



SECOND ITEM ON THE AGENDA

Agenda of the International Labour Conference

**(b) Proposals for the agenda of the
99th Session (2010) of the Conference**

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Introduction

1. This document is submitted for consideration by the Governing Body at its 300th Session (November 2007) and contains proposals for a first discussion on items which could be placed on the agenda of the 99th Session (2010) of the International Labour Conference and beyond.
2. In accordance with its regular practice, the Governing Body in November each year holds a first discussion on items that are proposed for inclusion on the agenda of the International Labour Conference which takes place two-and-a-half years later. In accordance with article 5.1.1 of the Standing Orders of the Governing Body,¹ the purpose of this discussion is to select a shortlist of items for closer scrutiny at its following session.
3. As a general rule, the Governing Body in March each year finalizes the agenda of the session of the Conference to be held two years later. It may also happen that it decides for a variety of reasons to postpone its decision to a session closer to the Conference. Items considered for, but not placed on, the agenda of a specific year of the Conference, are normally resubmitted as a proposal for the agenda the following year. The withdrawal of a proposal may also be envisaged if it has not received significant support after being presented on a number of occasions.

Proposals for the agenda of the 99th Session (2010) of the Conference

4. The items proposed for the agenda of the 99th Session (2010) of the Conference include two of the items that were not placed on the agenda of the 2009 Conference: decent work in global supply chains, and the right to information and consultation in the framework of economic restructuring. As to the item concerning protection of children and young workers, it should be noted that a Global Report on child labour under the 1998 follow-up to the Declaration on Fundamental Principles and Rights at Work will be discussed by the Conference in 2010. The Office therefore suggests withdrawing this proposal from the agenda for 2010 and including it in the proposals for the agenda of future sessions of the Conference.² At the same time, the Office has put forward two new proposals for the agenda for 2010: (1) social finance: microfinance for decent work (general discussion); and (2) decent work for domestic workers (standard setting).
5. It will be recalled that the agenda of the 98th Session (2009) of the International Labour Conference, as established during the 298th Session of the Governing Body, includes the following standard-setting item: “Strengthening national responses to HIV/AIDS in the world of work (with a view to the adoption of an autonomous Recommendation – double discussion”. A second discussion on a Recommendation concerning HIV/AIDS should therefore be placed on the agenda of the 99th Session (2010) of the Conference.

¹ See *Compendium of rules applicable to the Governing Body of the International Labour Office* (Geneva, ILO, 2006), pp. 21–22.

² This item had already been withdrawn from the proposals for the Conference agenda in 2006, the year of the previous Global Report on child labour. The proposal then was for a general discussion based on an integrated approach (see document GB.288/2/2).

6. In addition, during its 96th Session (May–June 2007), the International Labour Conference held a general discussion on “Strengthening the ILO’s capacity to assist its Members’ efforts to reach its objectives in the context of globalization”.³ The conclusions of the Committee envisage the possibility of adopting an authoritative document and of establishing cyclical reviews in relation to the strategic objectives, which would be discussed annually at the Conference and would therefore be a standing item on its agenda. Should this occur,⁴ submission of the first report could undoubtedly be expected in 2010. Given that as a rule the Governing Body examines three technical items during the Conference, in such a scenario it would only have to choose one subject for the 99th Session of the Conference.

7. To sum up, under this scenario the proposals to date for the remaining agenda item for the 2010 session of the Conference are as follows:
 - (a) decent work in global supply chains (general discussion);
 - (b) social finance: microfinance for decent work (general discussion);
 - (c) the right to information and consultation in the framework of economic restructuring (general discussion);
 - (d) decent work for domestic workers (standard setting).

Proposals for the agenda of future sessions of the Conference

8. Since 1997, the Governing Body has extended the scope of the November discussions to include an examination of items that could be considered for inclusion in the agenda of future Conferences. As is explained, these proposals either do not yet appear to be ready for immediate action or are awaiting particular developments.

9. With the exception of the proposal on work in ports, for the reasons given hereinafter,⁵ the proposals that were submitted in November 2006 in this context were submitted again and updated. Therefore, the proposals for the agenda of future sessions are as follows:
 - (a) protection of children and young workers: possible standard setting and follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards;
 - (b) working time: possibility of a general discussion;
 - (c) occupational safety and health: possible follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards;
 - (d) hours of work in road transport: possible follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards;
 - (e) export processing zones: possibility of a general discussion; and

³ See the report of the Committee on Strengthening the ILO’s Capacity, *Provisional Record* No. 23, ILC, 2007.

⁴ See document GB.300/2/1.

⁵ See paras 78–80.

- (f) new trends in the prevention and resolution of industrial disputes: possibility of a general discussion, taking into consideration the conclusions of the Working Party on Policy regarding the Revision of Standards.
- 10.** In relation to these proposals, the Governing Body may wish to give the Office guidance for priorities to be set and further research to be carried out, in order to advance their level of preparation, taking into account the resources and time needed for this to be done.
- 11.** *In order to draw up the agenda of the 99th Session (2010) of the International Labour Conference and to develop items for the agenda of future Conferences, the Governing Body is invited to:*
- (a) *examine the proposals for the agenda of the International Labour Conference contained in this document;*
- (b) *select the proposals to be examined in greater depth at its 301st Session (March 2008), when it will finalize the agenda of the 99th Session (2010) of the International Labour Conference; and*
- (c) *indicate the proposals for which research work and consultation might be accelerated for future Conferences.*

Part I. Proposals for the agenda of the 99th Session (2010) of the Conference

Employment

1. *Decent work in global supply chains*

Summary

Increasing globalization and growth of supply chains that cross borders and often stretch across the globe is generating much debate on the implications of these developments for the quantity, quality and distribution of employment throughout the world. Issues include opportunities and challenges for countries and individual companies to tap the economic development potential of global supply chains while maintaining or raising social standards. The proposed discussion item will contribute to this topical issue by addressing the economic, social and employment consequences of the structural changes taking place in key sectors of the global economy, specifically the identification of policies, programmes and tools to achieve decent work outcomes in global supply chains. To provide focus and grounding for the discussion, the report might select a few representative and important supply chains to guide the discussion (e.g. such as information and communication technology-related equipment, global food chains and services such as industrial design, software development or tourism).

12. Supply chains have a major impact on the structure of product, service and labour markets throughout the world. Participation in international supply chains has resulted in very significant establishment and growth of enterprises and employment in some developing countries and is a principal means by which many developing countries are linked to the global economy. This has resulted in the expansion of service, manufacturing and agricultural markets and production capability in these countries. The fact that to date only some developing countries have been able to take advantage of these opportunities is a clear indication that countries, particularly developing ones, face both opportunities and challenges in terms of how to support the development, diversification and upgrading of their enterprise base to be able to take advantage of the growth in global supply chains.
13. Increased market openness and foreign direct investment (FDI) together with changes in technology including transport and communication systems have had a major impact on the organization of production and on business relationships. In many sectors enterprises have decided to concentrate on core competencies while outsourcing a range of production and service-related activities. This has, in turn, resulted in increasingly long and often complex international supply chains that involve a variety of enterprises in the development and production and distribution of products and services.
14. Increasingly outsourcing arrangements reflect a change in business relationships brought about by these changes. In important economic sectors there has been an increase in the power of enterprises that market goods or services relative to the power of those firms that produce them, a shift that has had a profound impact on the world of work. In the past most lead companies in global supply chains were located in developed countries. However, a new trend is the growth of multinational enterprises (MNEs) based in developing countries.
15. The decision to outsource often is the decision to offshore. These decisions are typically based on the consideration of a range of factors, including labour costs, production and service capacity, product quality, time to market, reliability, access to infrastructure and other factors. The choice of suppliers can involve the choice of country. Criteria can include political and economic stability, the availability and capacity of human resources

and the linguistic abilities of workers, quality of infrastructure (transport, telecommunications), the availability of effective financial services, the strength of the rule of law, including as it relates to the protection and enforcement of property rights and the availability of conflict resolution mechanisms, among others. So the opportunities for countries to integrate into global supply chains and promote productive employment and decent work depends to a large extent on national policy frameworks.

- 16.** A range of strategies can be employed by countries to better tap the potential of global supply chains to generate economic growth, productive employment and reduce poverty. Strategies to take advantage of global supply chain opportunities can include targeted programmes to upgrade skills, productivity and competitiveness of particular sectors and clusters of enterprises. Infrastructure development, product development, testing facilities, technology transfer, and supplier development programmes can be effective ways to support enterprises, particularly in developing countries, to integrate in beneficial and sustainable ways into global supply chains. And efforts to use value chains at national and international level to link the more than 1.3 billion working poor in the informal economy to more productive job opportunities can form part of a poverty reduction strategy.
- 17.** The growth of supply chains and outsourcing raises issues surrounding the application of labour standards. Often governments in poorer countries do not adequately monitor labour practices and enforce labour standards for a range of reasons including inadequate resources. Intense competitive pressures on enterprises, particularly at the lower end of the chain, have influenced the development and application of law. As a result, there have been growing concerns that international labour standards, including those recognized as being fundamental rights at work, are not being observed in many areas of international business activity.
- 18.** For a number of reasons, including growing concerns raised regarding labour and social practices in their respective supply chains and the desire to upgrade management practices and productivity, many sourcing companies have begun to assume a measure of responsibility for the labour practices of their suppliers. Often these efforts involve the adoption of codes of conduct that are intended to be applicable to suppliers and are accompanied by various implementation and monitoring schemes. Because they involve one enterprise assuming some responsibility for the labour practices of another enterprise that it does not own or control, these initiatives raise many questions and have been a source of controversy. In particular, there is a lack of clarity regarding the division of responsibilities between enterprises and governments, for instance, how the sourcing company can effectively monitor the labour practices of its suppliers and how it should deal with non-compliance; and if and how enterprises can effectively implement codes, which often reference international labour standards, in situations where the government does not assume or respect its responsibilities with respect to these standards.
- 19.** Workers' organizations, in particular, express concern that arm's length supply chain relationships can be a way for sourcing companies to avoid their obligations as employers in terms of respecting fundamental rights at work. They argue that the relative power of sourcing companies can negatively affect the potential of collective bargaining to protect workers by denying workers down the supply chain access to the real decision-makers who effectively determine their working conditions. Employers' organizations express concerns that the proliferation of codes and monitoring regimes result in added cost and uncertainty for enterprises, without necessarily resulting in improved labour conditions. And there is concern that enterprises are being expected to shoulder responsibilities which should be met by the concerned governments. And some governments, particularly in developing countries, express concerns that such arrangements may constitute a non-tariff barrier to exports.

20. Supply chains can also have a significant effect on national policy-making in the field of, for example, national taxation policy, competition or investment policies and even in the realm of social policies covering, for example, social security and welfare provision.
21. Various aspects of supply chains are being dealt with by a range of units in the Office and the topic will therefore be addressed in a comprehensive manner tapping Office-wide expertise in ENTERPRISE, SKILLS, SECTOR, INTEGRATION, ILS, NORMES, DIALOGUE and other units.

Some issues for discussion

22. The discussion would focus on how employment and decent work can be promoted in the global supply chains. Issues to be covered may include:
 - What are some of the key structural changes taking place in global supply chains?
 - What are the key drivers of these changes?
 - What is the impact of these changes on the quantity, quality and distribution of employment?
 - What could be the role of international policies to address the structural changes in the global supply chains?
 - Which policies are most effective for upgrading competitiveness, productivity and decent work in global supply chains?
 - What could be the national, local and sectoral policies and strategies for promoting productive employment, and for linking the large number of working poor to national and global supply chains?
 - Which public regulations and other systems of monitoring could address the issues related to the global supply chains and decent work?
 - What is and could be the role of private voluntary initiatives and other efforts to manage social issues in global supply chains?
 - What are the effects of global supply chains on collective bargaining and on social dialogue?
 - What are the implications of the structural changes in the global supply chains and their impact on productive employment and decent work for the governments, workers' and employers' organizations?
 - What advisory services, tools and technical assistance might be developed by the ILO to support job creation and enterprise upgrading in global supply chains?
 - How can employers' and workers' organizations promote compliance with codes of conduct and international labour standards in global supply chains?

Intended outcomes

23. The intended outcome of the International Labour Conference general discussion would be:

- a stocktaking of the international debate on the impact of structural changes in the global supply chains on the quantity, quality and distribution of employment, in the context of the ILO’s Decent Work Agenda;
- recommendations for ILO work to enhance coherent policies, strategies and tools for technical support to constituents that promote productive employment and decent work in global supply chains.

2. **Social finance: Microfinance for decent work**⁶

Summary

Thousands of microfinance institutions (MFIs) around the world provide a range of financial services to millions of poor households, most of them living in the informal economy under precarious employment and income conditions. Microfinance helps them stabilize and raise their incomes, grow and graduate from the informal economy, protect themselves against income shocks and organize themselves. What can MFIs do to create more and better jobs? How can employers’ and workers’ organizations partner with MFIs and influence their strategies? What can governments and donors do to set the incentives right so that MFIs address decent work deficits?

The debate at the 2010 ILC could position the ILO in the concert of international agencies, emphasizing the social outcomes of microfinance. The debate will also be the first ever opportunity to pull together the multiple references in ILO Conventions and Recommendations to the role that finance plays to advance productive employment and decent work. Lastly, the debate will draw on concrete examples of successful uses of microfinance to address decent work deficits.

Rationale

- 24.** In view of the emerging positive evidence of the impact of microfinance on poverty reduction, the Governing Body⁷ mandated the Office to explore ways to gear microfinance to decent work (November 2005 policy statement “Microfinance for decent work”). For a better understanding of these effects and an identification of entry points for action and policy support, the Governing Body mandated the Office to start initiatives on the ground that benefit the working poor and other vulnerable groups in the framework of the 2008–09 biennium’s joint outcome “Microfinance for decent work”. The Office plans to involve some MFIs worldwide to tackle, in partnership with employers’ and workers’ organizations, a selected decent work deficit.
- 25.** The 2010 ILC debate would review good practices in the use of microfinance for productive employment and decent work and define the implications for policy-making. It would identify opportunities for cooperation with social partner organizations.⁸ The debate is timely for several reasons: it would position the ILO in the concert of international agencies at a time when the United Nations General Assembly is expected to discuss microfinance and its contributions to different Millennium Development

⁶ “Lasting peace cannot be achieved unless large population groups find ways in which to break out of poverty ... and microcredit is one such means” (Nobel Peace Prize Committee, 2006).

⁷ www.ilo.org/public/english/standards/relm/gb/docs/gb294/pdf/esp-3.pdf.

⁸ Nobel Peace Prize award to M. Yunus and the Grameen Bank, the outcomes of the International Year of Microcredit 2005 and the forthcoming United Nations General Assembly debate on microfinance and the Millennium Development Goals; the May 2005 Global Meeting on Building Inclusive Financial Sectors hosted by the ILO in Geneva. The proposed ILC debate builds on and develops further arguments developed at the Governing Body’s Employment and Social Policy Committee (GB.285/ESP/3 and 13), the Working Party on the Social Dimension of Globalization and the ILC (2002 resolution on the informal economy and the 2004 resolution on migration).

Goals. MFIs are perhaps the only institutions whose performance is systematically measured in two dimensions: financially and in terms of social impact. The social impact indicators developed in the microfinance field are obviously relevant for the ILO. The debate would be the first ever opportunity to draw together the multiple references in ILO Conventions and Recommendations to the role that finance plays to advance productive employment and decent work. Lastly, the debate would draw on concrete examples of successful uses of microfinance to address decent work deficits.

Relevance for decent work

26. Social finance influences different key aspects of decent work:⁹

- employment creation;
- child labour;
- working conditions;
- debt status;
- formalization;
- gender equality.

27. Do loans and other services from MFIs help clients to create jobs?¹⁰ So far, improved access to finance through MFIs stimulates the demand primarily for family labour, apprentices, and day workers. Some MFIs have started, however, to gear their products towards somewhat larger enterprises which use more wage labour. ACEP, an MFI in Senegal, accompanies its more growth-oriented clients with a special scheme responsive to their specific needs, with a tangible impact on job creation. For the MFI, there is the prospect of a growing demand for ancillary financial services (insurance, housing loans, etc.) as a result of the newly created jobs.

28. Microfinance can be used as a tool to help parents of working children to gain additional revenue to forego the earnings of the child's labour. Microfinance can, however, also have the opposite effect and induce parents to withdraw their children from school. Several MFIs seek to address this risk: the Arthacharya Foundation in Sri Lanka, for example, gives parents an interest rebate if they produce a school attendance certificate for their children.

29. Microfinance can also help bring about more safety and hygiene at work. Working conditions of artisanal brassware workers in Moradabad in northern India are extremely dangerous, causing lung diseases, eye injuries and burns on arms and feet. A combined package of incentives around micro loans and advice by a local financial institution led to the introduction of simple ventilation conduits and a reduction in work-related accidents.

⁹ This list is not exhaustive; there are other aspects and dimensions of decent work relevant for microfinance.

¹⁰ B. Bolnick and E. Nelson: *Evaluating the economic impact of a special credit programme: KIK/KMKP in Indonesia*, JDS, 26, 1990; E. Dunn and G. Arbuckle: *Microcredit and micro-enterprise development performance: Impact evidence from Peru*, SED, Vol. 12, No. 4, Dec. 2001.

- 30.** Bonded labour, the most prevalent form of forced labour, is a fundamental violation of labour rights. Debt bondage undermines decent work. Several MFIs have made it their mission to directly attack debt bondage. The NRSP in Pakistan, for example, combines social mobilization, skills training and savings to make sure that “*haaris*”, a group of former bonded labourers, do not slip back into debt bondage.
- 31.** Microfinance also triggers formalization. The Alexandria Business Association (ABA), an MFI in Egypt, links lending to the client’s progressive documentation, thus encouraging borrowers to slowly “graduate” out of the informal economy. One of the documents required relates to the social security status of employees. Access to finance can thus help extend social protection.
- 32.** Access to finance can change the distribution of working time between men and women.¹¹ Microfinance has been found to give more voice to women in household internal decision-making related to the credit-financed activity and in managing the entire household budget. Still, many women, especially in rural areas, have difficulties accessing financial services because of discrimination in access to literacy, property rights and social attitudes. RCPB, NYESIGISO, PAMECAS and other savings and credit cooperatives in West Africa therefore launched dedicated schemes for group transactions, not requiring collateral and involving loan amounts of less than US\$50.
- 33.** Other decent work deficits can also be addressed by MFIs:
- help HIV/AIDS-affected workers to save for medical treatment;
 - design savings and investment products for families of migrant workers receiving remittances;
 - increase access to life and health insurance;
 - organize home or contract workers in savings and credit clubs;
 - give young jobseekers a chance to start up;
 - integrate people with disabilities into mainstream microfinance services;
 - make it possible for employers in the informal economy to provide benefits to their workers, such as health insurance, etc.
- 34.** This shows that there is now a multitude of initiatives in social finance, i.e. microfinance that concretely and effectively addresses decent work deficits.¹² In the 2008–09 biennium, the Office through the Social Finance Network will promote a greater uptake of decent work initiatives by MFIs. The experiences will be evaluated for presentation at the ILC in 2010.

Objectives

- 35.** The debate at the ILC in 2010 would have two outcomes:

¹¹ L. Mayoux: “Microfinance and the empowerment of women – Rreview of key issues”, Social Finance Programme Working Paper No. 23 (Geneva, ILO, 2000).

¹² “Microfinance for decent work”, a report prepared for a technical meeting, Mar. 2007, in the Netherlands spells out the major issues in relation to employment creation, especially the young and other target groups, protection of the poor and catalysing group organization.

- information sharing about good practices on what works, when and under which circumstances in gearing microfinance to decent work;
- secondly, the ILC debate will identify options for partnerships between social partners, governments and MFIs. It will show areas for capacity building of social partner organizations as well as of MFIs¹³ and guide constituents in the rolling out of large-scale initiatives that use microfinance for decent work.

Points to be discussed

36. Points to be discussed could include the following :

- How can instruments used in social finance promote productive employment and decent work, advancing international labour standards?
- How can microfinance help move operators from the informal to the formal economy?
- What can social partner organizations do to better protect workers and independent producers against over-indebtedness?
- How best to assist ministries of labour in the management of microfinance components in social funds?
- How can employers' organizations:
 - (a) help lower investment costs and promote the emergence of risk-sharing arrangements for small and medium-sized enterprises;
 - (b) facilitate access to capital for member enterprises;
 - (c) encourage savings by workers, facilitate remittances, etc.?
- How can workers' organizations:
 - (a) through pension funds and socially responsible investment give awards to MFIs that tackle decent work deficits;
 - (b) partner with MFIs to ensure the provision of affordable and secure savings and credit facilities for workers;
 - (c) enhance the financial competence of workers to ensure a better appreciation of the risks and opportunities of financial contracts?

¹³ The Financial Sector Charter adopted in 2004 in South Africa with the participation of the social partners shows that this proactive approach is feasible and leads to results to the benefit of the working poor, small entrepreneurs and worker households.

Social dialogue

3. ***The right to information and consultation in the context of economic restructuring*** (General discussion)

Summary

Globalization and rapidly changing markets have led businesses to adopt numerous strategies in an effort to maintain and increase their competitive advantage. One possible approach is to restructure the enterprise, which can take a wide variety of forms. Given the considerable impact that the outcomes of economic restructuring may have on the workforce, the enterprise, and society at large, it is important that such restructuring be accompanied by appropriate forms of social dialogue – embedded in the enterprise – providing for effective responses to the challenges arising from these external pressures. This discussion would not represent an infringement on the right of managers to manage, or of enterprises to consider restructuring among a number of options for maintaining their position in a given market. Rather, the inclusion of this item on the agenda of the 2010 ILC would provide a timely opportunity for constituents to reflect on the importance of social dialogue as a tool for effectively managing change. It would enable a clearer understanding of:

- the issues to be addressed during enterprise restructuring;
- how good labour–management relations can facilitate outcomes from restructuring which balance flexibility and security concerns;
- recent changes in national and transnational law and practice providing for information and consultation around such issues; and
- an assessment of the implications for the ILO's work in various areas.

Background

37. Pressures on enterprises to restructure in response to national and international developments are increasing, owing to such factors as: changes in the situation of sectors – including the public sector – in national economies, the increase in new forms of productive organization, including the rapid expansion of global supply chains, following the decline of “mass production” and the impact of globalization. In the latter case, many enterprises are facing much more fierce competition. This leads to pressures to adapt workplaces to match the efficiency, output and quality of market leaders – or, in many cases, to close down.¹⁴ Whatever the cause, enterprise restructuring may result in social costs of various types, including job losses, higher unemployment, inequality of treatment among workers, greater insecurity in the workplace and industrial and social conflicts.

38. There are many examples where the social partners have collaborated successfully in responding to structural and other changes by mobilizing the full potential of their enterprises. Mention should be made of those efforts to improve the adaptability of enterprises relying on a consultative approach and directed towards achieving a balance between “flexibility” and “security”. While not challenging the employer’s need to restructure in an efficient and effective manner, such an approach can increase the competitiveness of their enterprises by seeking the understanding and support of the workforce in implementing proposed changes. Through this approach, workers and their representatives can continue to benefit from decent wages and working conditions and, by providing inputs into the proposed changes, they have the opportunity to affect the best possible outcomes for the workforce. In this context, changes are emerging in the traditional labour–management relationship. The patterns of negotiation are changing, as is the content of bargaining and the approaches adopted by the actors involved. In this

¹⁴ ILO: *Changing patterns in the world of work*, Report of the Director-General, ILC, 2006.

respect, many solutions are being negotiated by the social partners at all levels, often leading to agreements on packages of “offsetting” issues such as job security, working time, wages, lifelong learning possibilities and/or new methods of work organization.

39. Existing procedures for informing and consulting employees and their representatives are essentially twofold in nature. First, informal rules may be agreed between the social partners themselves at various levels through bargaining. Legal frameworks may also be developed, providing for information sharing and consultation where major “events” concerning workers take place, such as threatened or actual redundancies, transfers of undertakings, delocalization and other forms of restructuring affecting an enterprise. In many countries, legal provisions are often based on a posterior approach (i.e. dealing with the economic and social consequences of developments, many of which were not anticipated). They often fail to provide sufficient recognition of the need for ongoing social dialogue at enterprise level, and do not offer sufficient consideration of the economic and employment impact of decisions taken.
40. Increasing globalization of capital, product and labour markets means that decisions affecting enterprises and their workers are often being taken by transnational bodies. Information and consultations at this level are still not well developed. This is in spite of the attempts of some MNEs and regional integration groupings, especially in Europe, where adoption of the Works Council Directive¹⁵ in 1994 has led to the development of a wide variety of consultation and information exchange practices in European-wide enterprises. Even in this situation the main objective of providing workers with a real voice in corporate decision-making processes has only been achieved in a minority of cases. In addition, many of the relevant European Works Councils’ procedures have remained predominantly directed to provision of information and the minimum information requirement is often oriented towards the past rather than the future situation of an enterprise.¹⁶
41. However, the issues faced, and the approaches to consultation and information adopted in such cases, are not uniquely European phenomena. Of the 71 countries included in the ILO’s *Termination of Employment Digest*,¹⁷ 45 report some level of consultation with employee representatives in the event of collective redundancies. For example, the Labour Relations Act of South Africa sets out requirements for engagement in a “meaningful joint consensus-seeking process” with employees and their representatives whenever the employer proposes dismissals based on operational requirements or changes in terms and conditions of employment. This process allows for workers’ representatives and management to seek agreement on measures to avoid, minimize the number of, change the timing of or otherwise mitigate the adverse impacts of dismissals. It also provides for access to information on the reasons and need for such measures. In Botswana, a code of good practice on termination of employment (Trade Disputes Act) providing for similar consultations surrounding any proposed business reorganization that is expected to lead to retrenchments has been agreed by the social partners, though it does not yet have the force of law.

¹⁵ Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

¹⁶ “European Works Councils in practice”, European Foundation for the Improvement of Living and Working Conditions, 2004.

¹⁷ Including countries from Africa, the Americas, Asia and the Pacific, and Europe, <http://www.ilo.org/public/english/dialogue/ifpdial/info/termination/>.

42. Finally, in recent years, global markets have grown rapidly, without the parallel development of economic and social institutions necessary for their smooth and equitable functioning,¹⁸ a situation which exists both at the level of nations and individual enterprises. The lack or weakness of such institutions and procedures of dialogue between governments and/or between employers and workers and their representative organizations makes it difficult to achieve consensus on important issues which affect enterprises operating within and across borders and can threaten social peace.

The ILO's response

ILO normative action

43. The ILO's concern that workers in the enterprise be informed and consulted on issues which affect them, and more generally in fostering ongoing cooperation between management and labour around enterprise development, were clearly articulated in the Declaration of Philadelphia in 1944. The Declaration called on the Organization to develop programmes with a view to promoting "effective recognition of the right to collective bargaining and cooperation between management and labour in the continuous improvement of productive efficiency ..." (paragraph 3(e)).
44. This constitutional obligation is reflected in various later instruments, such as the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), and the Communications within the Undertaking Recommendation, 1967 (No. 129). Recommendation No. 129 provides detailed guidance on how to build mutual understanding and confidence within enterprises, stating that information should be provided to workers and their representatives and consultations should take place with them before decisions on matters of major interest are taken by management (Paragraph 2). The Recommendation provides that management should give workers information on a whole range of subjects, including, inter alia, with respect to "the general situation of the (enterprise) and prospects or plans for its future development" and to explain decisions which are likely to affect workers, directly or indirectly (Paragraph 15(2)). The Workers' Representatives Recommendation, 1971 (No. 143) (Paragraph 6(2)(f)), refers specifically to consideration of priority to workers' representatives in case of workforce reduction. These Recommendations emphasize that information and consultation processes should coexist with and complement the institution of collective bargaining. Similar provisions, some addressing more specific situations, are developed in a number of other ILO instruments.¹⁹

ILO technical cooperation

45. The ILO provides technical advice and assistance on issues with respect to the provision of information to and consultation with workers and their representatives within the framework of activities and projects in the field of social dialogue and related areas, such as labour legislation, employment, and working conditions. In the area of labour law reform, the ILO assists the constituents to draft labour laws, including those that address the impacts of economic reorganization.

¹⁸ *A fair globalization: Creating opportunities for all*, report of the World Commission on the Social Dimension of Globalization (Geneva, ILO, 2004).

¹⁹ For example, the Termination of Employment Convention, 1982 (No. 158), and the Collective Bargaining Recommendation, 1981 (No. 163). See also the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (e.g. art. 57).

46. For example, in the Caribbean Community (CARICOM), the Office provided technical support to the drafting of model harmonization legislation regarding termination of employment. This model legislation sets out procedures for information and consultation during economic restructuring which involves possible redundancies, in line with the relevant international labour standards. The ILO continues to provide support to CARICOM and its member States to promote harmonization with the model legislation.

International Labour Conference discussion and outcomes

47. A Conference discussion on this item could address, inter alia, such areas as:
- recent economic and social developments having major impacts on the competitiveness, job security, employment conditions, skill requirements, work organization and location of enterprises;²⁰
 - recent developments in labour–management relations at enterprise level, including new forms of consensus building through information and consultation;
 - related developments in social dialogue at national and transnational levels;
 - changes in national and transnational legislative frameworks and other institutional provisions and arrangements for information and consultation; and
 - consequences for ILO work, with a special focus on technical advice and cooperation.
48. Consideration could also be given in the context of a general discussion to the possible need to revise and update the existing ILO standards dealing with information, consultation and cooperation at enterprise level.

4. **Decent work for domestic workers** (Standard setting)

Summary

There are today millions of domestic workers. They represent an important and growing segment of the labour force and their work is enabling others to improve their living standards. The great majority of them are women. Since 1948 and more recently in 2004, the International Labour Conference has repeatedly drawn attention to the fact that in many cases they are either insufficiently protected by legislation or not protected at all. Recent reports suggest that domestic workers often have to work long or even excessive hours of work, receive low wages, and have inadequate health insurance coverage, are also exposed to physical and sexual harassment and violence and abuse. In many countries, labour, safety and other laws do not cover domestic workers, so that there are no legal norms or no offices and inspectors to enforce standards that do exist. In recent years, however, a number of governments have sought to address the issues and have initiated steps to improve legal protection for domestic workers. Trade union organizations have increased activities, often with civil society organizations to reach out to domestic workers, and employers' organizations have been associated in some countries with efforts to regulate the employment conditions of this category of workers. Many of these initiatives would benefit from the development of international standards that can be used to improve the legal environment and enable domestic workers to benefit from the full range of protections and rights related to decent work.

49. At its 31st Session (1948), the International Labour Conference adopted a resolution concerning the conditions of employment of domestic workers requesting the Governing Body “to consider the advisability of placing on the agenda of an early session of the

²⁰ For example, changes resulting from the impact of takeovers, mergers and acquisitions, joint ventures, subcontracting and transnationalization of undertakings.

Conference the question of the status and employment of domestic workers”. A meeting of experts on the status and conditions of employment of domestic workers was held in July 1951 and, at the Second African Regional Conference of the International Labour Organization (Addis Ababa, 30 November to 11 December 1964), the Governing Body was invited, in a resolution, to undertake studies and research on the problems of domestic workers “with a view to improvement of their living conditions”.

50. The question of employment conditions of domestic workers has not since then been placed on the agenda of an International Labour Conference, despite a resolution of the 49th Session of the ILC (Geneva, June 1965) which again invited the Governing Body, inter alia, to consider “placing on the agenda of an early session of the Conference the question of conditions of employment of domestic workers with a view to the adoption of an international instrument”.²¹
51. The 1965 resolution considered that “domestic workers in many cases are either not protected at all or insufficiently by legislation” and that there was “an urgent need to provide for domestic workers in all member countries the basic elements of protection which would assure to them a minimum standard of living, compatible with the self-respect and human dignity which are essential to social justice”.
52. Much of the concern expressed in 1948 and 1965 by the International Labour Conference remains valid today as the problems faced by domestic workers seem to have been further exacerbated and their numbers are growing.
53. In a report²² prepared for the general discussion on migrant workers, which took place during the 92nd Session of the International Labour Conference (2004), the International Labour Office stressed that migrant women domestic workers are among the world’s most vulnerable workers. Domestic workers, in particular in-house workers, often have to work long or even excessive hours of work (on average, 15–16 hours per day), with no rest days or compensation for overtime; they generally receive low wages, and have inadequate health insurance coverage, are also exposed to physical and sexual harassment and violence and abuse, and are in some cases trapped in situations in which they are physically or legally restrained from leaving the employer’s home by means of threats or actual violence, or by withholding of pay or identity documents. In many countries, labour, safety, and other laws do not cover domestic workers, so that there are no legal norms applicable to them or no offices and inspectors to enforce standards that do exist. Even if they are protected by legislation, it can be very difficult for domestic workers to learn about or benefit from available protections, the result being widespread violations of protective labour laws.
54. The conclusions adopted by the International Labour Conference following a general discussion stated, “temporary workers and migrant domestic workers often have limited legal rights, may be excluded from social security benefits and may face multiple disadvantages”.²³ The incidence of child labour is also high and has been noted in the ILO Global Report of 2006. The report says “girls predominate in domestic work, while boys are heavily represented in mining and quarrying”, and adds, “the situation is made worse when, as for domestic work in many countries, the kind of work is excluded from

²¹ ILO: Resolution concerning the conditions of employment of domestic workers, ILC, 49th Session, adopted in Geneva on 23 June 1965.

²² ILO: *Towards a fair deal for migrant workers in the global economy*, Report VI, ILC, 92nd Session (Geneva, June 2004).

²³ ILO: *Provisional Record* No. 22, ILC, 92nd Session, Geneva, June 2004, Conclusions, para. 7.

regulation in a large proportion of countries”.²⁴ The 2004 Global Report on freedom of association stressed that labour law’s silence on domestic work is often excused by invoking the principle of non-intervention by the State in the private sphere.²⁵ Hence, domestic work has ended up “occupying some twilight zone between market and non-market relations”.²⁶

- 55.** Comparative legal research produced by the ILO reveals that “quite frequently, labour laws refer to domestic workers either to exclude them completely from their scope or to grant them lower levels of protection by being deprived of many of the rights accorded to other categories of workers”.²⁷ While most ILO standards generally apply to all workers, such instruments seem to follow the same pattern as they provide for possible exemption of the protection offered in the Convention to certain categories of workers, including domestic workers. This is explicitly the case, for instance, of the Protection of Wages Convention, 1949 (No. 95). Quite a number of other Conventions permit the exclusion of certain categories of workers, normally after consultation with representative organizations of employers and workers concerned.²⁸ Even when a Convention “applies to all workers without any distinction whatsoever”, such as Convention No. 87 on freedom of association, a number of provisions in national legislation have been found to be incompatible with the instrument as they specifically deprive domestic workers of the right to join or form trade unions.
- 56.** Indeed, domestic workers lack protection under both international and national laws. Yet, they represent an important and growing segment of the labour force and their work is enabling others to improve their living standards – those who employ them and as a result can take on paid work outside the home. While estimates, facts and figures are hard to come by, mainly because of the inaccuracy or unavailability of data (domestic employment is also often excluded from labour statistics) or the irregular nature of the employment relationship involved, research suggests that domestic workers number “tens

²⁴ ILO: *The end of child labour: Within reach*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (Geneva, June 2006).

²⁵ ILO: *Organizing for social justice*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (Geneva, June 2004).

²⁶ B. Anderson: “Migration policies and vulnerabilities of domestic workers”, paper presented at the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong, China, February 2003, p. 16.

²⁷ ILO: *Domestic work, conditions of work and employment: A legal perspective*, by J.M. Ramirez-Machado, ILO Conditions of Work and Employment Series No. 7, first published in 2003. See also ILO: *Making domestic work visible: The case for specific regulation*, by A. Blackett, Labour Law and Labour Relations Branch (ILO, Geneva, 1998) and M.-L. Vega Ruiz: “Relación laboral al servicio del hogar familiar en América Latina”, in *Relasur* (Montevideo), No. 3, 1994.

²⁸ The Minimum Age Convention, 1973 (No. 138), the Private Employment Agencies Convention, 1997 (No. 181), the Termination of Employment Convention, 1982 (No. 158), the Minimum Wage Fixing Convention, 1970 (No. 131), the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99), the Part-Time Work Convention, 1994 (No. 175), the Protection of Workers’ Claims (Employer’s Insolvency) Convention, 1992 (No. 173), the Night Work Convention, 1990 (No. 171), the Holidays with Pay Convention (Revised), 1970 (No. 132), the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Medical Care and Sickness Benefits Convention, 1969 (No. 130), the Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128), the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), the Maternity Protection Convention, 2000 (No. 183), and the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79).

of millions”.²⁹ The great majority of them are women³⁰ and the sector is experiencing strong growth everywhere. According to the European Trade Union Confederation (ETUC), “it is one of the fastest growing economic sectors in Europe”.³¹ ILO research confirms that domestic work is mainly performed by women, that the use of child labour is widespread and that a large part of domestic labour is performed by migrant workers.³² Some of the main issues the ILO has identified are: hours of work; wages; workload and rest periods; social security coverage; physical and sexual abuse; and abuses by recruitment agencies and contractual conditions. In addition to risking poor working conditions and possible abuses, domestic workers are, as indicated above, often denied the right to organize in trade unions. In its General Survey of 1994 on freedom of association and collective bargaining, the ILO Committee of Experts on the Application of Conventions and Recommendations noted that domestic staff were often denied the right to form trade unions, “either because they are excluded from the scope of labour legislation or because the latter expressly denies them the right to organize”. It stressed that provisions prohibiting the right to organize to domestic staff are incompatible with the express provisions of Convention No. 87 on freedom of association.³³ As noted by the Committee of Experts, in some countries, the Labour Code comprises discriminatory provisions against domestic workers, such as when the general provisions governing termination of employment do not apply to them.³⁴

57. The situation of this category of workers has driven many organizations to undertake work to organize and protect the interests of domestic workers at national level. At international level, the International Trade Union Confederation (ITUC) and Global Union federations (GUfs) collaborate actively, including through regional organizations. A series of regional and international meetings of domestic workers have been held recently and one of the key demands by workers’ organizations is to invite the ILO to consider taking normative action concerning domestic workers and to place the item on the agenda of the International Labour Conference for standard setting in line with the 1965 resolution.

²⁹ ILO: Briefing note on domestic work, prepared by S. Grumiau at the request of the ILO’s Bureau for Workers’ Activities (Geneva, June 2007).

³⁰ The 2000 Global Report on freedom of association indicates that: “women account for a significant and rising share of the labour force but women workers continue to be under-organized and under-represented in trade unions. To some extent this reflects the exclusion of female-dominated sectors, such as domestic workers, from the legal protection of freedom of association” (ILO: *Your voice at work*, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (Geneva, June 2000).

³¹ ETUC: *Out of the shadows, organizing and protecting domestic workers in Europe: The role of trade unions* (Brussels, Nov. 2005).

³² ILO: *Domestic work, conditions of work and employment: A legal perspective*, by J.M. Ramirez-Machado, ILO Conditions of Work and Employment Series No. 7, first published in 2003.

³³ ILO: *Freedom of association and collective bargaining; Right of workers and employers to establish and join organizations*, Chapter III, Report III, Part 4B, ILC, 81st Session (Geneva, June 1994).

³⁴ ILO: *Protection against unjustified dismissal: Scope of the instruments as regards individuals*, Chapter II, Report III, Part 4B, ILC, 82nd Session (Geneva, June 1995).

- 58.** As a result of national organizing campaigns, and despite the many obstacles they face, progress has been registered in some countries as regards labour legislation in relation to domestic workers. This progress as well as further research can be used as a basis for developing possible normative instruments.
- 59.** The fact that domestic workers suffer from poor working conditions and that their isolation makes it difficult for trade unions to reach out to them and organize to improve their conditions make it a strong case for adopting an international standard that can be used to improve their legal environment through labour legislation that will enable them to benefit from the full range of protections and rights related to decent work, including the right to organize.
- 60.** It is thus proposed to place the item of promoting decent work for domestic workers on the agenda of the International Labour Conference in 2010 with a view to developing ILO instruments, possibly in the form of a Convention supplemented by a Recommendation, to provide appropriate guidance to constituents on policy and practice in the area of domestic work.

Part II. Proposals for the agenda of future sessions of the Conference

5. *Protection of children and young workers*³⁵

Summary

This is a proposal to follow up the conclusions of the Working Party on Policy regarding the Revision of Standards in the sphere of child labour and protection of young workers concerning a few groups of instruments recommended for revision or possible consolidation. These instruments specifically deal with the conditions for entry into employment (medical examination) and some aspects of conditions of work (night work, underground work), offering additional protection to young workers above the minimum age – i.e. legally admissible to work, and in that sense complementing the child labour standards in protecting young people. Thus, the revision and consolidation of standards in this area would relate to about 100 million adolescents under 18 who are estimated to be legally at work worldwide. This proposal by no means puts into question or intends to revisit the two up-to-date fundamental child labour Conventions, namely, the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), supplemented by their respective Recommendations, which will continue to be promoted for universal ratification and implementation.

- 61.** After examining the preliminary form of this proposal at its 297th Session (November 2006), the Governing Body asked the Office to submit a more developed proposal on this subject. First of all, it should be underlined that this proposal arises from the follow-up to the conclusions of the Working Party on Policy regarding the Revision of Standards (“the Cartier Working Party”) in the sphere of child labour and protection of young workers. Second, as to the elimination of child labour, neither the Office nor the constituents have put into question or intend to revisit the two up to date fundamental child labour Conventions namely, the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), supplemented by their respective Recommendations. These instruments will continue to be promoted for universal ratification and implementation, and also remain the basis for technical cooperation activities through the ILO’s International Programme on the Elimination of Child Labour (IPEC), irrespective of the outcome of the consideration on future Conference agendas.
- 62.** There are distinct types of standards on children and young persons. First, the two fundamental Conventions and their corresponding Recommendations clarify the line between child labour that is to be eliminated and acceptable forms of employment or work by children and young people. Second, a few specific standards provide the conditions for entry into employment (medical examination) and some aspects of conditions of work (night work, underground work), offering additional protection to young workers above the minimum age – i.e. legally admissible to work. These standards in that sense complement the child labour standards by protecting young people. The current proposal covers this second category of instruments and could also include the two autonomous Recommendations on minimum age in non-industrial employment and family undertakings mentioned below.
- 63.** As a result of the work of the Cartier Working Party, the Governing Body took the following decisions:
- *Night work of young persons:* Three Conventions and two Recommendations should be revised, namely: the Night Work of Young Persons (Industry) Convention, 1919 (No. 6); the Night Work of Young Persons (Non-Industrial Occupations) Convention,

³⁵ This proposal has been moved to the second part of the paper for the reasons explained in para. 4 above.

- 1946 (No. 79); the Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90); the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14); and the Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80).
- *Medical examination of young persons (industry, non-industrial occupations, underground work) and conditions of employment of young persons (underground work)*: In the case of three Conventions – the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), and Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) – the Governing Body invited member States: (i) to contemplate ratifying the Conventions; and (ii) to inform the Office of any obstacles or difficulties encountered that might prevent or delay the ratification of these Conventions or which might point to a need for a full or partial revision of these Conventions, including their possible consolidation. For the two accompanying Recommendations – Medical Examination of Young Persons Recommendation, 1946 (No. 79), and the Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125) – the Governing Body invited member States to give effect to the Recommendations and to inform the Office of any obstacles or difficulties encountered in their implementation. It also invited the Office to examine the possibility of their consolidation.
 - Furthermore, two autonomous Recommendations, the Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41), and the Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52), have an interim status.³⁶
 - As a result of Governing Body decisions on the agenda of the International Labour Conference, the Minimum Age (Fishermen) Convention, 1959 (No. 112) was among the instruments revised by the Work in Fishing Convention, 2007 (No. 188).
 - Finally, for a number of earlier Conventions on minimum age which have already been revised by *Convention No. 138*³⁷ but are still applicable to a number of countries, States parties to the older Conventions are invited to ratify *Convention No. 138*. Nevertheless, because of the flexibility built into *Convention No. 138* (detailed conditions for the ipso jure denunciation of earlier Conventions), ratification of *Convention No. 138* does not always automatically result in denunciations of all the previous Conventions concerned, ratified by the same country.³⁸ Being outdated, these instruments are not proposed for inclusion in a possible revised/consolidated standard. The promotion of *Convention No. 138* and technical assistance to enhance its effective implementation would be the solution for streamlining the body of international labour standards, particularly through their denunciation and replacement by *Convention No. 138*.
 - In addition, the 1997 Instrument of Amendment to the ILO Constitution, once in force,³⁹ would permit the abrogation of outdated Conventions.

³⁶ This means that they were considered by the Working Party as no longer fully up to date but still relevant in certain aspects.

³⁷ See Art. 10 of *Convention No. 138*.

³⁸ For example, a State that ratified the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), and subsequently ratified *Convention No. 138*, while declaring a general minimum age of 14 years, continues to be bound by *Convention No. 59* unless, under *Convention No. 138*, it declares the minimum age in industry to be 15 years.

³⁹ See GB.297/LILS/2 and GB.300/LILS/2.

64. The first two groups of instruments (on night work and medical examination) might be considered too specific in scope to be pursued as a future standard-setting agenda separately on each topic. With a view to further streamlining the body of international labour standards, it could be possible or desirable for the Governing Body to consider necessary follow-up action to the Working Party's conclusions, in a comprehensive manner – on the subject of children and young persons, in particular concerning their protected introduction to the world of decent work. A possible consolidation could also take into account the two autonomous Recommendations on minimum age.
65. Just like any other category of workers covered by some special instruments, children and young workers are entitled to the same protection at work as all workers, although because of their age and immaturity certain issues are regulated by specific provisions. According to the latest global estimates, some 100 million adolescents under 18 years of age are legally at work. The revision/consolidation of standards on children and young people, on the basis of the conclusions of the Cartier Working Party, would be relevant to this group, and aim at concentrating on the conditions under which they may be employed. It may be recalled that not only does the Preamble to the ILO Constitution explicitly call for the protection of children, but also under the UN Convention on the Rights of the Child (CRC) of 1989, relating to the right of the child (i.e. under 18) to be protected from economic exploitation, the States parties must take measures including provision of the minimum employment age or ages and conditions of employment.
66. The issue of protecting children and young persons once admitted to work is, however, closely related to the topic of child labour. When there is not sufficient protection, that type of work or the circumstances under which it is carried out may fall into the category of child labour to be eliminated, even where the minimum working age is attained. For instance, in terms of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), Paragraph 3, night work and underground work for a person under the age of 18 years should be considered at the national level when determining the identification of hazardous work to be prohibited. Therefore, consideration could be given as to whether some guidance on other aspects of hazardous work referred to in Paragraph 3 of Recommendation No. 190 would also be useful. Given the clear philosophy expressed under both Conventions Nos 138 and 182 that the exact list of hazardous work should be determined nationally after tripartite consultation, any new provisions in this area would be intended to provide general guidance, rather than setting forth rigid details.
67. Given the need to undertake a comprehensive review of protection of children in employment or work, the Governing Body might consider, if this proposal is to be retained for future Conferences, the possibility of a double discussion so as to ensure a comprehensive examination by the constituents of pertinent issues.

6. *Working time*

68. Working time is one of the areas which have been most affected in recent years by important changes in social and economic policies accelerated by the forces of globalization. Since the adoption of the principal ILO standards on hours of work, in particular the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), approaches towards the regulation of working time, and consequently of other interrelated issues such as the hours of rest and annual paid holidays, have evolved.

69. Recent developments relating to working time standards, specially focusing on the orientations given by the Committee of Experts on the Application of Conventions and Recommendations in its 2005 General Survey on Conventions Nos 1 and 30⁴⁰ and the views expressed during the discussion of that document at the Conference Committee on the Application of Standards,⁴¹ were reviewed in a paper submitted to the LILS Committee in November 2005 entitled “Mapping out a strategy for possible future ILO action on working time”.⁴² In particular, a meeting of experts that could outline an integrated framework of principles, policy options and recommendations which might serve as a basis for a possible general discussion on working time at the International Labour Conference has been agreed, its date being contingent on the decision on financing of the meeting by the Governing Body.

Research and other activities

70. In response to the Governing Body’s request that further research should be undertaken on the subject of working time, with a view to developing proposals on this subject for future sessions of the International Labour Conference, the Office has been proceeding with an extensive programme of research and information collection on developments in the area of working time, as well as technical cooperation activities in response to requests from ILO constituents such as research-based seminars and training workshops. This work programme includes the following major components: a report on working time in the industrialized countries that reviews developments in the area of working time across the industrialized world, focusing on the relationship between workers’ and employers’ needs and preferences and how these can be combined in working time policies;⁴³ an online legal working time database containing legislative provisions on working time in ILO member States;⁴⁴ a comparative analysis of national working time laws;⁴⁵ and a collection of papers by leading researchers presented at the most recent international symposium on working time.⁴⁶ A series of country studies on recent statistical and policy trends in working time and work organization in developing and transition countries was also commissioned, and it provided the foundation for a comparative analysis of working time around the world, which was published in 2007.⁴⁷
71. These projects share a number of primary themes which emerge from the goal of ensuring decent working conditions in the area of working time. For example, the research explores the ways in which working hours and working time arrangements are

⁴⁰ See *Hours of work: From fixed to flexible?*, Report III, Part 1B, ILC, 93rd Session, 2005.

⁴¹ See ILC, 93rd Session, 2005: *Provisional Record* No. 22, Part One, paras 73–131.

⁴² GB.294/LILS/7/1.

⁴³ J.C. Messenger (ed.): *Working time and workers’ needs and preferences in industrialized countries: Finding the balance* (London, Routledge, 2004).

⁴⁴ <http://www.ilo.org/travaildatabase/servlet/workingtime>.

⁴⁵ D. McCann: *Working time laws: A global perspective*, findings from the ILO’s Conditions of Work and Employment Database (Geneva, ILO, 2005) (<http://www.ilo.org/public/english/protection/condtrav/publ/wtwo-dm-05.htm>).

⁴⁶ J.Y. Boulin, M. Lallement, F. Michon and J.C. Messenger (eds): *Decent working time: New trends, new issues* (Geneva, ILO, 2006).

⁴⁷ S. Lee; D. McCann and J.C. Messenger: *Working time around the world: Trends in hours, laws, and policies in a global comparative perspective* (London and Geneva, Routledge and ILO, 2007).

being designed, so as to preserve workplace safety and advance workers' health and well-being.⁴⁸ It is also attentive to gender differences in the arrangement of working time, analysing the implications of these differences for the goal of gender equality and considering which forms of working time can advance the labour market and societal status of women. Also, the research focuses on the impact of existing working time arrangements on the ways in which workers are able to balance paid labour with their family lives and other non-work responsibilities and interests, examining how work–life balance can be promoted in ways which do not jeopardize gender equality. Finally, the Office's research programme seeks to identify working time arrangements which can both advance decent working conditions and simultaneously advance productivity and enterprise competitiveness more broadly, including flexible forms of work organization, as well as the business benefits of adopting policies that promote work–life balance.

72. These research products, complemented by technical cooperation activities conducted in response to requests from constituents and the outcome of the meeting of experts, would provide essential inputs into the direction and substance of any future discussion of working time developments at the International Labour Conference.

Proposal

73. In light of such developments and also considering the ILO's recent major research activities and enhanced technical expertise in this area, there seems to be an opportunity for the International Labour Conference to consider, at one of its future sessions, the subject of working time in its multiple dimensions. Subject to the favourable views of the Governing Body, the Office would be ready to develop a proposal for a general discussion on all aspects of working time regulation at the International Labour Conference, which could take place as early as its 100th Session (June 2011). Any future discussion would be based, to a substantial degree, on the results of the meeting of experts.

7. Occupational safety and health

74. As a result of the general discussion based on an integrated approach held in June 2003, the Conference drew up a global strategy on occupational safety and health that included the setting of priorities in the development and revision of ILO instruments. The first priority – the development of a new instrument establishing a promotional framework for occupational safety and health – was discussed at the 93rd Session (2005) of the International Labour Conference. The new Convention (No. 187) and its accompanying Recommendation (No. 197) concerning a promotional framework for occupational safety and health was adopted at the 95th Session (2006) of the International Labour Conference. These instruments are expected to support placing occupational safety and health high on national agendas and promote the application of relevant ILO standards.
75. Other standard-setting priorities set out in the global strategy include the revision of standards related to machine safety (the Guarding of Machinery Convention, 1963 (No. 119), and its accompanying Recommendation (No. 118)), and the revision of certain standards related to specific hazardous chemicals (the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4), the White Phosphorus Recommendation, 1919

⁴⁸ See A. Spurgeon: *Working time: Its impact on safety and health* (Geneva, ILO and OSHRI, 2003).

(No. 6), the White Lead (Painting) Convention, 1921 (No. 13), the Benzene Convention, 1971 (No. 136), and its accompanying Recommendation (No. 144)).⁴⁹

- 76.** In the field of machine safety, the development of a code of practice, the need for which was underlined in the global strategy, will be given priority over the revision of the Guarding of Machinery Convention, 1963 (No. 119). The Office has started to review the latest developments in this field as a basis for developing a code of practice. Developing such a code of practice will provide a firm basis for a future revision of standards related to machine safety. The Office has included a proposal to hold a meeting of experts on safety in the use of machinery among the proposals for funding from the technical meetings reserve of 2008–09.⁵⁰
- 77.** As regards hazardous substances, the Governing Body approved at its 292nd Session (March 2005) the organization of a meeting of experts to examine instruments, knowledge, advocacy, technical cooperation and international collaboration as tools with a view to developing a policy framework for hazardous substances as a work item of the Sectoral Activities Programme.⁵¹ The meeting will discuss how ILO instruments and other tools concerning occupational safety and health and hazardous substances could be best incorporated into a new policy framework and action plan. It will also examine best practices and appropriate national legal frameworks to promote safe and healthy working environments; review the roles of governments, employers' and workers' organizations; and examine ways of establishing tripartite consultation mechanisms on occupational safety and health, and of ensuring that workers and their organizations participate in the consultation mechanisms and thereby build a preventative safety and health culture at work. The meeting will also consider the impact of new and ongoing initiatives related to hazardous substances, including the UN-wide Strategic Approach to International Chemicals Management (SAICM). It aims at adopting recommendations that would be the basis of subsequent ILO action in this area. The meeting will be held from 10 to 13 December 2007 in Geneva.⁵²

8. Work in ports

- 78.** Over the past decade, the Office has actively promoted the Port Worker Development Programme (PDP). A second revised edition was published in 2005. The PDP is now widely used in many ports in various parts of the world. A Meeting of Experts adopted in 2003 the text of an ILO code of practice on safety and health in ports. This code replaces two former ILO publications: *Guide to safety and health in dock work* (1976) and *Safety and health in dock work* (1977). In 2004, the International Maritime Organization (IMO) and the ILO approved the publication of an ILO and IMO code of practice on security in ports. Since then, the Office has conducted information and training workshops in various parts of the world to improve the capacity of the stakeholders in ports to implement the various components of the PDP and the codes.

⁴⁹ The revision of the Maximum Weight Convention, 1967 (No. 127), and Recommendation (No. 128) was not included in the priorities. As regards the revision of the Anthrax Prevention Recommendation, 1919 (No. 3), which is associated with biological hazards, no specific follow-up is planned.

⁵⁰ GB.300/PFA/10.

⁵¹ GB.292/STM/1.

⁵² For more information concerning this meeting of experts, consult GB.297/STM/2 and the relevant decision of the Governing Body.

 Developments since November 2006

- 79.** For the last six years, the issue of a possible general discussion based on an integrated approach to work in ports has been included in the proposals for the agenda of future Conferences. For the purpose of preparing a possible updated proposal on this item, the Office held new consultations with the employers' and workers' organizations. At a meeting which took place on 4 July 2007 within the framework of these consultations, it was unanimously concluded by them that there should be no further consideration for this proposal to be included in the agenda of a future International Labour Conference.
- 80.** In the light of this practical work concerning port work and taking account of the outcome of the consultations, the Office proposes that this item – a general discussion based on an integrated approach to work in ports – be withdrawn from the proposals for the agenda of future Conferences.

9. Hours of work in road transport

- 81.** The Office has continued to carefully examine developments related to hours of work and rest periods in road transport – including questions related to border crossing issues, fatigue, driving time and rest periods. The Tripartite Meeting on Labour and Social Issues arising from Problems of Cross-border Mobility of International Drivers in the Road Transport Sector (Geneva, October 2006) noted with concern that delays due to deficiencies in infrastructure, facilities and control procedures at border crossings can have a negative impact on the working and living conditions of drivers, as well as on road safety. The Office carried out a comparative analysis between the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and other recent international and national legal instruments concerning hours of work and rest periods in road transport. It showed that more time will be needed to study the effects of the European Union (EU) regulation on driving time and rest periods which came into effect in April 2007. The implementation of the regulation is subject to a biennial report. Likewise, the experiences so far with the electronic recording equipment (digital tachograph) do not lend themselves to a careful analysis of the impact now. The Office considers that it is advisable to postpone the consideration of a possible revision of Convention No. 153, and its accompanying Recommendation (No. 161), until the impact of new international regulations has been evaluated over an adequate period of time.

10. Export processing zones (EPZs)

- 82.** The ILO has defined EPZs as “industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being (re)exported”.⁵³ These zones take a variety of names and forms in different countries (e.g. including free trade zones, special economic zones (SEZs), bonded warehouses, free ports and *maquiladoras*). The number of EPZs has continued to grow throughout the world in recent years. Their development is a very dynamic process where changes may occur very rapidly in a context of globalization (e.g. impact of Multifibre Arrangement (MFA) termination, World Trade Organization (WTO) agreements). At the same time, some EPZs continue to raise questions and concerns in terms of rights, application of labour law, employment creation, working conditions and in terms of how they benefit the domestic economy and social upgrading of the countries concerned.

⁵³ See <http://www.ilo.org/public/english/dialogue/sector/themes/epz/epzs.htm>.

- 83.** The ILO has been monitoring developments in EPZs for over 20 years in view of their importance in the globalization context. At several successive sessions, the ILO Governing Body instructed the Office to examine working conditions, job opportunities, employer–worker relations and social dialogue in these specific economic zones in detail. The Governing Body in March 2003⁵⁴ invited the Office to continue to examine the issue within a tripartite framework, integrating all aspects of decent work. The Programme and Budget for 2006–07 created an InFocus Initiative (IFI) on EPZs, based on social dialogue and involving a multidisciplinary approach within the ILO.
- 84.** In terms of timeframe, it should be borne in mind that the Office will report to the Governing Body in March 2008 on the work done by the IFI and at the same time formulate some recommendations for future ILO action. This paper will serve as the basis for the Governing Body to identify the most appropriate policy packages to improve the quality of production and employment in EPZs, to foster national policies on decent work, to promote labour standards and adherence to national laws, and to support the integration of EPZs into broader national and international development strategies. It is therefore proposed that any eventual discussion of this item should take into consideration the conclusions and guidance from the Governing Body in March 2008.

11. *New trends in the prevention and resolution of industrial disputes*

- 85.** In 1992, the Governing Body considered a proposal for a potential International Labour Conference agenda item regarding dispute settlement. This was subsequently the subject of deliberations during a number of Governing Body sessions, including a detailed report at the 261st Session, and most recently in March 1999. At this time, the topic was proposed for a general discussion, but this proposal was not taken up.
- 86.** The social and economic developments that have resulted from globalization have been widely documented. While these phenomena have given rise to economic growth in a number of countries, the unequal distribution of its benefits and the rapidity with which changes have taken and are taking place have led to increased social and industrial tensions. While labour disputes have occurred throughout history, and are recognized as a natural occurrence in the labour and employment relationship, the prevention, wherever possible, and the efficient and effective settlement of labour disputes are key features of sound labour relations. As such, a stocktaking and discussion of new developments in relation to dispute prevention and resolution systems would be beneficial.
- 87.** As an agenda item for the International Labour Conference, a general discussion should examine the numerous existing ILO Conventions and Recommendations⁵⁵ as well as national legislation and practice and the principles on the right to strike developed by the Governing Body's Committee on Freedom of Association and the ILO's Committee of Experts on the Application of Conventions and Recommendations. This discussion would provide the Office as well as the constituents with recommendations for follow-up actions, and could also represent an opportunity for the constituents to discuss the

⁵⁴ See GB.286/15.

⁵⁵ The Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), the Examination of Grievances Recommendation, 1967 (No. 130), the Co-operation at the Level of the Undertaking Recommendation, 1952 (No. 94), the Communications within the Undertaking Recommendation, 1967 (No. 129), the Collective Bargaining Convention, 1981 (No. 154), the Collective Bargaining Recommendation, 1981 (No. 163), the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Labour Relations (Public Service) Recommendation, 1978 (No. 159).

possibility of updating and consolidating several related ILO Recommendations, as outlined in the conclusions of the Working Party on Policy regarding the Revision of Standards.

88. The subjects that could be considered during a general discussion include, inter alia:

- the overall trends and developments in dispute prevention and resolution;
- different approaches to individual and collective disputes, and to rights and interest-based disputes;
- the roles of conciliation, arbitration and mediation services, as well as industrial labour tribunals and courts;
- means of strengthening traditional methods of dispute settlement and integrating new approaches, tools and techniques, referring to key features (i.e. the legal framework, institutions, mechanisms and procedures) of successful systems;
- the role(s) of the social partners; and
- prospects for further research, advisory services and technical cooperation.

89. Should the Governing Body decide to undertake a general discussion in a future session of the International Labour Conference, it may wish to request the Office to launch a research programme aimed at identifying the current situation with respect to legislation, institutions and practice on the subject. An analysis of the principles developed by, and the interpretation of, the ILO supervisory bodies regarding the right to strike could also inform such a discussion.

Geneva, 16 October 2007.

Point for decision: Paragraph 11.