectively, Mr. D. Funes de Rioja (Argentina) and Mr. U. Edström (Sweden).

A. Information note on the progress of work and decisions taken regarding the revision of standards¹

2. The Chairperson recalled that the Working Party examined the information note at each of its meetings. The note henceforth contained two parts, as the Working Group had also begun an examination of Recommendations. The note was a useful document. It was transmitted to the regional offices and multidisciplinary teams and was also systematically distributed to members of the Conference Committee on the Application of Standards. The information note was increasingly detailed and nuanced and evidenced the progress of the work of the Working Party.

3. The Worker members expressed their full satisfaction with the information note, which reviewed the work carried out by the Working Party until present and which contained a summary of the decisions taken by the Governing Body. The Working Party had accomplished important work, both in terms of quantity and quality, which had resulted in decisions regarding 147 Conventions and 33 Recommendations by the Governing Body. Criticisms made regarding the slow pace of the work were unfounded. The work would have certainly advanced more rapidly had the Working Party had an opportunity to meet more frequently. The progress made resulted from the application of the principle of consensus governing the work in the Working Party, the promotion of dialogue, which the Director-General had insisted on, and the spirit of mutual trust that prevailed. The important issue now was to ensure follow-up on the decisions taken by the Governing Body, and Governments played a key role in this regard. Member States were especially invited to ratify revised Conventions and to denounce corresponding earlier Conventions. Effect should be given to such decisions at the national level with the participation of the social partners. Governments should make use of the procedures provided for in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and establish tripartite ILO committees to deal with these issues. It was regrettable that only 88 member States had ratified Convention No. 144. It was equally regrettable that only 47 member States, including only two States of chief industrial importance, had ratified or accepted the constitutional amendment which introduced a possibility for the Conference to abrogate obsolete Conventions.

4. In the opinion of the Worker members, the Working Party should recommend that the Worst Forms of Child Labour Convention, 1999 (No. 182), be included among the fundamental Conventions on its entry into force. While

¹ GB.276/LILS/WP/PRS/1.

recognizing the importance of the seven fundamental Conventions, the Worker members also emphasized the need to promote the ratification of the four priority Conventions and asked the Office to inform the Working Party on efforts undertaken in this regard. They asked the Office to submit to the Working Party, at its meeting in March 2000, a document on follow-up measures on the decisions taken by the Governing Body concerning promotion of the ratification of up-to-date Conventions, the ratification of revised Conventions and the concomitant denunciation of corresponding earlier Conventions, and the requests for additional information. This document should also contain information regarding the effect given at the national level to the decisions by the Governing Body. They also proposed that a reminder be sent to member States that had not ratified the constitutional amendment of 1997 and to address a copy also to the social partners.

5. The Worker members also made a number of suggestions on how to increase the readability of the information note. An introductory section could contain definitions of terms used in the document, including the terms "withdrawal", "abrogation", "shelving", etc. Furthermore, an introductory paragraph could explain why fundamental and priority Conventions and Conventions adopted after 1985 were not examined by the Working Party. The Office should also prepare a document which brought together, for the instruments already examined, all the information that had served as a basis for the Working Party's recommendations. The Worker members also expressed their concern regarding the manner in which this work would be implemented at the national level, particularly in States that were not members of the Governing Body. The Office should develop individual documents by country so as to facilitate the implementation of the Governing Body's decisions. The documents should be sent to the workers and employers of the countries concerned so that they could participate on an equal footing in the follow-up on these decisions. Among the up-to-date Conventions whose ratification the Governing Body had decided to promote, the Worker members particularly emphasized the Rural Workers' Organizations Convention, 1975 (No. 141), which was of current relevance and was one of the key Conventions of the ILO. Finally, the technical assistance referred to in paragraph 45 of the information note should be offered for the promotion of the ratification of revised and up-to-date Conventions. Multidisciplinary teams had an important role to play in this regard and should work closely together with both governments and the social partners.

6. The Employer members considered that the information note was a good document, and that it accurately reflected the state of progress of the work of the Working Party. It would be useful to consider the follow-up to be given to the recommendations of the Working Party and to the decisions of the Governing Body. This did not simply imply an analysis of documents, but required reflection on the question of standard-setting policy as a whole and examining what conception of standards the ILO should have at the dawn of the third millennium, in a changing world marked by globalization, increasing speeds of communication, and changes in modes of production. This exercise should not be undertaken only within the Working Party, but within the context of the standard-setting activities of the Organization. As regards paragraph 4 of the information note, the Employer members stressed the fact that the fundamental Conventions, and *a fortiori* the priority Conventions, were not forever immutable. They were not necessarily

adapted to all circumstances and all times to come. For example, despite the existence of the Minimum Age Convention, 1973 (No. 138), the ILO had recently adopted a new fundamental Convention in this subject-area (Convention No. 182). In the framework of the priority Conventions, the Convention on employment policy could be applied on the basis of different criteria.

7. The Employer members also noted that the constitutional amendment, ratified by 47 member States, did not seem to have attracted much support. Questions regarding national sovereignty could certainly be an obstacle to this ratification, but it appeared that member States did not have a sufficient understanding of the amendment itself or its consequences. They agreed with the final remarks in paragraphs 45 and 46 but nonetheless stressed the importance of spurring member States into action. The information note struck a balance between instruments for which ratification should be promoted and other instruments. With regard to decisions on revisions already taken by the Governing Body, further debate at the national level on the possibility of revising a specific Convention should not be encouraged. According to the Constitution, it was for the Conference to decide on proposals for revision. With reference to the forthcoming *World Labour Report 1999-2000*, mentioned in paragraph 21 of the information note, the Working Party should underline the changes that had occurred in the field of social security. The Employer members also enquired about the level of response to letters by the Office to member States regarding follow-up. It would be possible to improve the form of the recommendations by the Working Party by taking into account the information provided by governments. It was also important for the information note to be equally complete with regard to Recommendations as to Conventions. Finally, Employer members expressed their concern at how follow-up on the Working Party's recommendations could be ensured at the national level.

8. The representative of the Government of the United States expressed satisfaction with the amount of work accomplished by the Working Party and thanked the Office for the document. He recalled that the revision of the Maternity Protection Convention (Revised), 1952 (No. 103), was already included on the agenda of the Conference, but that the other revisions decided on were waiting to be placed on the agenda. Moreover, the ratification of the constitutional amendment was not as easy as it had seemed. It would be appropriate to discuss with the Office certain issues regarding the law of treaties that this amendment raised.

9. The representative of the Government of Malaysia was pleased with the work accomplished by the Working Party to date. He suggested that the Working Party propose a constitutional amendment whereby the ratification of revised Conventions, including those adopted prior to 1929, would automatically result in the denunciation of related Conventions.

10. The representative of the Government of Guatemala thanked the Office for the information note. He supported the request by the Worker members to include in the note the definition of the terminology used. The Office should also develop an explanatory note that would further the implementation of the Working Party's recommendations at the national level.

11. The representative of the Government of Trinidad and Tobago supported this proposal. In addition, the Office should at regular intervals send to member States a document tailored to each country that would set out the follow-up

measures that they were invited to undertake as a result of decisions of the Governing Body.

12. The representative of the Government of the Netherlands considered that the information note outlined very clearly the progress of the work of the Working Party and indicated the extent of the work already accomplished. The Netherlands was critical of the lack of follow-up on the recommendations of the Working Party, but not of the Working Party itself. Moreover, the Worst Forms of Child Labour Convention, 1999 (No. 182), should be included in the category of Conventions on fundamental rights at work as soon as it entered into force. Finally, while ratification of the constitutional amendment, currently being examined by the Netherlands, raised some difficulties, it was nevertheless considered positively.

13. The representative of the Government of Switzerland congratulated the Chairperson on his re-election. The information note demonstrated the importance of the Working Party and the amount of work that it had already accomplished. The question of the ratification of the constitutional amendment was currently being examined by the Federal Parliament of Switzerland, and it was very likely that it would be ratified before the next session of the Conference. Unfortunately Switzerland was not in a position to ratify recent ILO Conventions because their provisions were contradictory to national legislation. With regard to the promotion of revised Conventions and the concomitant denunciation of previous corresponding Conventions, member States should be asked whether they were in a position to ratify the revised Conventions.

14. The Chairperson recalled that the proceedings of the Working Party were always based on a spirit of consensus. The adoption of the constitutional amendment, originally proposed by the Working Party, was an important decision. Its ratification posed legal difficulties in some countries and the ILO Legal Advisor would be well-advised to contact their governments in order to provide them with necessary clarifications regarding the implications of its ratification. This amendment had very great symbolic value, even if its practical scope was limited. The Chairperson supported the proposal by the Worker members to include an introductory paragraph giving the reasons why some Conventions were not submitted for examination by the Working Party. Even if Convention No. 182 was not within the scope of the Working Party's mandate, nothing prevented the Working Party from expressing the wish that this Convention be considered a fundamental one as soon as it entered into force.

15. The Chairperson stressed that follow-up on the recommendations of the Working Party was cumbersome and complicated. The promotion of up-to-date Conventions was relatively simple. This was not the case with the promotion of the ratification of revised Conventions or the denunciation of corresponding previous Conventions. It was a matter of ensuring not only global, but also individual follow-up on the decisions of the Governing Body. Individual follow-up required particular efforts by the Office, not merely the sending of letters. The regional offices and the multidisciplinary teams should be involved. The Office should prepare a document on the follow-up measures — global as well as individual — on the recommendations of the Working Party. In reply to speakers who had argued in favour of recourse to tripartite machinery for the implementation at the national level of Governing Body decisions, he recalled that tripartism was at the heart of

the ILO. Nothing prevented member States that had not ratified Convention No. 144 from undertaking tripartite consultations for this purpose.

16. A representative of the Director General confirmed that the Office had taken note of the requests made by various members of the Working Party and that it would take them fully into account. In response to a number of questions, he stated that Convention No. 182 had characteristics justifying its being considered a fundamental Convention as soon as it entered into force, but that the status of the Convention was not within the competence of the Working Party. Moreover, he confirmed that the Office would send a letter of reminder to member States that had not yet ratified the 1997 constitutional amendment. On the other hand, the document on follow-up measures submitted to the Working Party in March 2000 would comprise an evaluation of follow-up measures taken by the Office as well as — to the extent that information was available — the follow-up measures undertaken by member States. Following the March 1999 meeting of the Working Party, the Office had sent two letters concerning maritime Conventions to member States. One concerned requests for information on obstacles and difficulties encountered with regard to the ratification of up-to-date Conventions; the other was an invitation to ratify revised Conventions and to denounce at the same time the corresponding previous Conventions. An individual index by country was attached to this second letter. The rate of reply to these letters was rather modest, even in view of the fact that the maritime Conventions did not concern all member States. On the other hand, the Office prepared "country profiles" — individualized documents covering all the follow-up measures that member States were called upon to undertake at the national level. These documents were distributed and discussed during seminars on policy regarding the revision of standards. The Office endeavoured to involve the multidisciplinary teams in this effort, although further progress could still be made in this regard.

17. The Employer members stressed the importance of the involvement of the multidisciplinary teams in such country profiles should be emphasized, as it would help raise awareness of the follow-up measures that should be undertaken in each country, which had not yet yielded sufficient results.

18. The Chairperson confirmed that the general view was that the mere sending of letters was not sufficient. To the extent that it had the resources to do so, the Office should organize missions to the field and involve the social partners.

19. The Worker members fully supported the view expressed by the Employer members. If the letters concerning follow-up were also sent to national workers' and employers' organizations, the rate of response would probably increase.

B. Methods of revision: Preliminary discussion²

Preliminary remarks

20. The Chairperson opened the discussion on methods of revision by making it clear that the discussion would be continued within the Committee on Legal Issues and International Labour Standards.

² GB.276/LILS/WP/PRS/2.

21. The Worker members stated that the Office paper was very useful and contained an exhaustive analysis of existing methods of revision within the ILO. He noted that, with a few exceptions, only one method had been used, namely the revision of a Convention by a new Convention using the double discussion procedure. If this procedure continued, many years would be needed to carry out the revisions decided on by the Governing Body. The double discussion procedure was a cumbersome method. It would seem that appropriate use had not always been made of the appropriate methods of revision. The appropriate method should be determined by the scope of the revision. The question was whether revision methods other than those currently available to the Organization were needed. The goal was to carry out the revisions concerned without delay while choosing the best adapted instruments for revision. For this purpose a study suggesting several options could be carried out by the Office regarding the four remaining categories of instruments to be revised. The Worker members wanted a concrete approach to this matter within the Working Party, rather than embark on an expanded debate on the entire standard-setting policy. On the basis of a tripartite examination of the various possible options, the Working Party could thus make recommendations to the Committee on Legal Issues and International Labour Standards and to the Governing Body. Such an exercise would be useful and concrete.

22. The Employer members noted that the matter could not be exhausted within the Working Party. A detailed examination of the issue would have to be carried out in the Committee on Legal Issues and International Labour Standards and the Governing Body. The objectives of the revision exercise, as recalled in the Office paper, were to bring standards up to date, to facilitate the ratification of Conventions and to increase the coherence of the standard-setting system. Moreover, the Director-General had emphasized in his report to the Conference of June 1999 that there was a need to accelerate the revision of outdated instruments. With reference to paragraph 4 of the document, the Employer members emphasized that the choice of a revision method was not an easy one. The Working Party and the Committee on Legal Issues and International Labour Standards should be aware of the delicate nature of the exercise. The kind of legal tool used must be selected according to the importance and complexity of the revision to be undertaken. With regard to the regular examination of the needs for revision proposed in paragraph 7, this question went beyond the mandate of the Working Party and should be discussed in detail within the LILS Committee. These were not mechanical tasks, and should be placed in the general framework of the standard-setting policy. Particular account should be taken of the necessary coherence of the standard-setting system. The analysis undertaken at this stage was of a general nature; at a later stage it should yield more concrete results.

23. The representative of the Government of the United States congratulated the Office on the quality of the Office paper, which concerned a difficult subject. He supported the remarks of the previous speakers. The discussions on this important document should be undertaken in the larger context of standard-setting policy.

24. The representative of the Government of Denmark also considered that the question of the revision of Conventions should not be examined in isolation, but rather within the overall context of ILO standard-setting activities. He supported the proposal by the Worker members that the Working Party should examine the

Conventions to be revised by subject-matter in order to recommend the appropriate revision procedures.

25. The Chairperson remarked that the debate initiated was of a more complex nature than the discussions held so far. Past experience should be taken into account. In this regard, the document contained a clear analysis. It was highlighted that the range of methods available to the Organization had not been fully utilized. The document was an invitation to take note of the existence of a set of tools, and to examine the most appropriate manner to make use of them. This preliminary discussion could clarify and bring about further discussions. There were other related problems: in particular that of determining how to proceed with regard to the question of revisions, and at the same time to place items on the Conference agenda for the adoption of new standards. In this regard, the Office document contained elements of solutions.

I. Procedures for the revision of Conventions

26. The Employer members expressed satisfaction with the clarity of the Office paper. With regard to the desired acceleration of revisions, they emphasized that, while speed did not necessarily go together with precision in all cases, although they were in favour of a more sustained rhythm. Moreover, some technical questions nevertheless required a detailed analysis. The specific revision procedure seemed better suited to partial revisions. Preparatory technical meetings could be useful to prepare the issue. The use of the simplified revision procedure, approved in 1965 by the Governing Body, seemed to require a broad consensus. Moreover, it seemed difficult to place on the agenda of the Conference simple questions of technical revision.

27. The Worker members noted that the discussion within their group had only just begun, and hence their statements were subject to this reservation. With regard to the revision methods available to the Organization, it seemed that the single discussion procedure preceded by technical preparation was the most appropriate method for revision of certain Conventions, as indicated for example by the results of the 84th (Maritime) Session of the Conference of 1996. With regard to the simplified revision procedure, it could only be applied to revision questions on which a consensus could be found. Another difficulty arose from the fact that it was difficult to ensure participation by Worker members on a regular basis in a permanent Conference committee on revisions, since they were designated as Conference delegates by their government. The possibility might be examined of establishing such a standing committee on a trial basis. It was necessary to evaluate which Conventions lent themselves to a non-controversial partial technical revision. With regard to the evaluation of revision needs, the Worker members considered that the interval of ten years between two examinations was not excessively long in comparison to other organizations. There was no pressing need to establish a more regular mechanism. What was truly urgent was to ensure follow-up on the work and decisions of the Governing Body. Full attention must be given to this matter.

28. The representative of the Government of the Netherlands was in favour of more regular use of a procedure such as the specific revision procedure and the

1965 simplified procedure. These could help achieve the objectives set out in the Office paper.

29. The Chairperson remarked that recourse to conferences or preparatory technical meetings in the framework of revisions had until now been limited to maritime instruments. He asked whether this could not be extended to other areas. This was an interesting approach that the Governing Body should keep in mind. Before placing a revision question on the Conference agenda, the Governing Body should have a precise idea of the scope of revision and of the appropriate method to be used. Preparatory general discussions could also be useful. The simplified revision procedure required that a certain number of conditions be present: the revision must have a precise purpose, it must be of a technical nature, and it must be the object of a consensus. This procedure would have the advantage of not requiring a choice between an important technical question and a simple revision question.

30. The Chairperson recalled that the discussion within the Working Party was of a general and preliminary nature and covered the various revision techniques. In reply to the representative of the United States Government concerning the manner in which the report would be presented to the Committee on Legal Issues and International Labour Standards, he specified that the report should be submitted in its normal form but that he himself would make a brief presentation on the matter to the Committee, and that the group members would be called upon to resume the discussion that had begun in a broader manner. In reply to the representative of the Government of the Netherlands regarding the point inviting recommendations in paragraph 46 of the document, the Chairperson indicated that the Working Party should not decide on this point. It would be desirable to emphasize to the Committee on Legal Issues and International Labour Standards the importance of the Office paper and to invite it to draw conclusions. The Employer and Worker members supported the Chairperson's point of view concerning the preliminary nature of the discussion and agreed that it was not possible to draw conclusions or make recommendations at this stage. This discussion could be pursued within the Committee on Legal Issues and International Labour Standards and the Governing Body. The Worker members noted that the Office document could be regarded as a reference document for the future. They recalled that their goal was to have a concrete discussion on precise options for the revisions that had still to be undertaken.

II. The instruments

31. The Chairperson indicated that the Office document set out the various instruments that could be used for revision. This could involve a new Convention that would or would not have a new number, protocols or amendments. Protocols were an interesting option because of their flexibility, but had not had much success until now with regard to ratification. In addition, the Conventions could be brought up to date by referring to other instruments.

32. The Employer members wondered what options the Working Party was tending towards. With regard to the protocols, they referred to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and its 1996 Protocol. They recalled the difficult task for the Working Party of analysing these

instruments. If this technique was used in the future, it could prevent the problems that might arise. The protocols were very important, but their implications must be clear to constituents. They had no particular comments concerning the amendments or the updating of Conventions by reference to other instruments, given that precision and clarity must be sufficient to avoid errors of interpretation. The classic procedure was that which required the most time but which offered the most security. The other procedures could be useful but required that the adopted techniques be appropriate to ensure the coherence of the standard-setting system and to avoid possible problems.

33. The Worker members noted that the various alternatives proposed in the document were suited to different situations. The consolidation of Conventions was interesting, and this would be appropriate for certain instruments. Use of a protocol was to be encouraged for some revisions. Updating Conventions by reference to other instruments was useful but was limited to certain scientific and technical standards. The same was true for the amendments. The Worker members took note of the various options, which should be examined to determine which to use in specific cases. It had been noted that revised Conventions had been less ratified than initial Conventions. It would be interesting to examine whether the choice of a particular method of revision had an effect on the level of ratification.

34. The representative of the Government of Switzerland found the document exhaustive, and it had given rise to an interesting discussion. The Government of Switzerland had its own preferences concerning revision methods, but the practical application of any one method should be examined in a concrete manner. Revised Conventions must be ratifiable. The Government systematically undertook an examination of the obstacles and difficulties arising from the ratification of new Conventions for national legislation. A reclassification of instruments by subject-matter could facilitate the preparation of reports and could improve understanding of these instruments.

35. The representative of the Government of the United States supported the position of the Worker members. Governments should ask themselves why the rate of ratification of revised Conventions was so low. His Government had attempted to make such an analysis in its response to the questionnaire on the revision of Convention No. 103. In doing so, it had analysed in detail the opinions expressed by the United States in the framework of the adoption of that Convention. The result of this analysis was that the same questions raised in 1952 were relevant today.

36. The Chairperson indicated that the document provided a clear panorama of the existing instruments. Although he considered, like the Worker members, that it was difficult to decide in an abstract manner on the respective advantages of the various existing instruments, the analysis made one aware of the large variety of possible options. It was appropriate to keep these alternatives in mind during the discussions and in the revision of specific Conventions. The consolidation technique had already been used on several occasions. Convention No. 138 was a well-known example and a success in this regard. From his point of view, one of the areas to explore would be the drafting of short and clear Conventions, even if it was necessary to incorporate technical annexes as required, for which more flexible implementation procedures could be used.

III. Examining revision needs

37. The Chairperson outlined the various methods of examining revision needs set out in the document, recalling that the choice of subjects had given rise to the General Survey on migrant workers submitted to the Conference in 1999, and would lead to the next two general surveys, which were the direct result of the Working Party's work.

38. The Worker members also noted the importance of general surveys, in particular to identify difficulties of application, as well as obstacles to ratification of the instruments concerned. They allowed clarification of some misunderstandings concerning the application of these instruments. This exercise should therefore be continued. The reference to a regular mechanism for examination of revision needs was not new, as member States had always had the possibility of proposing the revision of Conventions. When a member State wished to propose such a revision, it would be appropriate for a tripartite discussion to take place at the national level. The Workers would be the first to recognize the negative impact of gaps and the difficulties in the application of some Conventions. With regard to the reference in paragraph 41 of the document concerning the risk of having to repeat the exercise undertaken by the Working Party every ten years, the Worker members recalled the importance they attached to follow-up measures. Moreover, they emphasized that the revised Conventions must be ratifiable. As regards the point that revised Conventions must be ratifiable, contrary to what was implied by the representative of the Government of Switzerland, it was national legislation that should be brought into conformity with revised ILO Conventions, and not the other way around.

39. The Employer members considered that the Office analysis, although pessimistic, was correct. With reference to paragraph 42 of the document, they shared the Office's concern regarding the increasing administrative workload for constituents. The risk was that this would result in saturation or disinterest. The paragraph also indicated that certain revisions had been undertaken following difficulties encountered by member States. It was essential to know the reaction of governments in regard to the regular mechanisms for examination. As mentioned in paragraph 35 of the document, certain techniques were in some respects insufficient, and it seemed timely to examine the possibility of supplementing them.

40. The Chairperson stressed, as did the Worker members, the necessity of ensuring follow-up on the recommendations of the Working Party. Follow-up on the work of the Ventejol working parties had been limited on account of the difficulties caused by global political tension.

41. The representative of the Government of the Netherlands, commenting on the reaction of the two groups, recalled that the survey was essentially descriptive and very valuable. It forced one to realize the importance of the choice of a revision method as a function of the type of revision at hand. It was therefore important to submit the document for examination by the LILS Committee and the Governing Body.

42. The representative of the Government of New Zealand stated that several interesting options had been presented in this study. Given that revision was an exercise that could involve the need for a great number of resources, it was

appropriate to choose one of the options based on the two essential criteria, which were efficiency and cost.

43. The Chairperson concluded by recalling that the discussion was only preliminary. Although it was premature to draw precise conclusions, it was appropriate to note that the Organization had a large range of revision methods available. Consequently, the choice of a particular procedure for the revision of Conventions should be based on an evaluation of the most appropriate methods for each case. Finally, he recalled that the Working Party wanted this study to be the subject of in-depth discussions within the LILS Committee and the Governing Body. In this context, he invited members of the Working Party to participate fully in that discussion.

C. Deferred examination of Convention No. 132 (short survey)³

44. The Working Party decided to defer the examination of this survey to a later meeting, for the reasons indicated in the Office document.

D. Examination of Recommendations (second stage)⁴

45. The Chairperson recalled that the agreed methodology used to examine Recommendations was the same as that used to examine the first set of Recommendations in March 1999. This methodology was based on that used to examine Conventions, although it was less complex since Recommendations were not the subject of ratifications or denunciations.

I. Industrial relations

I.1. R.91 — *Collective Agreements Recommendation, 1951*

46. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it invite member States to give effect to the Collective Agreements Recommendation, 1951 (No. 91).***

I.2. R.92 — *Voluntary Conciliation and Arbitration Recommendation, 1951* R.130 — *Examination of Grievances Recommendation, 1967*

47. In response to a question by the Worker members, a representative of the Director-General explained that the expression "this instrument maintains its relevance", used in the in-depth review, corresponded to the phrase "instruments for which promotion is a priority", used in the work of the two Ventejol working parties.

48. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes —***

(a) to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible

³ GB.276/LILS/WP/PRS/3.

⁴ GB.276/LILS/WP/PRS/4.

need to replace the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), and the Examination of Grievances Recommendation, 1967 (No. 130).

- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendations Nos. 92 and 130 in due course.*

I.3. *R.94 — Co-operation at the Level of the Undertaking Recommendation, 1952, and R.129 — Communications within the Undertaking Recommendation, 1967*

49. The Working Party expressed its agreement with the proposals made by the Office. *It proposes —*

- (a) *to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible need to replace the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), and the Communications within the Undertaking Recommendation, 1967 (No. 129);*

- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendations Nos. 94 and 129 in due course.*

I.4. *R.113 — Consultation (Industrial and National Levels) Recommendation, 1960*

50. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113).*

I.5. *R.163 — Collective Bargaining Recommendation, 1981*

51. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Collective Bargaining Recommendation, 1981 (No. 163).*

* * *

II. Conditions of work

Wages — Minimum wage-fixing machinery

II.1. *R.30 — Minimum Wage-Fixing Machinery Recommendation, 1928*
R.89 — Minimum Wage-Fixing Machinery (Agriculture)
Recommendation, 1951

52. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing body the maintenance of the status quo with regard to the Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30), and the Minimum Wage-Fixing Machinery (Agriculture) Recommendation, 1951 (No. 89).*

II.2. *R.135 — Minimum Wage Fixing Recommendation, 1970*

53. The Employer members recalled that the Working Party had decided that the outcome for a Recommendation should normally be the same as that of the Convention to which it was linked. As Recommendation No. 135 was linked to the Minimum Wage Fixing Convention, 1970 (No. 131), it was suggested to align the proposal regarding Recommendation No. 135 with the decision already taken regarding Convention No. 131. In other words, the Employer members proposed to request information on obstacles encountered in giving effect to the Recommendation.

54. The Worker members partially understood the Employer members' concerns. They nevertheless recalled that Recommendations were not binding instruments and that such a proposal was only relevant in relation to Conventions. They also questioned the advisability of creating a new category of decisions and the resulting bureaucracy such a decision might entail.

55. The representative of the Government of Canada considered that it would be better to concentrate on the requests for information regarding Conventions. As a result, she supported the views expressed by the Worker members.

56. The representatives of the Governments of the Netherlands and New Zealand also shared this view.

57. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Minimum Wage Fixing Recommendation, 1970 (No. 135).*

Wages — Protection of wages

II.3. *R.85 — Protection of Wages Recommendation, 1949*

58. The Working Party expressed its agreement with the proposals by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Protection of Wages Recommendation, 1949 (No. 85).*

Wages — Labour clauses in public contracts

II.4. *R.84 — Labour Clauses (Public Contracts) Recommendation, 1949*

59. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84).*

Hours of work

II.5. *R.37 — Hours of Work (Hotels, etc.) Recommendation, 1930*
R.38 — Hours of Work (Theatres, etc.) Recommendation, 1930
R.39 — Hours of Work (Hospitals, etc.) Recommendation, 1930

60. In response to a question by the Employer members, the Chairperson indicated that the expression "in due course" meant in this case that it would be necessary to wait for this matter to be placed on the Conference agenda.

61. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it —***

- (a) ***note that the Hours of Work (Hotels, etc.) Recommendation, 1930 (No. 37), the Hours of Work (Theatres, etc.) Recommendation, 1930 (No. 38), and the Hours of Work (Hospitals, etc.) Recommendation, 1930 (No. 39), are obsolete;***
- (b) ***propose to the Conference the withdrawal of Recommendations Nos. 37, 38, and 39 in due course.***

- II.6. R.63 — *Control Books (Road Transport) Recommendation, 1939*
R.64 — *Night Work (Road Transport) Recommendation, 1939*
R.65 — *Methods of Regulating Hours (Road Transport) Recommendation, 1939*
R.66 — *Rest Periods (Private Chauffeurs) Recommendation, 1939*

62. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it —***

- (a) ***note that the Control Books (Road Transport) Recommendation, 1939 (No. 63), the Night Work (Road Transport) Recommendation, 1939 (No. 64), the Methods of Regulating Hours (Road Transport) Recommendation, 1939 (No. 65), and the Rest Periods (Private Chauffeurs) Recommendation, 1939 (No. 66), are obsolete;***
- (b) ***propose to the Conference the withdrawal of Recommendations Nos. 63, 64, 65 and 66 in due course.***

- II.7. R.161 — *Hours of Work and Rest Periods (Road Transport) Recommendation, 1979*

63. In reply to a question by the Worker members, a representative of the Director-General explained that, in regard to the proposed revision of Recommendation No. 161, the term "revision" should be used in place of "replacement", because even if the Conference had normally decided to "replace" Recommendations, revision was the only procedure known and which was provided for in the Standing Orders of the Conference. Moreover, the question of the revision of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), had already been added to the portfolio of proposals for the agenda of the Conference, but not the revision of Recommendation No. 161, which accompanied it.

64. The Worker members expressed their wish that the explanation by the Office of the terms "replacement" and "revision" be included in an introductory paragraph to the document.

65. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body the revision of the Hours of Work and Rest Periods (Road Transport) Recommendation, 1979 (No. 161), together with the revision of the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and the inclusion of this question in the portfolio of proposals for the Conference agenda.***

II.8. R.116 — *Reduction of Hours of Work Recommendation, 1962*

66. The Worker members emphasized the conclusions of the meeting of the Committee of Experts in 1993, which found that the ILO should give considerable priority to the research and dissemination of information regarding hours of work.

67. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it invite member States to give effect to the Reduction of Hours of Work Recommendation, 1962 (No. 116).***

III. Particular occupational sectors

Seafarers — General

III.1. R.155 — *Merchant Shipping (Improvements of Standards) Recommendation, 1976*

68. The Employer members underlined the importance of subparagraph (b) of the Office proposals.

69. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes —***

- (a) ***to recommend to the Governing Body that it invite member States to give effect to the Merchant Shipping (Improvements of Standards) Recommendation, 1976 (No. 155);***
- (b) ***that the Working Party (or the LILS Committee) re-examine the list of instruments in the Appendix to Recommendation No. 155 in due course, in the light of developments in the industry and the adoption of new instruments.***

III.2. R.9 — *National Seamen's Codes Recommendation, 1920*

70. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing body the maintenance of the status quo with regard to the National Seamen's Codes Recommendation, 1920 (No. 9).***

III.3. R.107 — *Seafarers' Engagement (Foreign Vessel) Recommendation, 1958* R.108 — *Social Conditions and Safety (Seafarers) Recommendation, 1958⁵*

71. In reply to a question by the Worker members, a representative of the Director-General indicated that if the Governing Body decided to maintain the status quo with regard to these two instruments, it would be logical to republish them in the printed edition of ILO standards.

72. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body the maintenance of the status quo with regard to the Seafarers' Engagement (Foreign Vessel)***

⁵ Although these two Recommendations regulate different issues, they are examined together in view of their close relationship in other respects.

Recommendation, 1958 (No. 107), and the Social Conditions and Safety (Seafarers) Recommendation, 1958 (No. 108).

III.4. R.139 — Employment of Seafarers (Technical Developments) Recommendation 1970 (No. 139)

73. The Chairperson noted the particular character of this Recommendation, which was partially de facto replaced by later instruments.

74. The Working Party expressed its agreement with the proposals made by the Office. **It proposes —**

- (a) **to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible need to replace the Employment of Seafarers (Technical Development) Recommendation, 1970 (No. 139);**
- (b) **that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 139 in due course.**

III.5. R.154 — Continuity of Employment (Seafarers) Recommendation, 1976

75. The Working Party expressed its agreement with the proposals made by the Office. **It proposes to recommend to the Governing Body that it invite member States to give effect to Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154).**

Training and entry into employment

**III.6. R.77 — Vocational Training (Seafarers) Recommendation, 1946
R.137 — Vocational Training (Seafarers) Recommendation, 1970**

76. The Working Party expressed its agreement with the proposals made by the Office. **It proposes —**

- (a) **to recommend to the Governing Body that it —**
 - (i) **note the replacement of the Vocational Training (Seafarers) Recommendation, 1946 (No. 77), by the Vocational Training (Seafarers) Recommendation, 1979 (No. 137);**
 - (ii) **invite member States to communicate to the Office any additional information on the possible need to replace the Vocational Training (Seafarers) Recommendation, 1970 (No. 137);**
- (b) **that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 137 in due course.**

77. Following a proposal by the Worker members, the Working Party expressed its agreement with the rest of the proposals of the Office with regard to the Recommendations which follow.

General conditions of employment

III.7. R.27 — Repatriation (Ships Masters and Apprentices) Recommendation, 1926

78. **The Working Party proposes to recommend to the Governing Body that it note the replacement of the Repatriation (Ship Master and Apprentices) Recommendation, 1926 (No. 27), by the Repatriation of Seafarers Convention**

(Revised), 1987 (No. 166), and the Repatriation of Seafarers Recommendation, 1987 (No. 174).

**III.8. R.49 — Hours of Work and Manning (Sea) Recommendation, 1936
R.109 — Wages, Hours of Work and Manning (Sea) Recommendation, 1958**

79. The Working Party proposes to the Governing Body that it —

- (a) (i) **note that the Hours of Work and Manning (Sea) Recommendation 1936 (No. 49), is obsolete;**
 - (ii) **propose to the Conference the withdrawal of Recommendation No. 49 in due course;**
- (b) **note the replacement of the Wages, Hours of Work and Manning (Sea) Recommendation, 1958 (No. 109), by the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187).**

III.9. R.153. — Protection of Young Seafarers Recommendation, 1976

80. The Working Party proposes to recommend to the Governing Body that it invite member States to give effect to the Protection of Young Seafarers Recommendation, 1976 (No. 153).

Safety, health and welfare

III.10. R.78 — Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crew) Recommendation, 1946

81. The Working Party proposes —

- (a) **to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible need to replace the Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crew) Recommendation, 1946 (No. 78);**
- (b) **that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 78 in due course.**

**III.11. R.140 — Crew Accommodation (Air Conditioning) Recommendation, 1970
R.141 — Crew Accommodation (Noise Control) Recommendation, 1970**

82. The Working Party proposes to recommend to the Governing Body the maintenance of the status quo with respect to the Crew Accommodations (Air Conditioning) Recommendation, 1970 (No. 140), and the Crew Accommodation (Noise Control) Recommendation, 1970 (No. 141).

**III.12. R.105 — Ships' Medicine Chest Recommendation, 1958
R.106 — Medical Advice at Sea Recommendation, 1958**

83. The Working Party proposes to recommend to the Governing Body that it —

- (a) *note that the Ships' Medicine Chest Recommendation, 1958 (No. 105), and the Medical Advice at Sea Recommendation, 1958 (No. 106), are obsolete;*
- (b) *propose to the Conference their withdrawal in due course.*

III.13. R.142 — Prevention of Accidents (Seafarers) Recommendation, 1970

84. The Working Party proposes —

- (a) *to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible need to replace the Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 142 in due course.*

**III.14. R.48 — Seamen's Welfare in Ports Recommendation, 1936
R.138 — Seafarers' Welfare Recommendation, 1970**

85. The Working Party proposes to recommend to the Governing Body that it —

- (a) *note that the Seamen's Welfare in Ports Recommendation, 1936 (No. 48), and the Seafarers' Welfare Recommendation, 1970 (No. 138), are obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendations Nos. 48 and 138 in due course.*

Labour inspection

III.15. R.28 — Labour Inspection (Seamen) Recommendation, 1926

86. The Working Party proposes to recommend to the Governing Body that it note the replacement of the Labour Inspection (Seamen) Recommendation, 1926 (No. 28), by the Labour Inspection (Seafarers) Convention, 1996 (No. 178), and the Labour Inspection (Seafarers) Recommendation, 1996 (No. 185).

Inland navigation

III.16. R.8 — Hours of Work (Inland Navigation) Recommendation, 1920

87. The Working Party proposes —

- (a) *to recommend to the Governing Body that it invite member States to communicate to the Office any additional information on the possible need to replace the Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 8 in due course.*

**E. Programme of work for the 277th Session (March 2000)
of the Governing Body**

88. In examining this matter, the Working Party discussed the possibilities of responding to the requests from constituents to accelerate its work. Taking into

account an increasing workload, the Chairperson emphasized that an extra day of meetings was necessary for the Working Party to attain more rapid results. The representative of the Government of Switzerland said that his country was in a position to allocate more time to the work of the Working Party. He agreed with the Chairperson that the acceleration of work was related to that of the allocation of sufficient resources. The Employer and Worker members shared the concern of the Chairperson. The Worker members indicated that other solutions could also be foreseen, such as preparatory meetings. The Employer members shared this view, on account of recent experience in other fields.

89. After an exchange of views, the Working Party agreed that it would examine during its March 2000 meeting the following questions:

- (a) follow-up measures on the recommendations of the Working Party;
- (b) deferred examination of Convention No. 132 and Convention No. 158 on the basis of short surveys prepared by independent experts;
- (c) a third series of Recommendations, covering approximately one-half of those remaining to be examined;
- (d) instruments concerning fishermen, in the light of the conclusions of the Tripartite Meeting on Health and Safety in the Fishing Industry, to be held in December 1999;
- (e) other questions.

90. The Worker members, supported by the representative of the Government of the Netherlands, had also proposed that the Working Party examine in March 2000 the Conventions on four subjects that the Governing Body had decided to revise, or at least one of them, in order to evaluate which method seemed most appropriate for the revision of those Conventions. The goal was to enable the Working Party to formulate concrete proposals to the LILS Committee and to the Governing Body. The interest in this proposal was noted, but taking account of the limited time available to the Office, it was agreed that an exploratory document on a group of Conventions would be submitted to the Working Party in November 2000.

91. With regard to point (a), the Working Party requested the Office to include, in the document submitted to it, not only the follow-up measures adopted by the Office, but also those undertaken at the national level.

92. With regard to point (d), the Employer members stressed that Office officials in the secretariat of the Working Party should provide support to the Tripartite Meeting to be held in December 1999, in order to ensure coordination between the proposals formulated at the end of the meeting and the practice of the Working Party.

93. The item "other questions" (point (e)) would comprise a document presenting, for each instrument, the analyses drawn up by the Office.

* * *

94. The Committee on Legal Issues and International Labour Standards is invited —

-
- (a) to take note of the report of the Working Party on Policy regarding the Revision of Standards, based on the documents submitted by the Office;**
 - (b) to adopt the proposals in the corresponding paragraphs of this report on which the Working Party has reached consensus.**

Geneva, 9 November 1999.

Point for decision: Paragraph 94.