



TENTH ITEM ON THE AGENDA

**Reports of the Committee on Legal  
Issues and International Labour  
Standards**

**Second report: International labour  
standards and human rights**

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## **Improvements in the standards-related activities of the ILO – Towards a final plan of action for the implementation of the standards strategy**

(Fourth item on the agenda)

1. The Committee had before it a document <sup>1</sup> concerning improvements in the standards-related activities of the ILO, which dealt with the progress made towards a final plan of action for the implementation of the standards strategy.
2. The representative of the Director-General (Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department (NORMES)) introduced the document and recalled that it had formed part of the ongoing discussions since November 2005 on the ILO standards strategy and the interim plan of action for its implementation. She stressed that the document did not contain a final plan of action, as the review of the first and second components (on standards policy and the supervisory system, respectively) of the standards strategy had not yet been completed. The speaker provided a detailed summary of the main elements of the paper, focusing on those for which a decision by the Committee was being proposed. As regards the suggestion to revise the report forms relating to Conventions Nos 29 and 105 (forced labour), the changes would only affect newly ratifying States, which were very few due to the high ratification rates of the Conventions in question. Other options would be to retain the existing report forms or to postpone the decision on their revision to the next session of the Committee.
3. The Worker Vice-Chairperson underlined the importance of the proposals contained in the document to continue to improve the standards-related activities of the ILO. With respect to standards policy, she agreed on the need to continue with tripartite consultations in order to reach a consensus in this area. The basis for such consultations should be the Social Justice Declaration which stated that “the Organization must promote the ILO’s standard-setting policy as a cornerstone of ILO activities” with the final objective being the strengthening of the international labour standards system. She considered that the promotion of up to date and revised standards, in the context of the follow-up to the conclusions of the Cartier Working Party, was weak and suggested that tripartite consultations be held on this matter. Concerning Convention No. 158 and Recommendation No. 166, the proposal to convene a tripartite working group of experts to examine these two instruments in 2010 was based on the conclusion reached at the March 2009 Governing Body meeting and she supported this as a way of reaching a consensus. However, in the meantime, as there had been no agreement in the Cartier Working Party, these instruments continued to be relevant and ought to be promoted, in particular given their relevance with respect to the current job crisis. She supported the promotion campaign for the ratification and effective implementation of the fundamental Conventions and governance instruments, which concern inspection, employment policy and tripartitism, their importance being recognized by the Social Justice Declaration and the Global Jobs Pact. She also agreed with the development of a plan of action for the ratification and effective implementation of Convention No. 155, its 2002 Protocol and Convention No. 187. The Committee on the Application of Standards, in June 2009, recommended that “the ILO should adopt an action plan on occupational safety and health”, which showed that there was a consensus on this matter. With respect to the fundamental Conventions, particular emphasis should be put on two groups of instruments:

<sup>1</sup> GB.306/LILS/4(Rev.).

Conventions Nos 100 and 111, as indicated in the 2009 Conference resolution concerning gender equality at the heart of decent work; and Conventions Nos 87 and 98 relating to freedom of association and collective bargaining. These last two instruments were the least well ratified of the fundamental Conventions, and contained enabling rights to pursue gender equality. She asked the Office to submit a plan of action in this respect at the March 2010 session.

4. Concerning the enhancement of the coherence, integration and efficacy of the supervisory system, the speaker agreed on the need for tripartite discussion on the subject of the interpretation of instruments before the next Governing Body session. As regards the evaluation of the grouping of Conventions, she concurred in general with the conclusions in paragraph 27 and stressed that the grouping in itself could not produce the intended results without the provision of the necessary technical assistance to constituents. The qualitative assessment on reporting showed the positive impact the grouping of Conventions had made for most governments by facilitating the task for national administrations. Technical assistance and capacity building played an important role in this respect and this should be maintained and enhanced. Regarding the participation of the social partners, while the grouping of Conventions may have enabled the social partners to gain a better understanding of the links between different instruments in a subject area, it was vital that copies of the government's reports be sent to the social partners sufficiently in advance to allow them to make comments on their content. Concerning the coherence of the comments made by the Committee of Experts, while there had been some progress, the situation could be further improved. She suggested that one person be allocated to read all the comments and make the analysis on a particular subject for a particular country. Alternatively, even if different persons were involved, they should work closely together to make sure that they had a comprehensive view of the subject and ensure that there was consistency and alignment in the report produced. With regard to improvements in compliance with standards and the identification of gaps in law and practice, much needed to be done by governments to ensure the full implementation of ratified Conventions, in full cooperation with employers' and workers' organizations and with the necessary technical assistance from the Office. Governments should not view reporting obligations as a burden, but rather as a tool for good governance that allowed them to assess progress and identify persistent problems that needed to be rectified.
5. With regard to the follow-up for cases of serious failure to comply with reporting obligations, the speaker supported paragraph 42. It was essential that the Office continued and stepped up its action and special efforts should be made to improve the integration of reporting obligations in Decent Work Country Programmes. Cases of serious failure to fulfil reporting obligations should be treated as failure in the application of ratified Conventions. Governments should be urged to make every effort to meet their reporting obligations and make use of the technical assistance provided by the Office. While the percentage of article 22 reports received in time had grown since 2003, only 30 per cent of the reports were received by the date requested. This was a very low proportion and created serious difficulties for the functioning of the Office and the Committee of Experts, and also affected the participation of the social partners in the supervisory process. Governments should make every effort to ensure that their reports were sent to the Office by the deadline.
6. Concerning the reporting cycle, the speaker considered that, while there were potential benefits from synchronizing reports under articles 19 and 22 of the Constitution along with the recurrent discussions, a total alignment could only be possible with four- and seven-year cycles, depending on the Conventions, which were too long to be compatible with the primary purpose of article 22 reports. In order to balance the total number of reports requested every year, Conventions relating to a strategic objective would have to be spread over two or three years, meaning that the information would not all be received in

the same year as the article 19 reports. As regards the suggestion on lengthening the cycle of fundamental and priority Conventions to three years, she felt that it would not necessarily improve the number or timeliness of reports received. It could, on the contrary, weaken the capacity of the regular supervisory system to protect workers' rights. Often, due to the delayed arrival of the reports, the Committee of Experts was not in a position to examine the substance of new laws or the details of certain allegations, and the examination of complaints was postponed until the next regular examination. A three-year cycle would further weaken the possibility of employers' and workers' organizations to voice problems arising from implementation. The number of files deferred every year by NORMES could not be ignored. In light of this situation, as already requested by the Workers' group on numerous occasions, resources for NORMES should be increased. She supported option 1 under paragraph 34 which maintained the current length of the cycles. Regarding the review of the report forms on Conventions Nos 29 and 105, she felt that the current report forms should be retained.

7. With regard to the third component, the speaker supported the proposal for a six-year technical cooperation programme to address ratification gaps and strengthen the impact of the supervisory bodies' comments on the implementation of international labour standards. She called on the Partnerships and Development Cooperation Department (PARDEV) to do its utmost to mobilize the necessary resources for the implementation of this important programme. This programme should cover not only fundamental and priority Conventions but also other up to date instruments identified by the Governing Body. Attention should focus on those Conventions identified as most relevant in the context of the crisis, as mentioned in the Global Jobs Pact. Employers' and workers' organizations should be actively involved in the activities carried out within this programme. Technical cooperation should continue to be provided through the three main types of intervention previously identified in the plan of action. More coherence was also needed in the Office approach to ensure that standards were an integral part of technical cooperation and assistance.
8. Regarding enhanced access to the standards system and broader visibility, the speaker encouraged the Office to continue working in the different areas identified as priorities. She supported announced improvements to migrate the existing databases to a new unified platform and develop a comprehensive online reporting system. However, it had to be kept in mind that many trade unions did not have access to the Internet and their needs should also be kept in consideration.
9. The Employer Vice-Chairperson pointed out that, for his group, the present document was the most important one on the LILS agenda. He wished to focus on the progress achieved regarding the implementation of the interim plan of action over the last seven months. He expressed concern at the lack of progress made to date during the discussions that had taken place within the Committee and during informal consultations. No significant advances had been made regarding certain key components of the standards strategy and that gave his group cause for concern.
10. It would be extremely difficult to settle on a final plan of action in 2010, given the important decisions that still needed to be adopted concerning the first and second components. The adoption of a final plan of action could only be supported if that plan were to take into account all of the issues raised regarding each of the four components. The action plan was like an orchestra, which could only play well when all of the instruments had been tuned. It was inappropriate to wish to promote one part of an action plan that had been presented as a whole.
11. The speaker's views regarding the progress achieved and how to proceed in the future differed from those expressed by the Office in paragraphs 3–5. With regard to the

reference made in paragraph 3 to the need for a follow-up to the conclusions of the Cartier Working Party, there should be a follow-up to all of the conclusions of that Working Party and not just to the promotion of standards. As for paragraph 4, alongside the points referred to, a consensus had been achieved regarding the fact that the LILS Committee, or a LILS working group, would be the appropriate body for keeping the body of standards up to date. With regard to the Termination of Employment Convention, 1982 (No. 158), the speaker once again requested the Office to provide precise and objective information on its web site regarding: the conclusions adopted by the Cartier Working Party; the discussion of the General Survey on Convention No. 158 which took place within the Committee on the Application of Standards and the discussions which took place within the LILS Committee. He also requested that the *Note on Convention No. 158 and Recommendation No. 166 concerning termination of employment* published on the NORMES web site be revised in order to give a more objective picture of the situation. As to the reference to the promotion of standards in paragraph 5, there was a clear relationship between the creation of a regular mechanism for the examination of standards and their promotion. Standards could not be promoted unless it was certain that they were up to date.

12. The speaker welcomed the idea of promoting the occupational safety and health (OSH) Conventions referred to in paragraphs 10 and 11. As had been made clear during the discussion on that year's General Survey, the matter was of great interest to the Employers' group. However, the promotion of those technical Conventions was a complex task, which could not be reduced to the mere act of ratification, nor could it be compared to the promotion of the fundamental Conventions. OSH Conventions required the development and implementation of policies, which could face many countries with considerable difficulties. Therefore, the context of each country and the particular needs of its constituents should be taken into account, requiring strategies that focused on each country. Thus, it was much more difficult to design measures for the promotion of OSH Conventions. Before submitting any proposal for a plan of action to achieve the ratification and effective implementation of the Occupational Safety and Health Convention, 1981 (No. 155), its 2002 Protocol and/or the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), detailed consultations should be carried out with the three groups in order to begin preparing the basis of the plan.
13. The Employers' group did not support the preparation of a plan of action to achieve the ratification and effective implementation of all the fundamental Conventions, or even of a group of them. It did not see what added value such a plan of action could have. The 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up were of particular relevance in that regard. There was an ILO department dedicated to the promotion of the Declaration. A campaign for the ratification of the fundamental Conventions was also under way. NORMES should most definitely channel its resources towards other areas where there was a need for ILO action.
14. As to the second component of the strategy, paragraph 12 highlighted the importance of the interpretation of the Conventions and of carrying out tripartite consultations prior to any discussion of the matter by the LILS Committee. He shared the Office's view regarding the relevance of the interpretation of Conventions with regard to the coherence, transparency and credibility of the ILO supervisory system. In previous meetings, the Employers' group had requested that the study on the interpretation of Conventions address, among other issues, the methods of interpreting Conventions which should be used by the various bodies of the supervisory system, including the Committee of Experts. The study should be practical and easy to understand, in order to make the Conventions more clear.
15. In principle, the Employers' group had no objections to consultations on the issue; what was more, it was the Employers' group that had originally proposed that consultations be

carried out regarding the preparation of the study. It was a shame that the proposal regarding consultations had only been made in November 2009; it should have been submitted long before. The initial proposal for a study on the interpretation of Conventions had been made in 2007 and the Governing Body itself had decided in November 2008 that a document would be presented in 2009 on that issue. The reality was that the Office had not produced the document in 2009 and had failed to give any convincing reasons for not having done so. That constituted a grave failure to abide by the decision adopted by the Governing Body in 2008; it was unacceptable and raised serious questions regarding governance within the Committee. He therefore wished to hear the comments of the Workers and the Governments, given that the functioning of the Committee as a whole was affected.

16. Regarding paragraph 34, the speaker supported option 2. That change in the reporting cycle would lighten the workload for governments and the Office, without affecting the efficiency of the supervision of standards. It should be recalled that employers' and workers' organizations could, at any time, raise any serious issue related to the application of standards and, if necessary, the Committee of Experts could request an early report on those issues.
17. With regard to the assessment of follow-up in cases of serious failure to comply with reporting obligations, the speaker commended the Office on its efforts to resolve the problems involved and urged it to continue its work in that connection. He said that countries should determine, before ratifying a Convention, whether they had the institutional capacity to apply it and to comply with the reporting obligations. He agreed with paragraph 36 that failure to submit reports deserved the same level of attention as the failure to apply ratified Conventions.
18. With regard to the review of the report forms for the fundamental Conventions, the speaker agreed with the Committee of Experts on the two improvements mentioned in paragraph 44. He made the following remarks regarding the proposals for the report forms on the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). First, regarding Convention No. 29, it was necessary to find a legal solution to deal with the obsolete transitional provisions. Legally, States that had ratified a Convention could continue to invoke the validity of the transitional provisions. It was not a matter that could be resolved by modifying the report form. Furthermore, the Committee of Experts did not have the authority to declare those provisions inapplicable. Indeed, in paragraph 196 of the General Survey of 2007 on the eradication of forced labour, the Committee of Experts had proposed that the Conference should adopt a protocol to revoke the transitional provisions. Second, the questions, as presented in the report form, went much further than the text of the Convention. That was the case, for example, for the third, fourth and fifth questions on Article 1 of Convention No. 29 and parts of the third question on Article 2, in particular where it referred to prison labour; and question B on Article 1 of Convention No. 105 and parts of the second question on Article 2. The same criticism had been made during the discussion that had taken place in the LILS Committee before the adoption in March 2005 of the report form under article 19 for the General Survey of 2007 on the eradication of forced labour. At that time, the Employers and Governments had maintained that the questions in the report forms should adhere strictly to the text of the Convention. That should be even more true of the report forms under article 22, which referred to legal obligations under ratified Conventions. Therefore, the Employers' group, expressing its concern about the way in which the Committee of Experts had presented the report forms, considered that the report forms could not be adopted in their current format. Third, as it would not be very practical to begin discussing possible changes to the report forms that had been put forward, it would be advisable to hold informal consultations before submitting a revised version of the

report forms to the LILS Committee. The same should be done for the report forms for the OSH instruments proposed in paragraph 48.

19. With regard to the third component of the strategy, he asked what the Office meant by “targeted Conventions” in paragraph 50 of the English version, and which were the 25 countries that were mentioned. It was for the LILS Committee, not the Office, to decide which of the up to date Conventions should be selected for promotion, until there was a regular procedure for examining standards to ensure that the up to date status of a Convention remained valid.
20. The speaker said, as had been repeated many times, that the emphasis should be placed on the capacity for the application of standards and not simply on ratification. Furthermore, the Office should advise countries against ratifying instruments before it had been confirmed that they had the capacity to apply them and to comply with the reporting obligations. The Bureau for Employers’ Activities (ACT/EMP) and the Bureau for Workers’ Activities (ACTRAV) should be involved in those activities.
21. The speaker asked what kind of standards-related activities were being carried out in the regions and whether they met local concerns and needs. With regard to the final component of the strategy, he urged the Office to continue its efforts. Special efforts should be made to ensure that the databases contained up to date information at all times, in particular NATLEX; that they were always accessible; and that they reflected the views and comments put forward by the constituents during the discussions held in the different committees.
22. The representative of the Government of Canada, speaking on behalf of the industrialized market economy countries (IMEC group), welcomed the efforts of the Office to align the ILO’s standards-related activities with the follow-up to the Social Justice Declaration. She supported the proposals to promote the ratification and implementation of the fundamental and priority Conventions, as well as those on OSH. The fundamental Conventions were mutually reinforcing and should be promoted equally as a group, in accordance with the equality afforded to them by the 1998 Declaration. With respect to paragraph 12, she regretted that the question of the interpretation of Conventions had been postponed and requested that the study undertaken on the interpretation of standards be distributed to constituents. Further information should also be provided on the issues to be addressed during the tripartite consultations, as well as on the form of these consultations, that is, when they would take place, who would be invited and the anticipated costs. In view of the specialized subject, the arrangements made should facilitate the participation of government experts.
23. The speaker, on behalf of the IMEC group, thanked the Office for the efforts made to reduce the reporting burden on governments wherever possible, without adversely affecting the value of reports. Noting that earlier proposals to facilitate the updating of reports had not been mentioned in the present paper, she asked for clarification on whether the proposals were still being pursued. The grouping of Conventions by subject was a practical approach that reduced the administrative burden and contributed to improving access to information and supervision. The IMEC group appreciated the informal electronic consultations undertaken by the Office and the useful information reported in the document. The IMEC group noted the challenges in aligning article 19 and 22 reports with recurrent reviews as demonstrated by the annexes to the paper, which represented considerable work by the Office but which were difficult to understand and therefore comment on. The grouping by strategic objective had some advantages but it was not clear how this could be practically accomplished. A presentation of such a categorization by subject and by strategic objective should be provided so that the practical implications could be assessed before any decision was taken. In particular, care needed to be taken not

to lose the benefits of the grouping of Conventions by subject that had already been identified.

24. Regarding the length of the reporting cycle, the IMEC group supported the second of the proposed options with a three-year cycle for fundamental and governance Conventions, and with an amendment to provide for a six-year cycle for the other Conventions. This would more evenly distribute workloads for constituents and the Office. During the intervals between reports, serious issues relating to the application of standards could still be raised and the supervisory bodies could request early reports, as necessary. The follow-up action taken with respect to reporting obligations, including the strengthening of technical assistance, had had a positive impact, and the IMEC group supported the proposal that a special effort be made to improve the integration of reporting obligations in Decent Work Country Programmes.
25. While welcoming the initiative to review the report forms for the fundamental Conventions, the speaker noted an error in the report form on Convention No. 105, in which question A(d) did not reflect the agreed amendments to the article 19 report form or the current article 22 report form available on the ILO web site. She therefore called for the first part of the question to be deleted. On the report form for Convention No. 29, the information provided in the first paragraph of Part II did not adequately reflect the information in the footnote, which could lead to confusion. The IMEC group supported the continuation of this exercise with the review of the OSH report forms.
26. The IMEC group endorsed the work being done to enhance the impact of the standards system through technical cooperation, as well as the primary goals of the proposed technical cooperation programme outlined in paragraph 52. The IMEC group also welcomed the initiatives to enhance the use of information technology, consolidate and facilitate access to information and increase the visibility of international labour standards. As the projects proceeded, it would be important to address the needs of constituents without reliable Internet access. Efforts should be made to improve the ILO web site to make it more user friendly and the Office should consider offering demonstrations to participants in the Committee on the Application of Standards on how to access information on ILO instruments and supervisory mechanisms.
27. Finally, with respect to paragraph 62, the IMEC group underlined the importance of ensuring that international labour standards remained up to date and relevant. Priority should be given to following up the conclusions of the Cartier Working Party and the establishment of a permanent mechanism to review standards and monitor follow-up. While welcoming the proposal to hold tripartite consultations on standards policy, the IMEC group called for the Office to develop specific proposals for the implementation of the conclusions of the Cartier Working Party, including any that should be considered for future Conference agendas. Subject to the above comments and amendments, the IMEC group supported the point for decision in paragraph 68.
28. The representative of the Government of Brazil supported the continuation by the Office of consultations on standards policy and on the question of the interpretation of Conventions, as well as the organization of a meeting of a tripartite working party of experts to examine Convention No. 158 and Recommendation No. 166. That meeting would undoubtedly clarify the scope of Convention No. 158, and thereby make it easier for Brazil and other countries to ratify it. The speaker also endorsed the adoption of a plan of action to promote ratification of the safety and health instruments, and the promotion of all the fundamental and governance Conventions. Those ratification campaigns required strengthening the Organization's capacity to assist member States in their efforts to eliminate obstacles to ratification, implement Conventions and prepare reports. With regard to the reporting cycle, option 2 was more suitable because it would help to reduce the workload and lead to

more tangible progress in the application of Conventions. The speaker approved the new report forms for Conventions Nos 29 and 105, and viewed the online reporting system and the future unified database platform as positive developments. Lastly, he suggested that the Committee of Experts needed to consider the possibility of presenting a single set of comments for all the reports submitted by a given country.

- 29.** The representative of the Government of France fully endorsed the statement made on behalf of the IMEC group, but had a number of additional observations to make. The Government of France emphasized the coherence of the plan of action, which was part of the overall implementation of the Social Justice Declaration, and welcomed the specific nature of the proposals. The future online reporting system in particular should prove to be very useful for all the constituents, and should make it possible to assess the overall situation in a given country with regard to the application of standards. The transfer of data to a unified platform would provide an overview for each country. At the same time, the Government requested clarification on the proposal to classify standards by strategic objective, and considered that the simulation proposed by the Office would be useful. Lastly, she emphasized that consultations were needed on standards policy, and in particular on the practical arrangements for introducing a mechanism for the revision of standards with a view to keeping them up to date, and on the interpretation of international labour Conventions; she requested more detailed information on the form of those consultations.
- 30.** The representative of the Government of Mexico again drew the Office's attention to the importance of ensuring that the documents were available online in Spanish sufficiently in advance to allow them to be read and analysed. He asked the Office, given the complexity of the paper, to consider the possibility of postponing the examination of the point in question until the following year's meeting. Accordingly, as a preliminary step, he suggested with regard to point (iv) that the Office should continue its efforts to achieve ratification and effective application of a specific group of fundamental Conventions with a view to greater focus and ensuring good results. With regard to the reporting cycle under article 22 of the ILO Constitution, he was in favour of option 2 set out in paragraph 34 of the paper, which would allow governments an opportunity to inform the Organization of significant progress in the application of the fundamental principles and of the governance Conventions, without having to cope with a workload so heavy that it made it difficult to submit reports on time.
- 31.** The representative of the Government of India agreed that international labour standards were essential in eradicating improper labour conditions. It was time to consider the development of new and revised standards and how to keep the existing standards up to date, including through consolidation of instruments, to ensure standards responded to changing political, economic and social developments. Using the example of his own country, the speaker stated that ratification of any instrument was a national governance issue, and the constraints faced by countries in ratifying particular Conventions had to be appreciated. Non-ratification of some of the fundamental or governance Conventions should not be interpreted as non-compliance with the principles enshrined in these instruments. The speaker further supported the proposal to give priority to the promotion of one group of fundamental Conventions, which was a more realistic and flexible approach likely to have a better success rate and he supported the proposal to focus on Conventions Nos 100 and 111. As regards developing a plan of action for achieving the goal of universal ratification of fundamental and governance Conventions by 2015, it was not practical to fix any target or timelines for ratification; instead it was more effective to promote labour standards through regular dialogue and training. The speaker supported the proposals for tripartite consultations, capacity building of constituents and technical cooperation projects for the promotion of labour standards, and supported the holding of a tripartite working group of experts to examine Convention No. 158 and Recommendation

No. 166 in 2010. He furthermore supported the plan of action for the promotion of the OSH instruments in which the regional and country offices should be closely involved. As regards the reporting cycle referred to in paragraph 34 of the document, the speaker was in favour of the second option.

- 32.** The representative of the Government of Italy endorsed the statement made on behalf of the IMEC group and the campaign to promote ratification of the eight fundamental Conventions and four governance Conventions. He also supported the six-year plan of action drawn up by the Office with the aim of achieving a rapid increase in the number of ratifications and effective application of the four governance Conventions at the national level. With regard to the fundamental Conventions, the Government of Italy agreed with the proposal to draw up a plan of action with a view to achieving universal ratification of those Conventions by 2015 and promoting effective action by the ILO to improve their application. It also endorsed the other measures envisaged by the Office. With regard to the matter of streamlining the reporting process in order to strengthen and improve the impact of the supervisory system, it supported the proposal to synchronize the different reporting cycles under articles 19 and 22 of the Constitution with the recurrent reviews. With regard to paragraph 34, he was in favour of option 2. Nevertheless, in the case of the technical Conventions, he supported the amendment proposed by the IMEC group for a six-year rather than a five-year reporting cycle. In view of the significant impact obtained from strengthened technical assistance, he agreed with the proposal for further strengthening of technical assistance to improve compliance with reporting obligations and integration of those obligations in the Decent Work Country Programmes. He agreed with the proposal to continue the review of the report forms. With regard to efforts to strengthen the impact of the standards system through technical cooperation, he supported the proposed technical cooperation programme and the objectives set out in paragraph 52 of the paper. He welcomed the activities and initiatives under way to improve the accessibility of the standards system and enhance its visibility. He endorsed the point for decision with the amendments proposed by the IMEC group.
- 33.** The representative of the Bolivarian Republic of Venezuela said it was important that the paper took account of the Social Justice Declaration as embodying a modern vision of social justice which always had to be seen as a flexible framework that could be adapted to national circumstances. He considered that the methodology of the standards strategy, with its four pillars, was appropriate. The Social Justice Declaration provided an effective stimulus to update standards, and tripartism and broad social dialogue were increasingly relevant to the task of updating standards both at the international and national levels. As a result of the crisis, it was very important to protect workers, and he pointed out that his country had ratified all the fundamental and governance Conventions. In order to overcome the crisis, which, in his view, had not been caused by the developing countries, it was important for all the fundamental and governance Conventions to be ratified. That would signal political goodwill, and herald the transformation that should ensue from the Social Justice Declaration and the Global Jobs Pact, which the Venezuelan Government had supported in 2008 and 2009. He considered that applying Conventions before ratifying them would be an excellent option, and would facilitate ratification. He endorsed the position of the Workers' group with regard to maintaining the current reporting system for Conventions Nos 29 and 105. The Venezuelan Government, which was committed to the safety and health of workers, considered that the plan of action for the ratification and effective implementation of the relevant instruments was an encouraging development. On numerous occasions it had spoken out to denounce the fact that, according to ILO figures in 2007, there were some 300 million occupational accidents every year, including 3 million fatalities. The ILO, in accordance with its fundamental mandate, had to address the problem with the necessary resolve and resources. The speaker agreed with the grouping of Conventions by strategic objective.

34. With regard to the point for decision in paragraph 68, he indicated that his Government was willing to give its approval, but suggested the following wording for clauses (i) and (ii): “invite the Office to make every effort to facilitate, through broad social dialogue, the continuation of consultations on standards policy, and to start consultations on the issue of the interpretation of international labour Conventions; (ii) ... a meeting of a tripartite working group of experts to examine Convention No. 158 and Recommendation No. 166, and to provide sufficient and timely information on the mechanism for appointing the experts in question, and to ensure that they represent the different regions”. With regard to point (iv) of paragraph 68, he considered that it was appropriate to begin with a group of Conventions which should include Convention No. 87, which in his view was the most important of the fundamental Conventions and a “locomotive” for the others and for bringing about the improvements needed in each country.
35. The representative of the Government of China welcomed the fact that the Committee was setting about the task of implementing the strategic plan of action. She considered that it was essential to strengthen the role of standards through technical cooperation, and recalled that standards were dynamic and the implementation process needed to be improved. For that purpose, resources needed to be mobilized. She supported moves to strengthen technical assistance to deal with cases of serious failure to comply with reporting obligations. With regard to the reporting cycle, she said her Government shared the IMEC group’s support for new three-year and six-year cycles.
36. The representative of the Government of Bangladesh, referring to the proposed plan of action to promote the ratification of the fundamental and governance Conventions, raised the question of what such a plan of action would add as the Office already promoted the ratification of the Conventions in question. He agreed with the representative of the Government of India that the target date of 2015 for universal ratification of the fundamental and governance Conventions was not feasible. That date was also the target for the attainment of the Millennium Development Goals (MDGs). He noted the difficulties in gathering together the constituents between the sessions of the Governing Body for tripartite meetings. He expressed strong support for prior consultations on the interpretation of Conventions in 2010, and requested information on the arrangements to be made for this before the March 2010 session of the Governing Body. He agreed with option 2 in the document with respect to reporting cycles and saw merit in the proposed amendment made by the IMEC group. Technical cooperation was a key component in the implementation of the plan of action and every effort should be made to ensure synergies between the proposed technical cooperation programme and the Office’s other technical cooperation activities. In order to optimize the use of resources, emphasis should be placed on the integration of standards-related technical cooperation activities into the framework of Decent Work Country Programmes. Furthermore, as the reporting procedures on international labour standards often involved other ministries, such as ministries of agriculture, they should also be included in the Decent Work Country Programme processes. Finally, with reference to the proposal for a consolidated and user-friendly database on international labour standards, he requested clarification on how this would in practice enhance knowledge of standards. Subject to the above clarifications, he supported the point for decision.
37. The representative of the Government of Australia, supporting the statement made on behalf of the IMEC group, noted that ratification of standards and implementation of standards required different approaches and it was important that plans were actioned in a way that reflected these. The proposed plan of action should have a results-based management framework. Baselines, indicator milestones, targets and outcomes on the community were essential in ensuring that the high aims of an action plan were achieved. The work done thus far by the Office led the Committee very well into further discussions on the bigger issues of how to make the international labour code as effective as possible.

The common starting point was to make standards as effective as possible in line with the Social Justice Declaration. Questions that needed to be asked in this context included: How to make standards both robust and ratifiable? How to ensure that standards were implemented once they were ratified? When should existing standards be updated? What topics were most suitable for new standards? When should the Committee seek to consolidate and simplify standards (as in the case of the Maritime Labour Convention)? How were standards interpreted? In response to globalization, it was critical that the ILO discuss and make progress on maximizing the effectiveness of the international labour code and aligning the standards system and standards policy with the Social Justice Declaration.

- 38.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, expressed support for the priority action to be carried out by the Office in relation to standards policy, as set forth in paragraph 11 of the report. As regards the issue of the quality of the reports, she agreed that technical assistance and capacity building of national administrations was important. However, lack of human and material resources, particularly in view of the impact of the global financial crisis, posed significant challenges to certain member States. While it was one thing to identify inconsistencies in national law and practice, emphasis should be placed on these challenges in a region such as Africa. Regarding the length of the reporting cycle, the Africa group supported option 2, in particular as during the interval between reports any serious issues related to the application of standards could be raised by employers' and workers' organizations and, if needed, supervisory bodies could request early reports. The Africa group was committed to the implementation of Conventions and was aware of its responsibility to report on the level of implementation. The group supported paragraph 53 as regards the development of a technical cooperation programme proposal, and recommended that more resources be made available for NORMES for this. The Africa group aligned its views with the Workers' group and requested that all the standards identified by the Governing Body be covered in the programme. As regards the revision of report forms, the speaker noted that they should be further simplified and supported the view of the Employers' group that informal consultations be held with all constituents before a revised format was presented for approval.
- 39.** The representative of the Director-General, in reply to the questions posed, stressed that the final plan of action was extremely important for the future of the ILO and the ILO standards system. The Office tried to provide the best documents it could but this required time for certain questions. In this respect, the Office had already been engaged in a series of consultations to ensure that all interests and views were addressed, despite having no budget for such consultations. Explicit terms of reference needed to be fixed for future consultations so that the Office had clear guidelines to work with. Concerning standards policy, the ongoing tripartite consultations should provide recommendations on how to proceed with new and existing instruments, including revision, and the manner in which the body of international labour standards (the international labour code) could be enhanced, as pointed out by the representative of the Government of Australia. Based on the outcome of these consultations, a paper would be submitted to the Committee at the appropriate time. With respect to the question on the action plan for fundamental Conventions, this would concentrate not only on ratification but also on improved implementation, and would be addressed in the context of the broader technical cooperation programme. This would enable Conventions concerning freedom of association and equality of opportunity and treatment to also benefit from resource mobilization. As for the technical cooperation programme proposal, the 25 member States that would be the recipients of the programme had not yet been identified. However, they would be chosen taking into account the supervisory bodies' comments, in consultation with national governments and the social partners, and the choice would be demand driven. Referring to the points raised by the Worker Vice-Chairperson concerning deferred files,

she noted that this year the Department had only received 24.9 per cent of the requested reports by the deadline, which over time created a huge backlog of files for the Office and the Committee of Experts to deal with. In response to the statement by the Employer Vice-Chairperson as regards the information on the Department's web site concerning the status of Convention No. 158 and Recommendation No. 166, she indicated that the Office information on these instruments had been updated after the consultations and was available online. Reference was also made on the web page to the ongoing discussions on the status of the instruments, and to the meeting of experts to be held in 2010. Concerning the reporting cycle and the grouping of Conventions, she recalled that the Office had proposed two options in 2007, either to review the reporting cycle or to adopt a country-based approach to reporting. There had been no final outcome to this discussion. As requested by the Governing Body, the document before the Committee provided an evaluation of the grouping of Conventions by subject matter and took into account the adoption of the Social Justice Declaration. Lastly, she noted that the MDGs and the universal ratification of the fundamental Conventions were linked and that the goal of achieving this by 2015 did not include the governance Conventions, promotion of which would require a proactive approach.

- 40.** The Worker Vice-Chairperson stressed the need to implement the conclusions of the Cartier Working Party before attempting to undertake a further review of standards. The Cartier Working Party adopted a number of recommendations, including the promotion of the ratification and implementation of up to date and revised instruments. This objective had never been implemented. Undertaking a further review when the objective of the first review had not even been met would divert attention and take up resources that could be better used elsewhere, in particular in light of the adoption of the Social Justice Declaration and the Global Jobs Pact. The current economic crisis had demonstrated that economic growth needed to be sustainable and balanced and not greed driven. For decades, the ILO had shown how this could be achieved by providing a benchmark through the ratification and implementation of international labour standards. In this respect, she was glad to see that most of the governments agreed on the need for a plan of action to promote ratification and implementation of the fundamental and governance instruments as well as the OSH Conventions. Regarding the reporting cycle, she was not convinced that increasing the cycle to three and six years would facilitate the reporting process. Synchronizing the article 22 reports with the recurrent discussions seemed to be a major challenge. While she respected the views of the Governments with respect to their preference for option 2 in the document, she asked the Office to ensure that Workers' comments made outside of the regular reporting cycle would be taken into account in the year that it was sent and would not be deferred to the next regular examination.
- 41.** The Employer Vice-Chairperson stated that, during the debate, the Governments had, to a certain extent, supported the views expressed by the Employers. The speaker pointed out that everyone – workers, employers and governments - had been affected by the crisis. Oil had been a contributing factor, and efforts should therefore be made to find other sources of energy. He advised caution in assigning blame for the crisis. The ratification of Conventions had not contributed to resolving the crisis, and might have even exacerbated it. Instead of ratifying Conventions, the Office should focus on their application. He welcomed the efforts made by the Office, recalling that the involvement of the social partners was very important.
- 42.** Concerning the different consultations, the representative of the Director-General clarified that consultations on standards policy and interpretation of Conventions would be done in person. Other proposed consultations would be done on an electronic basis. Furthermore, consultations on the plan of action for OSH would be on its content and not on the principle of whether or not a plan of action was necessary. With respect to review mechanisms, she noted that every Convention contained in its standard final clauses a

provision under which, when it was considered necessary, the Governing Body could submit a report to the Conference on the working of the Convention and on the issue of its revision, in whole or in part. There was therefore a mandate for the continuous review of Conventions.

43. Following an exchange of views, the Committee amended the point for decision as follows.
44. *The Committee recommends to the Governing Body that it invite the Office:*
- (a) *to make every effort to facilitate the continuation of the consultations on standards policy, including on how best the working of existing ILO Conventions can be kept under review, and to start consultations on the issue of the interpretation of international labour Conventions;*
  - (b) *based on the approval of the Programme, Financial and Administrative Committee, to make the necessary arrangements for the organization in 2010 of a meeting of a tripartite working group of experts to examine Convention No. 158 and Recommendation No. 166;*
  - (c) *following tripartite consultations, to submit in March 2010 a plan of action for the promotion of the OSH instruments (Convention No. 155, its 2002 Protocol and/or Convention No. 187);*
  - (d) *following tripartite consultations, to submit a plan of action for the ratification and effective implementation of all the fundamental Conventions;*
  - (e) *to take the necessary action to implement option 2 for the article 22 reporting cycle, as outlined in paragraph 34 of document GB.306/LILS/4, and to request the CEACR to examine the criteria on the basis of which it will examine comments received from the social partners outside of that cycle; and*
  - (f) *to seek advice from the tripartite constituents on the need to revise the report forms concerning Convention No. 29 and Convention No. 105 and to report back to the Committee.*

## **General status report on ILO action concerning discrimination in employment and occupation**

(Fifth item on the agenda)

45. The Committee had before it a document<sup>2</sup> on ILO action concerning discrimination in employment and occupation.
46. The Worker Vice-Chairperson welcomed the focus on a range of different forms of discrimination, and not just gender. With regard to gender equality, the continuing gaps between law and practice called for renewed efforts, including in the area of equal

<sup>2</sup> GB.306/LILS/5.

remuneration for men and women for work of equal value. The ILO's work in Chile was a positive example of successful action. Future work on gender equality should assist countries in removing barriers and developing inclusive policies. The four key gender equality Conventions should be promoted through the Decent Work Country Programmes. Reference was also made to Convention No. 131, and the role of minimum wages in supporting equal remuneration.

47. The speaker welcomed the successful conclusion of the Durban Review Conference in April 2009, but was disappointed that important gaps with respect to work-related issues remained in the outcome document, despite the ILO's contributions. She called on the ILO to launch an Office-wide initiative on racial discrimination and decent work. The trade union agreements regarding migrant workers mentioned in paragraph 27 benefited from a model agreement prepared by the Office. ILO technical cooperation regarding indigenous peoples should strengthen the capacity of trade unions to enable them to address issues relating to these groups. In many cases, workers' organizations contributed to the supervision of Convention No. 169 by sending comments to the Committee of Experts. Non-discrimination and equality should be included in the Decent Work Country Programmes.
48. The Employer Vice-Chairperson stressed that action to combat discrimination was indeed an integral part of the ILO's mandate and the Decent Work Agenda. The 2007 conclusions of the Conference on sustainable enterprises had made it clear that discrimination and inequality were incompatible with the very notion of sustainable enterprises. He supported the promotion of measures and practices to create workplaces free from discrimination. However, noting that this issue was also discussed in other contexts, he suggested that the item should be included on the agenda of the Committee only if specific decisions had to be taken.
49. The representative of the Government of the Bolivarian Republic of Venezuela outlined its efforts in addressing discrimination in employment and occupation, which focused on the various groups particularly affected by discrimination.
50. The representative of the Government of the United States welcomed action taken to eliminate discrimination on all the grounds listed in Convention No. 111, as well as the emerging grounds now integrated in the ILO's framework for delivery, and the fact that the Office promoted coherent and integrated action. Her Government had recently reactivated the President's Committee on the ILO and its Tripartite Advisory Panel on International Labour Standards, and ratification of Convention No. 111 was expected to be an early priority.
51. The representative of the Government of Egypt recalled that his country had already ratified the fundamental Conventions on equality, and elaborated the laws and policies in place regarding workers with disabilities, and equal remuneration for men and women and migrant workers.
52. The Committee noted the information in the document and the comments made.

## **Ratification and promotion of fundamental and governance ILO Conventions**

(Sixth item on the agenda)

53. The Committee had before it a paper<sup>3</sup> on the ratification and promotion of fundamental and governance ILO Conventions.
54. The representative of the Director-General indicated that, since the document had been prepared, Burkina Faso had ratified Convention No. 122, bringing the ratification total to 101. The Office had also received additional replies to the campaign letter sent out by the Director-General this year: the Government of Indonesia indicated that provisions, policies and national programmes relating to Convention No. 122 had not been applied thoroughly in all parts of the country, and that the obstacles to ratification of Convention No. 129 included the insufficient number of labour inspectors and the limited infrastructure, and it requested ILO assistance. The Government of Lithuania indicated that no detailed examination of Convention No. 129 with a view to ratification had yet been carried out.
55. The Employer Vice-Chairperson stressed that the fundamental Conventions and the priority Conventions were two distinct categories that could not be promoted in the same way. With respect to the fundamental Conventions, he emphasized that the focus should shift to addressing effective application, drawing on the problems identified by the Committee of Experts. Noting the low ratification rate of Conventions Nos 87 and 98 compared to the other fundamental Conventions, he recommended that the reasons for this be examined, including possible uncertainty regarding the obligations due to the comments of the supervisory bodies. With respect to the priority Conventions, he stated that the focus should be on effective implementation, with ratification being addressed in second place in the plan of action. The promotion of sustainable enterprises and technical assistance in that regard should also be included in the plan of action. The Employers' group, therefore, was not prepared to support the plan of action as it was formulated, and requested that informal consultations take place so that a revised plan of action could be presented to the March 2010 session of the Committee.
56. The Worker Vice-Chairperson expressed concern that 150 ratifications from 54 countries were still needed to reach universal ratification of the fundamental Conventions, and called on those member States to initiate tripartite discussions to pursue ratification as a matter of priority, and on the social partners to increase their action in this regard. She stressed that further efforts were needed to ratify these Conventions in the context of the financial crisis. The Workers' group regretted the low ratification rates of Conventions Nos 87 and 98, particularly evident in the Asian region. Noting that a reason cited by many developing countries for not ratifying fundamental Conventions was that they had not been ratified by major industrialized countries, the speaker welcomed the indications given to the Committee that the United States was giving priority to the early ratification of Convention No. 111. Acknowledging that ratification alone was not sufficient, she did not believe this should be a barrier to promoting ratification, and called on the Office to provide support to countries having difficulties in ratifying and implementing Conventions, urging that more resources be given to NORMES to coordinate this task. They supported the plan of action, calling for a particular focus on labour inspection, as this aspect had been weakened in the financial crisis. The Workers' group supported the point for decision.
57. The representative of the Government of Austria, speaking on behalf of the IMEC group, called on the countries that had not yet ratified all the fundamental Conventions to do their

<sup>3</sup> GB.306/LILS/6(&Corr.).

utmost to do so. She asked the Office to continue to monitor the situation regarding fundamental and governance Conventions, and to share this information with the Governing Body on a regular basis, and stressed the importance of awareness raising. The IMEC group supported the point for decision, subject to an amendment to the plan of action by replacing the words “establishment of national tripartite committees” by “establishment of national tripartite structures”.

- 58.** The representative of the Government of the United States, referring to paragraphs 48 and 51 of the document, clarified that, in 2005, the Government had indicated that ratification of Conventions Nos 81 and 129 was not under consideration at that time. However, as steps were now being taken to reinvigorate the President’s Committee on the ILO and its Tripartite Advisory Panel on International Labour Standards, Convention No. 81 would be a good candidate for review.
- 59.** The representative of the Government of India expressed his Government’s commitment to ratifying the fundamental and governance Conventions, and emphasized the importance of awareness raising and capacity building. However, he considered that the timeline set out in the plan of action was not practical, as it did not take into account national circumstances.
- 60.** The representative of the Government of Nigeria, on behalf of the Africa group, stressed the importance of implementation of fundamental Conventions, taking into account national circumstances, and called on more technical assistance to be provided to the region. The Africa group supported the point for decision on this understanding.
- 61.** The representative of the Government of Zambia emphasized the difficulties in giving effect to ratified Conventions due to lack of capacity, which needed to be addressed in the context of the campaign, in particular with respect to ILO technical assistance in the informal economy. Her Government would soon embark on consultations with a view to ratifying Conventions Nos 81 and 129, and she supported the point for decision.
- 62.** The representative of the Government of Canada, referring to paragraph 45 of the document, stated that the process of consultations with the provinces and territories on Convention No. 81 had not yet taken place, however a tripartite round table was scheduled in the new year to examine those Conventions that had not yet been ratified.
- 63.** The representative of the Government of Italy expressed support not only for the plan of action, but also for the strategic approach to universal ratification of the fundamental Conventions as set out in paragraph 8 of the document.
- 64.** The representative of the Director-General noted that, while the communication to governments on the two groups of Conventions had been combined to streamline the process, the document addressed the fundamental and governance Conventions separately, taking into account the different nature of these Conventions. She pointed out the emphasis given to the promotion of the fundamental Conventions and the governance instruments in the Social Justice Declaration and in the Programme and Budget for 2010–11. The plan of action would support the indicators in the programme and budget and would be used to mobilize resources for ratification and implementation once a country had ratified, guided by the comments of the supervisory bodies. She indicated that the plan of action would be revised based on the comments of the Committee.
- 65.** The Employer Vice-Chairperson supported the point for decision, on the understanding that the concerns of the Employers’ group were taken into account.

**66. The Committee recommends that the Governing Body:**

- (a) take note of the information contained in document GB.306/LILS/6(&Corr.);*
- (b) approve the proposed plan of action contained in the appendix, making any adjustments that are deemed necessary; and*
- (c) keep this subject on the agenda of the Committee on Legal Issues and International Labour Standards with a view to following the progress made.*

**Maritime Labour Convention, 2006**

(Seventh item on the agenda)

**Form for reports on the application of ratified Conventions (article 22 of the Constitution)**

- 67.** The Committee had before it a paper<sup>4</sup> concerning the form for reports on the application of ratified Conventions (article 22 of the Constitution) for the Maritime Labour Convention, 2006 (MLC, 2006).
- 68.** The representative of the Director-General introduced the paper and explained that the appendix contained an illustrative example setting out ideas for a report form for the MLC, 2006. The Office had sought to combine the best of the old with new, innovative approaches, just like the Convention. The aim was to lighten the reporting burden for governments by making efficient use of the information already provided by them, in accordance with the Convention. For instance, in 14 areas, Members would be able to refer to the information contained in the Declaration of Maritime Labour Compliance (Parts I and II) by ticking a box. Similarly, information included in the sample of the seafarers' employment agreement would not have to be repeated. She asked whether the Committee agreed with the approach of the report form and whether it appeared sufficiently clear.
- 69.** The Employer Vice-Chairperson appreciated and welcomed the fact that the Office had preferred to present its ideas to the LILS Committee for debate before submitting a proposal for a complete report form. He was aware of the difficulties involved, which justified a departure from the traditional format used for such reports. He considered it judicious and necessary for any Committee discussion on that issue to be preceded by in-depth consultations with representatives appointed by the International Shipping Federation and the International Transport Workers' Federation (ITF).
- 70.** The Worker Vice-Chairperson stated that, because of the length and complexity of the Convention, the Workers' group could support the simplified approach for submitting reports. Her group had consulted their colleagues in the ITF, who supported the proposal. It was likely that most ships would carry a Maritime Labour Certificate or a Declaration of Maritime Labour Compliance (DMLC), which set out how the countries had implemented the MLC, 2006. Using the DMLC provided an acceptable way of examining how a government had implemented the Convention and would enable the supervisory system to check that the country was in line with the provisions of the MLC, 2006. The forms,

<sup>4</sup> GB.306/LILS/7/1.

although being simplified, would still elicit relevant information for the supervisory system to monitor compliance.

71. The representative of the Government of France, speaking on behalf of the IMEC group, welcomed the Office's proposal to design a report form that retained the innovative approaches reflected in the Convention itself. The document rightly pointed out the distinctive features of the MLC, 2006, which justified a departure from the traditional format of report forms. To facilitate the task of reporting it was necessary that the information included in the DMLC was taken into account. The IMEC group welcomed the possibility to complete the report form electronically. It was, however, difficult to provide detailed comments during this meeting on whether the proposed form addressed these concerns. It would, therefore, be useful if the constituents could send comments on editorial details to the Office until the March 2010 Governing Body meeting, preferably through a secure access web site at the ILO.
72. The representative of the Government of India emphasized that his country, as an important flag State, port State and labour-supplying State, supported the promotion of this important Convention. Concerning the report form he regretted, however, to be unable to convey his Government's final views on it, since consultations with the relevant ministry were still ongoing. The comments would be communicated to the Office in due course.
73. The representative of the Director-General stated that the Office welcomed the comments from constituents on the approach taken to the report form for the MLC, 2006. Comments would be taken on board to ensure that constituents felt comfortable with the complete report form, to be submitted to the Committee in March 2010. She noted that the Office would provide for a web site enabling constituents to comment electronically.

### **Preparation for entry into force**

74. The Committee had before it a document<sup>5</sup> concerning the preparation for entry into force of the MLC, 2006.
75. The Worker Vice-Chairperson welcomed the proactive proposal. Based on the Office's assessment that the requirements for entry into force of the MLC, 2006, could be met by the end of 2010, she hoped that this Convention would bring about positive changes to the maritime industry by reducing the decent work deficit of many seafarers and ensuring the enforcement of internationally recognized minimum standards on board ships. In adopting the MLC, 2006, the International Labour Conference's Maritime Session agreed to establish a special tripartite committee to keep the working of the Convention under continuous review. She concurred with the view expressed in the document that it was necessary to establish a preparatory special tripartite committee before the MLC, 2006, entered into force. She therefore supported the point for decision.
76. Referring to the Office's statement that 25 countries would ratify the Maritime Labour Convention by 2010, the Employer Vice-Chairperson indicated that, unless those expectations were based on clear and specific facts, it seemed premature to propose the creation of a preparatory committee. Nonetheless, he would support the proposal, on condition that 25 ratifications were registered in 2010 and that it was financed by external donors, rather than out of the regular budget.

<sup>5</sup> GB.306/LILS/7/2.

77. The representative of the Government of France, speaking on behalf of the IMEC group, emphasized the importance and complexity of the mechanisms to be put in place to ensure the implementation of the MLC, 2006. Although the conditions for the entry into force of the Convention would probably be fulfilled in 2010, the Convention required Members to take important preparatory measures well before its entry into force. It was her group's understanding that as member States moved forward with preparing for the implementation of the MLC, 2006, a number of difficulties in interpretation and application to particular sectors had arisen which would be best dealt with by a preparatory tripartite MLC, 2006, committee, modelled on the future special tripartite committee under Article XIII. The IMEC group, however, wished to clarify the terms of reference of the mandate of this committee, as laid down in paragraph 6(a)(i) of the document. The speaker suggested adding wording to paragraph 6(a)(i), to read: "(i) keep under review the preparations by Members for implementing the MLC, 2006, *identify any common issues* and prepare the work for the future special tripartite committee on any questions that might need to be dealt with as a matter of urgency after entry into force of the Convention, including the rules of procedure of the committee". Subject to acceptance of this amendment, the IMEC group supported the points for decision in paragraph 6(a) and (b).
78. The representative of the Government of the Russian Federation indicated that her country continued to make efforts to bring national legislation into line with the MLC, 2006. She believed that the suggested approach to prepare the entry into force was necessary, in the form of the proposed preparatory tripartite MLC, 2006, committee, and would enable all member States to effectively implement the Convention. She supported the point for decision.
79. The representative of the Government of Mexico considered that, although the creation of a preparatory committee would facilitate social dialogue, there were concerns that establishing such a committee might result in duplication of functions, as those matters could already be addressed through ILO technical assistance. Such assistance was provided for under the Action Plan 2006–11. Among other things, the Office should provide more information concerning the committee's budget, functions, remit and decision-making capacity, as its operation would be limited to two meetings.
80. The representative of the Director-General highlighted that the Action Plan 2006–11 to achieve rapid and widespread ratification and effective implementation of the MLC, 2006, had been adopted following the recommendation of the constituents, and all indicators and targets according to the timeline had been exceeded to date. The Office had provided unprecedented assistance to member States as part of that Action Plan through, inter alia, legislative reviews, inspection guidelines and training. She stressed that member States were obliged to partly implement the MLC, 2006, before its entry into force, in particular as regards flag State inspection and certification. Furthermore, tripartism was a prerequisite for exercising flexibility when implementing the Convention. Where national tripartite organizations did not exist, flexibility could only be exercised through the special tripartite committee. While this committee could only be set up after the entry into force of the Convention, many problems that States were facing in their preparations for ratification could be resolved in a preparatory committee. She referred to the European Community's call on all its Members to ratify the MLC, 2006, before the end of 2010, as well as to preparatory steps towards ratification undertaken by 48 other Member States. Finally, she informed the Committee that the Programme, Financial and Administrative Committee had already approved the funding for the establishment of the proposed preparatory tripartite MLC, 2006, committee.
81. Following the explanations given by the Director of NORMES, the Employer Vice-Chairperson expressed his support for the amendments proposed by the

representative of the Government of France, who had taken the floor on behalf of the IMEC group.

82. The point for decision in paragraph 6 of the Office document was adopted as modified by the IMEC group.
83. *Therefore, notwithstanding Article XIII of the MLC, 2006, as the governments of ratifying Members are called upon to undertake significant implementation before entry into force, particularly in order to have already phased in the certification of certain ships by that date, the Committee recommends that the Governing Body:*
- (a) invite the Office, based on the approval of the Programme, Financial and Administrative Committee, to make the necessary arrangements for a “preparatory tripartite MLC, 2006, committee”, modelled on the future Article XIII special tripartite committee, which would:*
    - (i) keep under review the preparations by Members for implementing the MLC, 2006, identify any common issues and prepare the work for the future special tripartite committee on any questions that might need to be dealt with as a matter of urgency after entry into force of the Convention, including the rules of procedure of the committee;*
    - (ii) meet at least once during 2010 and once during the 12-month period following deposit of the 30th ratification; and*
    - (iii) be open to governments of any interested member States and include up to ten representatives nominated respectively by the International Shipping Federation and the International Transport Workers’ Federation;*
  - (b) instruct the Office to provide funding for the participation at meetings of the committee of ten representatives nominated by the Shipowners’ and Seafarers’ groups of the Joint Maritime Commission, respectively. There would be no limitation on the number of interested seafarers or shipowners that chose to participate at their own expense.*

**Joint ILO–UNESCO Committee of Experts on  
the Application of the Recommendations  
concerning Teaching Personnel (CEART):  
Report on allegations submitted by  
teachers’ organizations  
(Eighth item on the agenda)**

84. The Committee had before it a paper <sup>6</sup> providing background on the CEART and summarizing key points on the extracts of the report of the CEART’s Tenth Session (Paris, 28 September–2 October 2009) on allegations presented to it by teachers’ organizations

<sup>6</sup> GB.306/LILS/8(&Corr.).

concerning the international Recommendations on teachers. The paper proposed a point for decision to take note of these parts of the report and to transmit it to the governments and teachers' organizations of the countries concerned for their appropriate follow-up action.

85. The Worker Vice-Chairperson noted that the Office paper was not controversial and supported the point for decision.
86. The Employer Vice-Chairperson expressed objections to some of the language used in the report of the CEART, notably reference to "allegations" and "violation" in paragraphs 1 and 3 of the Office paper. There were no "allegations", rather these were complaints and should be labelled as such. There could be no "violation" of a non-binding instrument. In regard to the 1997 Recommendation, if UNESCO wished such an instrument to be legally binding, it should consider the adoption of a Convention. He supported the point for decision.
87. The representative of the Government of Japan expressed his appreciation for the dedication shown by members of the CEART and its secretariat in following the matters concerning Japan over the years. While respecting the spirit of the Recommendation concerning the status of teachers, the Government had moved forward with policies on the issues in question that fitted with the country's actual situation and legislation. Measures had been taken to ensure that the systems, referred to in the allegations presented by the All Japan Teachers and Staff Union (ZENKYO), were fair and appropriate. His Government's preliminary remarks concerned the recommendations contained in Annex 2, section B.3, of the CEART report. In relation to paragraph 9, he considered that it would be useful to have the knowledge of the ILO and UNESCO as necessary. With regard to paragraph 10, the Recommendation was clearly understood by all concerned parties. In relation to paragraph 11, Prefecture Boards of Education that participated in dialogue with the CEART fact-finding mission in 2008 had received the CEART 2008 interim report and the report of the mission. His Government also intended to notify the boards of education of the current CEART report. Concerning paragraph 12, his Government was prepared to update the Joint Committee on the situation in Japan, as necessary, if so requested, and would consider the appropriate recommendations to be made concerning these points. His Government continued to respect the spirit of the Recommendation, while its foremost priority was for the welfare of all children who constituted the driving force of Japan's future, and intended to proceed in a way that was adapted to Japan's situation and its legal system.
88. Noting the comments made by the representative of the Government of Japan, the Committee approved the point for decision contained in paragraph 7 of the Office paper.
89. ***The Committee recommends that the Governing Body:***
- (a) ***take note of the relevant parts of the report of the Tenth Session of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel relating to allegations on the non-observance of certain provisions of the ILO–UNESCO Recommendation, 1966, in Ethiopia and Japan, and the UNESCO Recommendation, 1997, in Australia and Denmark;***
- (b) ***authorize the Director-General to communicate the report to the Governments of Australia, Denmark, Ethiopia and Japan and to the National Tertiary Education Union of Australia, the National Teachers' Association (formerly Ethiopian Teachers' Association), Education International, the All Japan Teachers and Staff Union (ZENKYO), Nakama***

*Union and other representative teachers' organizations in Japan, and to invite them to take the necessary follow-up action as recommended in the report.*

Geneva, 17 November 2009.

*Points for decision:* Paragraph 44;  
Paragraph 66;  
Paragraph 83;  
Paragraph 89.