

Governing Body

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Legal Issues and International Labour Standards Section

LILS

Minutes of the Legal Issues and International Labour Standards Section

Contents

	Page
International Labour Standards and Human Rights Segment.....	3
1. Report of the sixth meeting of the Standards Review Mechanism Tripartite Working Group (Geneva, 13–18 September 2021) (GB.343/LILS/1).....	3
Decision.....	8
2. Choice of Conventions and Recommendations on which reports could be requested under article 19, paragraphs 5(e) and 6(d), of the ILO Constitution in 2023 (GB.343/LILS/2).....	9
Decision.....	12
3. Procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations (GB.343/LILS/3)	12
Decision.....	22
4. Fourth meeting (Part I) of the Special Tripartite Committee established under the Maritime Labour Convention, 2006, as amended (19–23 April 2021): Report of the Chairperson (GB.343/LILS/4)	23
Decision.....	23
Summary of the written comments received during the consideration of the item by correspondence	25

Legal Issues Segment 26

5. Proposed agreement between the International Labour Organization
and the International Civil Aviation Organization and proposed
agreement between the International Labour Organization
and the African Union (GB.343/LILS/5)..... 26

Decision..... 26

Summary of the written comment received during the consideration
of the item by correspondence 26

International Labour Standards and Human Rights Segment

1. Report of the sixth meeting of the Standards Review Mechanism Tripartite Working Group (Geneva, 13–18 September 2021)

(GB.343/LILS/1)

1. **The Chairperson of the Standards Review Mechanism Tripartite Working Group (SRM TWG)** said that the SRM TWG's sixth meeting had been held in September and had reviewed five instruments related to social security. It had considered the follow-up to be taken on five further social security instruments that had previously been determined to be outdated and had proposed specific time-bound and practical packages of follow-up action. The Chairperson had been impressed by the commitment of the SRM TWG's members and a shared sense of responsibility. The follow-up recommendations were complementary, interrelated and mutually reinforcing measures. The Governing Body was also recommended to follow up on gendered language in the social security instruments.
2. The SRM TWG had not been able to reach consensus on all the instruments examined, and some instruments had therefore retained their previous status. The Employment Promotion and Protection against Unemployment Convention (No. 168) and Recommendation (No. 176), 1988, remained up to date, and the Unemployment Provision Convention (No. 44) and Recommendation (No. 44), 1934, were outdated. Guidance from the Governing Body would be welcome, including on the date for the SRM TWG's seventh meeting. It had been suggested that the seventh meeting should consider instruments relating to employment injury, and continue its discussions on standards policy, including the possibility of simplifying the process for the review and regular updating of international labour standards, and ways of encouraging ratification, particularly of standards that had revised older standards.
3. **The Worker spokesperson** said that the SRM TWG meeting had highlighted the centrality of social protection in the current and future world of work, particularly in the light of the COVID-19 pandemic. The Workers' group emphasized the importance of the follow-up envisaged for the Social Insurance (Agriculture) Recommendation, 1921 (No. 17), since the SRM TWG had recognized that agricultural workers were often excluded from social security coverage in law or in practice.
4. The Workers' group had stood ready, together with the Government representatives, to recommend a comprehensive package of measures on the four instruments on unemployment benefits, recognizing Convention No. 168 and Recommendation No. 176 as up to date. The Employers' group, however, had not joined that consensus. Its key argument had been that Convention No. 168 could not be considered up to date due to a low rate of ratification. She reiterated that the rate of ratification had not been – and could not be – accepted as a relevant criterion for determining whether a standard was up to date. As had been pointed out by the Committee of Experts and several governments during the meeting, Convention No. 168 remained very relevant and provided guidance to countries wanting to adopt social security measures, even if Member States had not ratified it. The Office had confirmed during the meeting that Convention No. 168 served as a point of reference to guide Member States who had asked for assistance to modernize their social security systems. Governments, responsible for ratification of Conventions, were strongly in favour of considering Convention No. 168 up to date. The Employers' group had proposed a compromise based on the temporary maintenance of the up-to-date status of those instruments,

which would have created legal uncertainty for Member States, posed additional obstacles to ratification and introduced a new classification for instruments contrary to that adopted by the SRM TWG earlier. The subsequent proposal by the Employers' group to take into account only some elements of the follow-up package proposed by the Workers and Governments, without providing clarity on the up-to-date nature of Convention No. 168 and Recommendation No. 176, would have created confusion and been counterproductive.

5. The abrogation and withdrawal of outdated Conventions and Recommendations should take place only after countries had been given time, with the support of the Office, to ratify related more up-to-date instruments, in order to avoid gaps in legal protection. Workers would lose the protection provided by the ILO supervisory system if a Convention was abrogated without ratifications of it being replaced by ratifications of newer instruments. The Workers' group had therefore always supported SRM TWG recommendations for follow-up as a package of interconnected, complementary and mutually reinforcing elements. Setting an abrogation date for Convention No. 44, while casting doubt on the continued relevance of Convention No. 168 and Recommendation No. 176, which had been adopted to revise Convention No. 44, would create legal uncertainty and obstacles to ratification, and ultimately lead to gaps in workers' protection. That contradicted the aims of the SRM TWG to ensure a robust and up-to-date body of standards.
6. She had indicated during the sixth meeting of the SRM TWG that she would need to consult the Workers' group prior to agreeing on the date of the following meeting. The unfortunate outcome of the sixth meeting was a cause for concern and had a detrimental effect beyond the discussion on those specific instruments. While never easy, discussion at the SRM TWG required the good faith commitment of all groups to achieve consensus on action aimed at strengthening international labour standards. Her group would continue to measure the success of the SRM TWG in terms of its capacity to adopt new standards for identified gaps in protection, to support up-to-date standards and their ratification, and to avoid the creation of protection gaps as a consequence of withdrawal or abrogation of outdated instruments. Any further attempt by the Employers to disqualify and challenge standards that were clearly up to date for no other reason than a low ratification rate would be considered as seriously undermining the agreed aims of the SRM TWG and would lead her group to reconsider its commitment to participate in it.
7. **The Employer spokesperson** underscored that ensuring that the ILO had a clear, robust and up-to-date body of standards required considering how to simplify standards and ensure that they were balanced, universally relevant, broadly ratified and implemented, and able to be effectively supervised in a balanced manner. Consensus was different from unanimity. The failure to classify Convention No. 168 and Recommendation No. 176 as up to date was not a setback for the SRM TWG's work, but rather was evidence of the complexity of the matters addressed and the serious efforts to reach consensus decisions to ensure the fulfilment of the SRM TWG mandate. Achieving consensus required listening and creativity. In situations where consensus was not possible, it was important that the report to the Governing Body accurately reflected the divergent views, as well as proposals for decisions discussed within the SRM TWG, so that the Governing Body could take its own decision. It would be useful for the SRM TWG to take greater responsibility for the drafting of its recommendations, and for its members to draft the conclusions themselves instead of working on the basis of the text prepared by the Office.

8. He drew attention to the specific relationship between the SRM TWG and the Governing Body, and the fact that there was no automatic mechanism to guarantee that the Group's recommendations would always be accepted by the Governing Body. Obsolete instruments should be abrogated or withdrawn as soon as they were classified as such and it was clear that they were no longer relevant. The abrogation of an obsolete Convention would not necessarily nor automatically result in a gap in legal protection in countries that had ratified the Convention in question. The Employers' group considered that there was confusion in the SRM TWG's discussions and documents over the terms "gap in coverage" and "gap in protection", which had different meanings, and which related to the body of ILO standards and domestic legislation, respectively. His group supported the draft decision.
9. **Speaking on behalf of the Government group**, a Government representative of the Philippines welcomed the fact that it had been possible to hold the sixth meeting of the SRM TWG virtually. However, he hoped that in-person meetings would be resumed as soon as possible, given that face-to-face exchanges were crucial in complex negotiations. It was regrettable that the SRM TWG had been unable to agree on recommendations regarding some of its agenda items. The Government group would continue to work proactively with the social partners to find common ground and reach agreements that could be accepted by all constituents. It attached great importance to the continuity of the SRM TWG's work in reviewing the ILO's body of standards. The Governing Body should remain committed to ensuring appropriate follow-up on the recommendations of the SRM TWG, including in particular Office efforts to provide timely, effective and tailored technical assistance to Member States, in particular those willing to ratify up-to-date labour standards. He supported the draft decision.
10. **Speaking on behalf of the Africa group**, a Government representative of Cameroon, with reference to the regrettable lack of consensus at the meeting, said that social dialogue and tripartism were appropriate means to overcome any difficulties that might arise, and to reach consensual solutions that would increase the relevance of the ILO's work. The Office should continue to provide effective technical assistance to all States wishing to ratify and implement ILO Conventions. He endorsed the draft decision.
11. **Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC)**, a Government representative of Chile encouraged all constituents to continue to contribute to the work of the SRM TWG. He recalled that a government spokesperson had been appointed in recent years to separate chairing duties from the role of representing governments, in the interest of maintaining neutrality. Given the potential for governments to take a proactive role in consensus-building within a tripartite structure, the early inclusion of the government spokesperson in the recommendation drafting process could be helpful to achieve tripartite consensus. His group supported the draft decision.
12. **Speaking on behalf of the group of industrialized market economy countries (IMEC)**, a Government representative of the United Kingdom of Great Britain and Northern Ireland said that while the achievements of the SRM TWG had had far-reaching institutional impact and were important to the development of labour standards, significant work remained. Several instruments still needed to be reviewed and efforts were required to ensure the efficient and effective implementation of its recommendations. Failure to reach consensus on the unemployment benefit instruments should not deter the SRM TWG from working towards fulfilling its mandate and completing its remaining tasks while striving for consensus on topics in the future. A low ratification rate did not necessarily indicate that a standard was not up to date and

therefore should not be used as the criterion for determining the status of instruments. Although discussions in the Group were intense and difficult at times, they bore fruit. The work of the SRM TWG was especially relevant in the context of the COVID-19 pandemic as labour standards were a trusted foundation for policy responses focused on a sustainable and equitable recovery. Keeping the standards up to date was more necessary than ever. She welcomed the request for a background paper on the implications of gendered language in certain social security standards for discussion at future Governing Body sessions. IMEC fully supported the draft decision.

- 13. Speaking on behalf of the Asia and Pacific group (ASPAG)**, a Government representative of Saudi Arabia requested the Office to provide clarification on its next steps with regard to the SRM TWG's failure to reach consensual recommendations on all the instruments it had reviewed at the sixth meeting, as that might affect progress in its initial programme of work. He noted that inclusion of the Government spokesperson early in the recommendation drafting process would be helpful for arriving at tripartite consensus. His group was concerned at the impact of the limited frequency of the SRM TWG's meetings on its ability to review all instruments within the allocated time. It was therefore important to continue to fund the follow-up to the SRM TWG's work within the existing resources. Poor ratification of some international labour standards did not reduce their importance, nor their ability to support constituents. The Office was encouraged to develop a more effective plan to promote the ratification of standards, including timely, effective and tailored technical assistance to Member States. ASPAG endorsed the draft decision.
- 14. Speaking on behalf of the European Union (EU) and its Member States**, a Government representative of Slovenia said that Albania, Serbia, Iceland, Norway and Switzerland aligned themselves with her statement. The far-reaching institutional impact of the achievements of the SRM TWG had engendered opportunities for tripartite discussions and thorough research on the status and promotion of instruments, and progress had been made in the review of several instruments at its most recent meeting. She supported the draft decision and welcomed the request to the Office to prepare a background paper on the implications of gendered language in certain ILO social security instruments to be discussed by the Governing Body, but expressed regret that consensus had not been reached on the instruments concerning unemployment benefits, including Convention No. 168, especially in the current environment.
- 15.** At its most recent meeting, some SRM TWG constituents had suggested using the ratification rate of Conventions to determine their status. However, it would be more appropriate to evaluate the relevance of an instrument's content to the world of work and then determine and address the reasons for low ratification in order to promote further ratification. She therefore encouraged the Office to conduct more robust research to mitigate potential barriers to ratification and called for continued constructive engagement to achieve consensus in challenging circumstances.
- 16. A representative of the Director-General** (Director, International Labour Standards Department), responding to a question from ASPAG, said that the SRM TWG would continue to follow its initial programme of work as adopted, meaning that the review of instruments not yet addressed would not be affected by the absence of consensus on one instrument. That instrument would retain its current classification, and the divergent views of constituents would be included in the meeting report.
- 17. The Worker spokesperson** thanked the Government group for its interventions regarding the criteria to be used in determining the status of Conventions. She emphasized that the view of the Employers' group that ratification rates and the

simplification of standards were criteria relevant in a determination of the status of Conventions was inconsistent with the terms of reference of the SRM TWG and not part of the SRM TWG's joint approach, as was the suggestion that divergent views should be submitted for discussion by the Governing Body. She also disagreed with the view that the work of the SRM TWG should not be guided by the Office, which provided thorough and indispensable support.

18. Once ratified, Conventions had an importance beyond that specific moment in time. Abrogation was therefore difficult: a Convention ratified by a government was binding on successive governments of that country until and unless one of them denounced it. Failure to replace ratification of an abrogated Convention with ratification of a more modern instrument would pose a risk to the maintenance of labour conditions in the country if a future government, untethered to the ratification of a relevant Convention, passed legislation that did not uphold those same labour standards. Convention No. 168 was the successor to Convention No. 44; ratification of the former automatically led to denunciation of the latter. It was therefore difficult to address the abrogation of Convention No. 44 without also addressing the promotion of Convention No. 168.
19. Her group was ready to accept the proposed dates for the seventh meeting of the SRM TWG on the understanding that time would not be given to the consideration of ratification rates as a measure of the relevance of an ILO instrument.
20. **The Employer spokesperson** said that he was pleased that consensus had been reached on the draft decision. He reiterated his group's appreciation of the SRM TWG and its commitment to providing the ILO with modern, simplified and clear standards for the benefit not just of ILO Member States which might ratify them, but also academics and members of the judiciary and civil society.
21. It was important to ensure that the most modern ILO standards had broad coverage and to support Member States in complying with ratified instruments, even if only partially. However, that did not mean that older standards were no longer relevant. For that reason, his group had repeatedly proposed objective criteria that could support the SRM TWG's discussions, although no conclusion on those proposals had ever been reached. One such criterion was the ratification rate of a given instrument; technical discussion of the content of a standard was irrelevant without analysing how that content was put into practice on the ground. ILO instruments did not need to remain in force until Member States that had ratified that instrument had committed to ratify more recent, latest generation instruments. He therefore invited the Workers' and Government groups once again to consider objective criteria to facilitate discussions and the reaching of conclusions. It was natural for different groups to hold divergent opinions, but it was also important to listen to others and work creatively to draft recommendations that could achieve the desired consensus.
22. He had been pleased to hear governments express their wish to participate more actively in the SRM TWG's work. In other ILO bodies, such as the Committee on the Application of Standards, agreement had been reached on how conclusions should be prepared. He urged constituents to consider whether it was necessary to have the Office draft conclusions for consideration by the SRM TWG.
23. Although the SRM TWG had originally been requested to discuss the possibility of gaps in coverage, that was completely different to gaps in protection, which were national. Since there was no evidence that a gap in protection would immediately result from an instrument being deemed obsolete, there was no reason to wait several years to abrogate it, given the speed at which the world was changing and the importance of

having a strong, up-to-date body of standards. While it would be important to help governments to align their national legislation with developments in labour standards, Member States could not be forced to ratify Conventions. He requested the Chairperson of the SRM TWG to provide more guidance on how constituents could reach consensus at the following meeting.

Decision

24. The Governing Body took note of the report of the Officers concerning the sixth meeting of the Standards Review Mechanism Tripartite Working Group (SRM TWG) and, in approving its recommendations:

- (a) thanked the SRM TWG for undertaking its review of the instruments in question and regretted that it was not able to reach consensual recommendations on the review of all the instruments on the agenda at its sixth meeting;
- (b) decided that the instruments concerning social security that were reviewed by the SRM TWG should be considered to have the classifications it had recommended;
- (c) called upon the Organization and its tripartite constituents to take concerted steps to follow up on all its recommendations as organized by the SRM TWG into practical and time-bound packages of follow-up action, noting in particular plans of action encouraging States party to the Sickness Insurance (Industry) Convention, 1927 (No. 24), and the Sickness Insurance (Agriculture) Convention, 1927 (No. 25), to ratify related up-to-date Conventions;
- (d) requested the Office to take the necessary follow-up to the recommendations of the SRM TWG at this and previous meetings as a matter of institutional priority;
- (e) noted that certain follow-up required actions by the Governing Body to be discussed at the earliest possible session in relation to:
 - (i) the SRM TWG's recommendations concerning the abrogation and withdrawal of certain instruments, it will consider placing on the agenda of the 118th Session (2030) of the International Labour Conference an item concerning the abrogation of the Conventions Nos 24 and 25 and the withdrawal of the Sickness Insurance Recommendation, 1927 (No. 29); and
 - (ii) the SRM TWG's recommendation that Office work on the application of social security to agricultural workers should be carried out in the context of the forthcoming Plan of action on social protection (social security) to follow up on the 2021 Conference conclusions on the recurrent discussion;
- (f) requested the Office to prepare a background paper providing information on the implications of gendered language used in certain provisions of ILO social security standards, and in particular of the Social Security (Minimum Standards) Convention, 1952 (No. 102), to be placed on the agenda of the Governing Body for discussion at the earliest possible date with a view to deciding on appropriate follow-up actions;
- (g) decided to convene the seventh meeting of the SRM TWG from 12 to 16 September 2022, at which it should review the one instrument concerning

employment injury and examine the follow-up to the six outdated instruments in that topic within set of instruments five of the initial programme of work, and discuss certain matters of standards policy; and

- (h) **decided that the cost of the SRM TWG estimated to cost up to US\$957,500 would be financed in the first instance from savings that might arise under Part I of the budget for 2022–23 or, failing that, through the use of the provision for unforeseen expenditure, in Part II. Should that not prove possible, the Director-General would propose alternative methods of financing at a later stage in the biennium.**

(GB.343/LILS/1, paragraph 6)

2. Choice of Conventions and Recommendations on which reports could be requested under article 19, paragraphs 5(e) and 6(d), of the ILO Constitution in 2023 (GB.343/LILS/2)

- 25. The Worker spokesperson** said that on the understanding that a new cycle of recurrent discussions under the ILO Declaration on Social Justice for a Fair Globalization would start in 2025 with social dialogue, her group supported the second option.
- 26.** A General Survey of the Labour Administration Convention, 1978 (No. 150), and the Labour Administration Recommendation, 1978 (No. 158), would, crucially, show the role that national labour administration systems needed to play in ensuring a human-centred recovery from the COVID-19 crisis that was rights-based, inclusive, sustainable and resilient, and would also allow for a stocktake of the role that the social partners had played in responding to the pandemic and the role that they must play in building back better. The need stressed in Convention No. 150 for labour administration systems to formulate, implement and supervise national labour standards was particularly relevant in a post-pandemic world of work, and the General Survey would allow for a timely assessment of the functioning of labour administration systems. In addition, it would help to highlight the significant challenges faced by Member States with less formalized or developed labour markets and provide a global picture of how labour administration bodies were reviewing national employment policies, regulations and laws, which was crucial in addressing the need to accelerate the creation of decent jobs alongside safeguarding workers' rights to protect them from the vulnerabilities brought about by the pandemic. Furthermore, the General Survey would be helpful in identifying obstacles to ratification and providing guidance on overcoming those obstacles in the light of the developments in the area of labour administration in several Member States since 1997, the date of the most recent General Survey on Convention No. 150 and Recommendation No. 158. It would also support the participation of workers and employers in social dialogue and the handling of national labour policies.
- 27.** Her group preferred the second option because the first option did not offer added value in identifying obstacles to ratification, given the robust ratification record of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Her group did not support the third option as the issue of worsening inequalities, which predated the pandemic, required a deeper consideration of the global recovery and the role of collective bargaining as a key tool. In that light, when compared with the benefits of the General Survey under the second option, a focus on workplace representation and cooperation was not a good choice.

- 28. The Employer spokesperson** said that all three options were relevant and warranted due consideration, but that the first and second options were of particular and equal importance to his group. Obligated to choose, the group had, with difficulty, chosen the first option, which would allow for greater strength and flexibility in the face of any further crises. Social dialogue was a cornerstone of the Organization expressly recognized as such in the Centenary Declaration. Convention No. 144 was a governance Convention ratified by 156 Member States and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152) and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) were equally up-to-date. But first and foremost, a General Survey on Convention No. 144, Recommendation Nos 152 and 205 would demonstrate how Member States managed their tripartite consultations on ILO standards in a rapidly changing world of work and would reveal the challenges that they faced in that regard. Furthermore, having more information on a more regular basis about Convention No. 144, as well as an analysis of its implementation in law and practice, would be welcome, while Recommendation No. 152 supported tripartite consultations and Recommendation No. 205 underscored the key role of consultation, encouraging active participation by employers' and workers' organizations in the planning, roll-out and follow-up of measures for recovery and resilience.
- 29.** Overall, his group believed that conducting an in-depth analysis of tripartite consultation and a discussion on that topic would be helpful for facilitating collective understanding of tripartite consultation and for drawing greater attention to its importance during progress towards a post-COVID recovery. While open to supporting consensus on the second option, if necessary, his group favoured the first option. He expressed the hope that the Workers' group would show equal flexibility should the general tripartite preference lean towards the first option.
- 30. Speaking on behalf of the Africa group,** a Government representative of Nigeria restated his group's commitment to ensuring that General Surveys provided the desired links between recurrent discussions and outcomes of standards without adding to the obligations of Member States. As a new cycle of recurrent discussions was beginning, his group favoured the first option. Convention No. 144 fostered effective consultation between governments and the social partners with respect to standard-setting, thereby facilitating tripartite social dialogue and consultation, which was likely to play a critical role in the recovery from the COVID-19 crisis, especially in developing economies. In addition, the first option would provide a better understanding of existing laws, regulations and practices relating to the Convention and the two Recommendations covered by the General Survey, while highlighting gaps for immediate consideration.
- 31.** His group underscored the opportunities and possibilities associated with the first option, which would be instrumental to strengthening the ILO tripartite relationship and encourage constructive consultation on the design and implementation of national recovery plans, policies and social pacts for a swift recovery from the COVID-19 crisis. The report form should be simply designed and contain clearly worded questions and explanations for technical terms in order to facilitate the submission of appropriate responses, either electronically or in hard copy. His group endorsed the draft decision with due consideration of the views and guidance provided by those Member States in favour of the first option.
- 32. Speaking on behalf of GRULAC,** a Government representative of Chile said that his group considered the second option to be the most appropriate in view of the challenges posed by the post-pandemic recovery in his region. He noted the benefits of that option

as set out in the document, including the relevance of Convention No. 150 and Recommendation No. 158, to the Sustainable Development Goals.

- 33. Speaking on behalf of IMEC**, a Government representative of the United States of America expressed her group's support for the second option, noting its particular relevance to the post-pandemic recovery and the fact that it would facilitate examination of the role of labour administration systems in developing immediate and long-term responses to the pandemic and in consultations with the social partners. She encouraged the Office to organize informal consultations on the draft report form prior to the March 2022 session of the Governing Body.
- 34. Speaking on behalf of the EU and its Member States**, a Government representative of Slovenia said that the Republic of North Macedonia, Montenegro, Serbia, Albania, Iceland and Norway aligned themselves with her statement. The EU and its Member States supported making better use of article 19 of the ILO Constitution. The process of selecting Conventions and Recommendations helped align the General Survey with the follow-up to the ILO Declaration on Social Justice for a Fair Globalization. Efforts to address obstacles to ratification contributed significantly to maintaining a robust, up-to-date body of international labour standards, while the linking of discussions on the General Survey to other recurring discussions and to the Standards Review Mechanism, as well as to discussions relating to the ILO Centenary Declaration for the Future of Work, helped to strengthen the supervisory system.
- 35.** Turning to the options set out in the document, she noted that special attention must be paid to the impact of the COVID-19 pandemic. While all three options were timely and relevant and would contribute to discussions on social dialogue, her group preferred the second option, in view of the relatively low ratification rate of the two instruments concerned and the fact that they had last been reviewed in 1997. A General Survey on those instruments could promote social dialogue by identifying challenges, facilitating the exchange of experiences and good practices and advancing post-pandemic recovery strategies, policies and programmes. Nevertheless, her group remained open to any consensus that emerged.
- 36. The Chairperson** invited the Employer spokesperson to comment further given that there appeared to be majority support for the second option.
- 37. The Employer spokesperson** said that his group's difficulty in choosing between the first and second options indicated that both were highly relevant. However, his group maintained its preference for the first option, which allowed for an overview that was broader and more human-centred than would be possible with the second; such a perspective was essential in the context of the post-pandemic recovery. Moreover, it would strengthen the effectiveness of tripartite social dialogue and consultation and address the standard-setting framework.
- 38. Speaking on behalf of the Africa group**, a Government representative of Nigeria highlighted his group's difficulty in choosing between the options. While his group considered that the first option was the rational choice in view of the post-pandemic recovery, it was prepared to be flexible in order to achieve consensus.
- 39. The Worker spokesperson** said that her group supported the second option because it would provide a comprehensive review of the impact of the pandemic on national systems and facilitate examination of how to build back better. The lower ratification rate of the instruments addressed by the second option meant that it offered the best added value. Given some groups' difficulty in reaching a decision and the opinions voiced by other members, she believed that the majority was in favour of the second option.

40. **Speaking on behalf of GRULAC**, a Government representative of Chile said that his group's preference was based on the view that the second option would be most helpful in the post-pandemic recovery, as well as on the need to strengthen labour inspection institutions and to link the instruments concerned to the Sustainable Development Goals.
41. **The Employer spokesperson** noted that his group's difficulty in deciding between the first and second options indicated that both were highly relevant. In the interest of consensus, the Employers would therefore not object to the selection of the second option.
42. **Speaking on behalf of the Africa group**, a Government representative of Nigeria said that his group did not wish to block consensus and would therefore accept the second option.

Decision

43. **The Governing Body requested the Office to prepare, for its consideration at its 344th Session (March 2022), the article 19 report form on the Labour Administration Convention, 1978 (No. 150), and the Labour Administration Recommendation, 1978 (No. 158), for the General Survey to be prepared by the Committee of Experts on the Application of Conventions and Recommendations (CEACR) in 2023 for discussion by the Conference Committee on the Application of Standards in 2024.**

(GB.343/LILS/2, paragraph 27, as amended by the Governing Body)

3. Procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations (GB.343/LILS/3)

44. The Governing Body had before it two amended versions of the draft decision. The first had been proposed by the Employers' group and read:

The Governing Body requested the Director-General:

- (1) To apply the following modifications to the procedure for appointment of members of the Committee of Experts on the Application of Conventions and Recommendations:
 - (a) vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website nine months before the start of the session of the Committee of Experts that will have a known vacancy;
 - (b) the selection process is carried out by the Director-General who closely consults the tripartite constituents throughout the process;
 - (c) ~~the selection process does not entertain any endorsement by ILO constituents, interventions or public statements concerning the candidates or the selection process~~ ILO constituents should not interfere with the proper conduct of the selection process by supporting particular candidates or making interventions or public statements about them;
 - (d) the Director-General makes proposals to the ~~Officers of the Governing Body~~ tripartite constituents with a view to further clarifying and strengthening the ~~and publicizing~~ existing criteria for the selection of experts, including while preserving the essential criteria of independence, impartiality and technical expertise;

- (e) ~~the Director-General submits a detailed report on the selection process to the Officers of the Governing Body, which contains full details of the profiles of proposing up to five candidates that the Director-General has shortlisted in prior close consultations with the tripartite constituents for consideration for appointment to the Committee of Experts;~~
 - (f) ~~the Officers present a report to the Governing Body proposing the appointment of one expert per vacancy;~~
 - (g) ~~experts are appointed for a five-year term, which is renewable twice once;~~
 - (h) ~~the Director-General tripartite constituents proposes the renewal of mandates to the Governing Body, except when a member is failing to deliver on his or her duties in a timely manner or to attend the Committee sessions, or when a member no longer fulfils the selection criteria, such as independence or impartiality;~~
 - (i) ~~the Governing Body proceeds with the appointment of three experts and the renewal of the mandates of four experts in 2022 on the basis of current procedures to ensure the uninterrupted functioning of the Committee of Experts and applies without delay the new rules and procedures for enhanced transparency and tripartite governance to the appointment of new experts.~~
- (2) ~~To prepare proposals for its 344th Session (March 2022), based on its guidance, for increasing the number of members of the Committee of Experts and for extending the duration of the Committee's annual session to ensure sufficient time is allocated to discharge the workload of the Committee of Experts.~~

45. The second amended version had been proposed by a significant majority of Latin American and Caribbean countries and read:

The Governing Body decided to requested the Director-General:

- (1) request the Director-General to apply the following modifications/adjustments to the procedure for appointment of members of the Committee of Experts on the Application of Conventions and Recommendations, with the understanding that the procedure should continue to be carried out as per the established practice in respect of all other aspects:
 - (a) the three currently open vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website, as soon as possible;
 - (b) future vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website nine months before the start of the session of the Committee of Experts that will have a known vacancy;
 - (b) ~~the selection process is carried out by the Director-General;~~
 - (c) ~~the selection process does not entertain any endorsement by ILO constituents, interventions or public statements concerning the candidates or the selection process;~~
 - (cd) ~~the Director-General makes proposals to the Officers of the Governing Body with a view to further clarifying and publicizing existing criteria for the selection of experts, while preserving the essential criteria of independence, impartiality and technical expertise;~~
 - (de) ~~the Director-General submits a detailed report on the selection process to the Officers of the Governing Body proposing up to five candidates for consideration for appointment to the Committee of Experts;~~
 - (ef) ~~the Officers present a report to the Governing Body proposing the appointment of one expert per vacancy;~~
 - (fg) ~~experts are appointed for a five-year term, which is renewable twice; and~~

- (gh) the Director-General proposes the renewal of mandates to the Governing Body, except when a member is failing to deliver on his or her duties in a timely manner or to attend the Committee sessions.
 - (i) ~~the Governing Body proceeds with the appointment of three experts and the renewal of the mandates of four experts in 2022 on the basis of current procedures to ensure the uninterrupted functioning of the Committee of Experts.~~
- (2) establish a tripartite working group that would carry out discussions and present its first report back to the Governing Body in November 2022 for further decisions on the following issues, on the basis of a background paper and proposals presented by the Director-General elaborated through tripartite consultations:
- (a) evaluation and follow-up action on the modified procedure applied for the vacancies currently open;
 - (b) proposals for formalizing and publicizing criteria for the selection of experts, while preserving the essential criteria of independence, impartiality and technical expertise;
 - (c) proposals for further improvement of the procedures for selection, nomination and renewal of the mandates of CEACR members, with a view to rendering the process more clear, open, transparent, democratic, inclusive and regionally balanced, taking into account the tripartite nature of the Organization; and
 - (d) ~~To prepare proposals for its 344th Session (March 2022), based on its guidance, for increasing the number of members of the Committee of Experts and for extending the duration of the Committee's annual session to ensure sufficient time is allocated to discharge the workload of the Committee of Experts.~~
- 46. The Employer spokesperson** emphasized the important role of the Committee of Experts on the Application of Conventions and Recommendations in the technical preparations for the supervisory work of the International Labour Conference and said that it was regrettable that her group had not been consulted in the preparation of the document. It was also regrettable that the document did not reflect the proposal made by her group at the 341st Session (March 2021) with regard to the establishment of an ad hoc tripartite committee to improve the procedure for the appointment of members of the Committee of Experts.
- 47.** Under Section A of the document, she agreed with the proposal to publish vacancies widely nine months before the end of an expert's term. Agreeing with the need for more transparency, she said that the selection process should not be conducted solely by the Director-General; the tripartite constituents should be involved throughout. That would also improve governance and strengthen the ILO's supervisory system. Regarding Section B, she agreed that geographical diversity and gender balance were important and that other diversity factors should be taken into account. However, competence was still the most important criterion.
- 48.** Concerning the proposals put forward in paragraph 22 (Section C), she said that a maximum term of ten years would represent a better balance between the need for continuity among experts and the need to reflect changes in the world of work, which could be achieved through a five-year term renewable once. Reasons for the non-renewal of the mandate should also include the fact that an expert no longer fulfilled the selection criteria. Noting the information provided in Section D, she emphasized that the experts appointed to UN human rights bodies were nominated by national governments

or were government representatives, which did not reflect the independent and tripartite nature of the Committee of Experts.

49. Concerning the possible improvements set out in paragraph 39 (Section E), she agreed with the proposals in subparagraphs (a), (b) and (d) and suggested that at least two candidates should be proposed for each vacancy. She did not agree with subparagraphs (c) and (f), for the reasons she had already provided. Concerning paragraph (e), she agreed that the Officers of the Governing Body should present a report to the Governing Body with recommendations and that experts should be appointed in their personal capacity, but the number of candidates per vacancy should not be limited and should be decided on by the Officers of the Governing Body.
50. Regarding the three existing vacancies, she suggested the application of a differentiated approach. Existing procedures should be applied to current members of the Committee of Experts, whereas new procedures agreed on at the current session of the Governing Body should immediately be applied to new appointments. She disagreed with the proposal to increase the number of experts and to extend the duration of the Committee's annual session, which was not sustainable. The size of the Committee should be guided by the need to ensure effective interaction between the members and to ensure geographical representation and diversity, and not by the ever increasing number of ratifications of international labour standards. Other measures should be considered to stabilize the Committee's workload, including the consolidation of ILO standards or a focus on the most relevant and up-to-date standards.
51. As for the amended version proposed by a significant majority of Latin American and Caribbean countries, she supported the proposal in subparagraph 2 to establish a tripartite working group to conduct an evaluation of the procedure, and therefore could agree to subparagraph 2(a)–(c), but she did not support the proposed subparagraph 2(d) for the reasons already given. She reiterated that any improvements to the procedure agreed at the current session of the Governing Body should be implemented without delay and should be applied to the three existing vacancies on the Committee.
52. **The Worker spokesperson** reiterated the need for the Committee of Experts to be independent, objective and impartial, and for individuals to be appointed in their personal capacity. She expressed support for the proposed procedure set out in paragraph 39, and for the criteria for the selection of candidates and selection procedure contained in paragraphs 14–16. Continued emphasis should be placed on encouraging geographical and gender diversity among candidates and on finding a balance between judicial and academic experience. Her group envisaged no role for tripartite constituents in organizing candidate interviews, to avoid politicizing the selection procedure. The proposals made by the Employers in that regard would lead to a public recruitment process in front of the Governing Body, which was likely to lead to a decrease in the number of applicants. The three current vacancies on the Committee should be filled using the current procedure as a matter of urgency. In that regard, she agreed that transitional measures would be necessary, as set out in paragraph 40. She noted the information provided relating to the selection of experts in UN human rights mechanisms and emphasized that the differences in the nature and functions of the organizations needed to be taken into account.
53. In principle, her group supported the proposal to extend the duration of the sessions of the Committee of Experts, as set out in paragraph 41, which would enhance efficiency, and could give preliminary support for the proposal concerning the remote preparatory examination of files and a pre-session working group. Her group also supported the proposed increase in the number of experts; the cost increase associated with the

honorarium, travel costs and daily subsistence allowance would be reasonable in the light of the essential work of the experts. The Office should submit specific proposals in that regard to the Governing Body at its session in March 2022.

54. Her group supported the draft decision in paragraph 42 of the Office document without amendment.
55. She expressed her group's serious concern regarding the amended version proposed by the Employers' group, which sought to fundamentally change the current system by giving a central role to the tripartite constituents and limiting the participation of the Director-General and the Office in the selection process. Allowing the tripartite constituents to propose the renewal of mandates, and extending the criteria for non-renewal, opened the process to political and ideological pressure and undermined the independence, impartiality and authority of the experts. Moreover, it was not clear where the final responsibility and accountability for the process would lie, if not with the Director-General. The changes would result in a chaotic process that would ultimately weaken the Committee of Experts. Therefore, her group would not accept any of the amendments proposed by the Employers' group.
56. The amendments proposed by a significant majority of Latin American and Caribbean countries reflected a more nuanced approach, and retained the current process with minor changes. She understood that, according to that proposal, the current procedure would be followed to fill the three existing vacancies. Her group would state its position on the amendments proposed to subparagraph 1 after hearing the views of other representatives. However, her group could not accept the proposals in subparagraph 2 concerning the establishment of a tripartite working group. The current procedure was functioning well and did not require further adaptation, other than the wider publicization of vacancies. Many of the amendments proposed seemed to address problems with the functioning of the Committee of Experts that had never been raised in the Governing Body.
57. **Speaking on behalf of a significant majority of Latin American and Caribbean countries**, a Government representative of Chile emphasized the important role of the Committee of Experts. Being committed to the ILO's supervisory system meant keeping it up to date while maintaining its integrity and the independence and impartiality of its members. In terms of the proposed improvements, his group agreed that the timely organization of the procedures, the wider publicization of vacancies and the issuance of a public call for expressions of interest would ensure a more democratic and transparent process in line with best practices of good governance. Further modernization of the selection process would require a more detailed examination of the selection criteria and consideration of ways to ensure that the process was responsive to constituents, while safeguarding impartiality, technical expertise, independence and regional balance.
58. The ILO's unique tripartite nature meant that successful practices from other organizations were not directly applicable. However, the participation of constituents in newer processes was increasingly common, and a detailed review of the procedures in the UN human rights system, and the participation of Member States therein, could be useful.
59. Accordingly, his group was proposing the establishment of a tripartite working group to consider and develop proposals for further improvements to the selection process and other relevant questions, including the extension of the duration of the Committee of Experts' annual session and an increase in the number of experts.

60. His group proposed the adoption of a provisional procedure on the basis of the proposals set out in the Office's document, in order to ensure that the three vacant positions could be filled prior to the Committee's next annual session, in November 2022. That provisional procedure would then be reviewed by the proposed tripartite working group.
61. **Speaking on behalf of the Africa group**, a Government representative of Gabon highlighted the need for transparency and inclusivity in the selection of experts. His group welcomed the proposals to publicize vacancies more widely and sufficiently in advance and encouraged the Office to increase its preliminary outreach efforts to ensure that vacancies were filled in a timely manner. The selection process must apply clear criteria relating to, for example, experience and geographical representation, and should be led by the Director-General in consultation with the tripartite constituents, in order to enhance the independence and impartiality of the Committee of Experts. The Office should submit specific proposals to improve those criteria for consideration at the Governing Body's 344th Session. His group supported a five-year mandate for experts, and remained flexible on the question of renewal. His group agreed that additional forms of diversity should be taken into account, and the Office should encourage applications from persons with disabilities. The Africa group supported the draft decision as put forward by the Office.
62. **Speaking on behalf of IMEC**, a Government representative of Australia said that her group appreciated the Office's efforts to reflect the points of view that had been shared during the discussion of the item at the 341st Session. Her group supported the existing appointment process, which ensured the selection of candidates on the basis of their qualifications and experience. It was, however, open to some of the proposed changes to the appointment process, including the proposal to advertise vacancies more widely. She emphasized the importance of diversity and inclusion – including in terms of gender, ethnicity and disability – and the need for the process to be conducted in an efficient and timely manner. The unique nature of the Committee of Experts meant that comparisons could not be drawn between its appointment process and those of other UN agencies. The Committee itself had set the maximum term of 15 years, and the Office already endeavoured to ensure geographical diversity among its members.
63. IMEC supported the proposal for calls for expressions of interest in vacancies, and agreed that it was important to enhance the capacity of the Committee of Experts to deal with the increased workload by improving efficiency, including by conducting remote preparatory work and extending its annual session. An increase to the number of members should be considered only if those measures proved unsuccessful. Her group supported a five-year mandate, renewable twice, and objected to the politicization of the appointment process, in which constituents must not intervene; the impartiality, technical competence and independence of the Committee of Experts were vital. Her group supported the draft decision put forward by the Office, but proposed the deletion of the words "for increasing the number of members of the Committee of Experts and" from subparagraph 2.
64. **Speaking on behalf of ASPAG**, a Government representative of Pakistan noted that, in order to maintain Member States' trust in the work of the Committee of Experts, it was vital to preserve its independence, objectivity, neutrality, competence and transparent selection process. That, along with the aim of enhancing its efficiency and effectiveness, should guide the Governing Body's deliberations. Equitable geographical representation and gender equality must be maintained, and her group supported the wider publicizing of vacancies.

- 65. Speaking on behalf of the EU and its Member States**, a Government representative of Slovenia said that North Macedonia, Montenegro, Serbia, Albania and Norway, aligned themselves with her statement. The EU and its Member States fully supported the initiative to publish vacancies more widely, thereby improving the timeliness and transparency of the selection process. An extension of the experts' mandates would mean that their expertise was available for a longer period and would enable newly appointed experts to adapt to a new role, fully understand the issues in detail and make a greater substantive contribution to the Committee's work. Any comparison of the ILO's selection processes with those of other United Nations agencies would not take into account its unique tripartite structure and constitutional mandate in relation to international labour standards. The objectivity, impartiality and independence of the Committee of Experts were vital to ensure that the Committee's work enjoyed the highest authority and credibility within the ILO supervisory system. Its members should continue to be appointed in their personal capacity as independent and impartial individuals with distinguished backgrounds in the law and direct experience of the relevant legal, economic and social systems.
- 66.** The EU and its Member States supported the existing selection process and the Office's efforts to increase its transparency. However, they rejected any attempt to erode the selection process that would weaken experts' impartiality and independence, which would undermine the credibility of the supervisory system as a whole. The selection process must ensure that the impartiality and independence of members were unassailable. That was adequately safeguarded by the existing selection process together with the changes proposed by the Office. The EU and its Member States supported subparagraph 1 of the original draft decision and did not support either of the proposed amended versions. However, they could not support subparagraph 2 for the reasons explained by IMEC, and requested information on how the proposed increase in the number of experts would be managed.
- 67. A Government representative of China** said that the appointment of members of the Committee of Experts should respect the principles of equitable geographic representation, impartiality, transparency and tripartism in the appointment process itself, and the selection criteria for experts should include objectivity, impartiality and professionalism and competence. The expansion of the membership and reduction of the maximum duration of mandates would facilitate adherence to those principles. Her Government supported the amendment proposed by the significant majority of Latin American and Caribbean countries with regard to the establishment of a tripartite working group.
- 68. A Government representative of India** expressed appreciation for the fact that the Office had incorporated the suggestion made by India at the 341st Session of the Governing Body of publicizing vacancies for the Committee of Experts more widely. Furthermore, vacancies should be circulated to all Member States to attract the best talent in the field. Calls for expressions of interest should be published for the three current vacancies on the ILO global and regional websites as soon as possible. Members of the Committee should be selected to represent a diversity of backgrounds and should have the requisite qualifications, independence, impartiality and integrity. Efforts should be made to ensure that members were selected through a fair, competitive and transparent process.
- 69. The Employer spokesperson** clarified that she had not suggested that the Director-General or the Office should no longer have a role in the appointment procedure; rather, she had proposed that the Director-General should play the important role of consulting

the tripartite constituents. The group wished not to weaken the system, but instead to strengthen it by establishing a procedure that guaranteed acceptance of the experts and their impartiality. Her group was proposing that constituents should be consulted, not to make the selection process political, but because they might be able to provide additional relevant information about applicants.

70. The Employers' group considered that the amended version of the draft decision proposed by the majority of Latin American and Caribbean countries provided a good basis for further discussion. A number of other speakers had noted the need for a more in-depth discussion so as to reach consensus on how to improve the selection process to make it more transparent and impartial, and to increase the constituents' acceptance of the outcome.
71. **A representative of the Director-General** (Director, International Labour Standards Department) explained that the objective of subparagraph 2 of the draft decision was to gauge the Governing Body's opinion on how best to address the increased workload faced by the Committee of Experts. There were two parts to the proposal. The first was to formally extend the duration of the session of the Committee of Experts by two weeks to recognize the remote preparatory work done by Committee members before the meeting in Geneva. That would take full advantage of the investment in computerizing case management and in enabling the Committee to work remotely. The second part of the proposal was to increase the number of members of the Committee of Experts, which was an approach that had already been used in the Organization. If there was support for that proposal, the precise arrangements, including the number of experts, guarantees of geographical parity and possible rotating positions, would have to be defined.
72. **The Worker spokesperson** welcomed the general agreement on the importance of having a Committee of Experts of the highest independence, impartiality and expertise. It was not her perception that the majority of Governing Body members sought further discussion on how to achieve that, and noted that a number of Governments supported the current procedure along with the changes proposed by the Office.
73. She welcomed the fact that the Employers' group envisioned an important role for the Director-General in the selection process, but did not see that vision reflected in the group's proposed amended version of the draft decision, which had not gained support from other Governing Body members. Furthermore, only one Government member had supported one aspect of the proposal from the majority of Latin American and Caribbean countries. Instead, there was clear support for adopting the original draft decision.
74. Regarding subparagraph 2 of the draft decision, the Workers' group was willing to be flexible. She suggested first experimenting with extending the duration of the annual session of the Committee of Experts. Noting the strong support for the immediate use of widespread publication for the three current vacancies, she asked the Office whether that would require an amendment to the draft decision.
75. **The representative of the Director-General** (Director, International Labour Standards Department) responded that the Office could commit to widely publicizing the current vacancies without amending the draft decision. However, it would not be possible to publish those three vacancies nine months before the start of the next session of the Committee of Experts.
76. **Speaking on behalf of the EU and its Member States**, a Government representative of Slovenia clarified in response to the Worker spokesperson that she had expressed support for subparagraph 1 but had not supported subparagraph 2.

- 77. Speaking on behalf of a significant majority of Latin American and Caribbean countries**, a Government representative of Chile requested an adjournment of the discussion to allow for more time to consider the various contributions, which could enrich the draft decision.
- 78. The Employer spokesperson** strongly supported the request for more time.
(The Governing Body resumed its consideration of the item at a later sitting.)
- 79. The Chairperson** announced that, following extensive consultations, and in the light of proposals from various groups and countries, a revised version of the draft decision had been circulated by the Office for consideration by the Governing Body. She drew attention to the clause in square brackets in subparagraph 3, which read:
- To report to its 347th Session (March 2023) on the implementation of the adjustments made to the existing procedure and on any further improvements, if deemed necessary, preceded by tripartite consultations [to be convened by the Chairperson of the Governing Body].
- 80. The Worker spokesperson** thanked the Employers' group for its willingness to work with her group to overcome their differences and achieve consensus, noting the ability of social dialogue to help to bridge gaps when opinions were divided. The revised draft decision was far from ideal, but it did reflect a degree of common ground.
- 81.** Her group fully supported the current appointment process and sought only small changes but, acknowledging the different views of other Governing Body members, stood ready to support the revised version of the draft decision, without the text in square brackets in subparagraph 3. Appropriate procedures already existed for tripartite consultations preceding a report by the Office to the Governing Body; her group saw no need to change those.
- 82. The Employer spokesperson** thanked the Workers' and Government groups for their spirit of compromise and welcomed the revised version of the draft decision, which contained adjustments that would bring the Committee of Experts' appointment process up to date and more in line with the principle of tripartism, and would also render it more transparent. She welcomed the new arrangements planned for advertising vacancies and selecting new members of the Committee. They represented important improvements that would ensure transparency and good governance, which were somewhat lacking in the current procedure.
- 83.** She expressed her group's commitment to continuing to discuss the present issue through comprehensive and meaningful tripartite consultations. Her group supported the revised version of the draft decision and agreed that the text in square brackets should be deleted.
- 84. Speaking on behalf of a significant majority of Latin American and Caribbean countries**, a Government representative of Chile thanked all tripartite constituents for their efforts to draft a text that encompassed a broad range of opinions and provided a basis for consensus. The revised draft decision incorporated important elements of the proposals made by his group.
- 85.** Reiterating the importance that his group attached to the ILO supervisory system, he acknowledged the fundamental role of the Committee of Experts as an independent body with impartial and knowledgeable experts. Accordingly, further improvements could be made to the selection process in relation to transparency, accountability, good governance and constituent participation. For example, although his group welcomed the broad support for the proposal to advertise vacancies widely through public calls for

expressions of interest, it was crucial to ensure proper follow-up, involving careful evaluation of the amended procedure. For the consideration of additional changes, a tripartite working group would provide the most appropriate institutional framework. However, his group was prepared to accept that the modified process would be reviewed, and further improvements considered, by the Governing Body during its session in March 2023. In line with the revised draft decision, any such considerations must follow on from tripartite consultations, which must be comprehensive, transparent and inclusive with open participation from all tripartite constituents, whose opinions must be duly included in preparatory documents to be submitted to the Governing Body. In addition, the Office should keep the Chairperson of the Governing Body informed of any progress made in such tripartite consultations.

86. On the understanding that the opinions expressed during the current session of the Governing Body would be used as guidance, his group was prepared to support the revised draft decision without the text in square brackets.
87. **Speaking on behalf of IMEC**, a Government representative of Canada said that the current selection process was adequate and had served the ILO well for many years. It was her group's long-standing position that ILO constituents should have no involvement whatsoever in the process of appointing experts to the Committee of Experts, which was carried out by the Director-General. However, recognizing that other Governing Body members had requested some adjustments, IMEC agreed to the revised draft decision, provided that the text in square brackets was removed.
88. **Speaking on behalf of the EU and its Member States**, a Government representative of Slovenia said that North Macedonia, Albania and Norway aligned themselves with her statement. The EU and its Member States aligned themselves with the IMEC statement. She thanked the Office for having provided further clarifications and for having engaged in consultations on the appointment procedure, and acknowledged the contributions of the social partners and governments towards achieving a compromise.
89. She welcomed the adjustments made to the working methods of the Committee of Experts, particularly the extended duration of its annual session, which would facilitate the effective management of the Committee's increasing workload. She emphasized that, in order to ensure the uninterrupted functioning of the Committee, the appointment of three new experts and the renewal of four experts' mandates in 2022 in a timely manner and in accordance with the principles outlined in the revised draft decision were of the utmost importance.
90. The EU and its Member States reiterated their commitment to the principles of independence, objectivity and impartiality, which underpinned the work of the Committee of Experts, and would continue to support the Committee and the ILO supervisory system as a whole. The EU and its Member States believed that the adjusted selection process would remain true to those principles and the Office should continue to play a leading role to ensure that experts were not nominated by any one particular group. They considered that the revised draft decision gave due consideration to the concerns expressed by all constituents but saw no need for the bracketed text. The EU and its Member States therefore supported the revised draft decision, with the text in square brackets removed.
91. **Speaking on behalf of several countries, among which the majority from ASPAG**, a Government representative of Pakistan recalled the need to preserve the independence, objectivity, neutrality, competence and transparency of the supervisory system while maintaining equitable geographical representation and gender equality. While leaving

the social partners to reach a consensus to the exclusion of the governments brought practical benefits, it violated the principle of tripartism. Governments must be part of tripartite consensus building and participate meaningfully in processes that placed burdens on them. That was particularly relevant to the debate at hand, given that it was governments that were required to respond before the Committee of Experts.

- 92.** The oversight role should belong the Governing Body, in order to ensure that institutions, and not individual positions, were strengthened. The review of the procedure for the appointment of members of the Committee of Experts should therefore be led by the Chairperson of the Governing Body, rather than by the Office. She requested that the Chairperson should launch and supervise that process. Nevertheless, her group would not block consensus on the draft decision.
- 93.** **The Worker Vice-Chairperson** said that the Workers would always seek to discuss the matters addressed by the Governing Body with the Government group.

Decision

- 94.** **With a view to ensuring the transparency, geographical balance, inclusiveness and effectiveness of the procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations while preserving their independence, impartiality and technical expertise, the Governing Body requested the Director-General:**
- (1) **To apply the following adjustments to the procedure for appointment of members of the Committee of Experts on the Application of Conventions and Recommendations, with the understanding that, with regard to all other aspects, the procedure should be carried out in accordance with the established practice:**
- (a) **the three currently open vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website, as soon as possible;**
 - (b) **future vacancies in the membership of the Committee of Experts are given wide publicity through a call for expression of interest on the ILO's global and regional public website nine months before the start of the session of the Committee of Experts that will have a known vacancy;**
 - (c) **the selection process does not entertain any interference or public statements by ILO constituents concerning the candidates or the selection process;**
 - (d) **the Director-General makes proposals to the Officers of the Governing Body with a view to further clarifying and publicizing existing criteria for the selection of experts while preserving the essential criteria of independence, impartiality and technical expertise;**
 - (e) **the Director-General informs the Officers of the Governing Body and submits to them a detailed report on the selection process for their consideration at a dedicated sitting;**
 - (f) **the Director-General informs the Officers of the Governing Body of upcoming renewals of mandates and proposes the renewal of mandates to the Governing Body, except when a member is failing to deliver on his or her duties in a timely manner or to attend the Committee sessions;**

- (2) To prepare proposals for its 344th Session (March 2022), based on its guidance for extending the duration of the Committee's annual session to ensure that sufficient time is allocated to discharge the workload of the Committee of Experts;
- (3) To report to its 347th Session (March 2023) on the implementation of the adjustments made to the existing procedure and on any further improvements, if deemed necessary, preceded by tripartite consultations.

(GB.343/LILS/3, paragraph 42, as amended by the Governing Body)

4. Fourth meeting (Part I) of the Special Tripartite Committee established under the Maritime Labour Convention, 2006, as amended (19–23 April 2021): Report of the Chairperson (GB.343/LILS/4)

- 95. In preparation for the adoption of a decision by correspondence, the Office held a briefing session for Governing Body members on this item on 19 October 2021.
- 96. The Screening Group agreed to put the item for a decision by correspondence and the decision was approved by consensus and announced to all Governing Body members on 1 November 2021.

Decision

- 97. The Governing Body took note of the report of the Chairperson of the Special Tripartite Committee established under the Maritime Labour Convention, 2006, as amended (MLC, 2006), concerning its fourth meeting (Part I, 19–23 April 2021), welcomed the work conducted by the Special Tripartite Committee in relation to the review of 39 international maritime labour instruments, and decided to:
 - (a) appoint Mr Martin Marini (Singapore) as Chairperson of the Special Tripartite Committee for a three-year period (2021–24);
 - (b) classify Conventions Nos 55, 56, 68, 69, 70, 75, 92, 108, 133, 134, 147, 163, 164, 165 and 178 and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976, as well as Recommendations Nos 9, 10, 28, 48, 75, 76, 78, 105, 106, 108, 138, 140, 141, 142, 155, 173 and 185 as “outdated”, and request the Office to take the necessary follow-up action;
 - (c) request the Office to launch an initiative to promote the ratification on a priority basis of the MLC, 2006, among those Member States still bound by outdated Conventions, namely Angola, Azerbaijan, Cameroon, Colombia, Costa Rica, Côte d’Ivoire, Cuba, Czechia, Dominica, Egypt, Equatorial Guinea, Georgia, Guatemala, Guinea, Guinea-Bissau, Guyana, Iraq, Israel, Kyrgyzstan, Mauritania, Mexico, North Macedonia, Pakistan, Papua New Guinea, Peru, the Republic of Moldova, Sierra Leone, Somalia, Tajikistan, Trinidad and Tobago, Turkey, Ukraine, the United States of America, Uruguay and the Bolivarian Republic of Venezuela;
 - (d) request the Office to launch an initiative to promote on a priority basis the ratification of the Work in Fishing Convention, 2007 (No. 188), among those Member States still bound by Conventions Nos 55, 56, 134, 164 and 178, namely Azerbaijan, Costa Rica, Czechia, Dominica, Egypt, Guinea, Iraq, Israel,

Kyrgyzstan, Mexico, North Macedonia, Peru, Tajikistan, Trinidad and Tobago, Turkey, the United States of America and Uruguay;

- (e) encourage Member States which have already ratified the MLC, 2006, or Convention No. 188 or both but remain bound by outdated Conventions with respect to non-metropolitan territories, namely China, France, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, to extend the application of the MLC, 2006, or Convention No. 188 or both, as the case may be, to such territories;
- (f) convene a tripartite meeting of experts of four days' duration, aimed at sharing knowledge concerning the implementation of the Seafarers' Pension Convention, 1946 (No. 71), in 2024, that would be prioritized for funding based on a composition of 8-8-8 in the Programme and Budget proposals for 2024-25;
- (g) encourage Member States which are still bound by the Seafarers' Identity Documents Convention, 1958 (No. 108), to ratify the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), and to this end, convene a tripartite meeting of experts of four days' duration in 2023 to examine the challenges that remain for the implementation and ratification of this Convention, and decide that the cost of the meeting based on a composition of 8-8-8 be financed in the first instance from savings in Part I of the budget or, failing that, through Part II, on the understanding that, should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the 2022-23 biennium;
- (h) encourage one Member State (France) which has already ratified Convention No. 185, but remains bound by Convention No. 108 for non-metropolitan territories, to extend the application of Convention No. 185 to those territories;
- (i) note the Special Tripartite Committee's recommendations concerning the withdrawal of Conventions Nos 70, 75, 165 and 178 and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976, as well as of Recommendations Nos 9, 10, 28, 48, 75, 76, 78, 105, 106, 108, 138, 140, 141, 142, 155, 173 and 185, in relation to which it will consider placing an item on the agenda of the 111th Session (2023) of the International Labour Conference (see GB.343/INS/2);
- (j) note the Special Tripartite Committee's recommendations concerning the abrogation of Convention No. 163, in relation to which it will consider placing an item on the agenda of the 111th Session (2023) of the International Labour Conference (see GB.343/INS/2);
- (k) note the Special Tripartite Committee's recommendations concerning the abrogation of Conventions Nos 22, 23, 55, 56, 58, 68, 69, 92, 133, 134, 146, 164 and 166, in relation to which it will consider placing an item on the agenda of the 118th Session (2030) of the International Labour Conference (see GB.343/INS/2);
- (l) approve the establishment of a Joint ILO-IMO Tripartite Working Group to identify and address seafarers' issues and the human element, in accordance with the resolution set out in Appendix I, with a composition of eight Governments to be nominated by the IMO, eight Shipowner representatives and eight Seafarer representatives, and decide that the relevant cost of the

three-day annual meetings for 2022 and 2023 be financed in the first instance from savings in Part I of the budget or, failing that, through Part II, on the understanding that, should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the 2022–23 biennium; the 2024 meeting would be prioritized for funding in the Programme and Budget proposals for 2024–25;

(m) request that the outcome of the Joint ILO-IMO Tripartite Working Group's work is reported to the Governing Body and appropriate IMO body.

(GB.343/LILS/4, paragraph 15)

Summary of the written comments received during the consideration of the item by correspondence ¹

- 98. The Workers' group** reiterated that any abrogation or withdrawal of outdated instruments should be accompanied by an active promotion of the ratification of the Maritime Labour Convention, 2006, as amended (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188). The Office should prioritize such initiatives in Member States which were still bound by the outdated Conventions. The Office should continue working with Member States bound by the MLC, 2006, and Convention No. 188 to ensure application of those Conventions in non-metropolitan territories.
- 99.** The group expressed support for the proposed recommendations contained in Appendix II concerning the Seafarers' Identity Documents Convention, 1958 (No. 108), and the Seafarers' Pension Convention, 1946 (No. 71), and hoped that the meeting of experts on the latter would pave the way for future action.
- 100.** Welcoming the information provided on the follow up to the resolutions adopted by the Special Tripartite Committee and noted by the Governing Body on the implementation and practical application of the MLC, 2006, during the COVID-19 pandemic and on COVID-19 vaccination for seafarers, the group called upon Member States to step up their implementation of those resolutions to alleviate the impacts on global supply chains and on seafarers' lives, particularly concerning access to medical care ashore and repatriation.
- 101.** The ILO should enhance collaboration with the IMO on the abandonment of seafarers and the fair treatment of seafarers detained on suspicion of committing maritime crimes.
- 102. The United States of America** agreed with the findings of the Special Tripartite Committee concerning those instruments that were appropriate candidates for abrogation or withdrawal. It noted that the ILO had explained that the abrogation of a Convention, within the meaning of article 19, paragraph 9, of the ILO Constitution, entailed only the end of the ILO's role in supporting the implementation of the Convention and not the termination of the Convention itself or of the rights and obligations under it. Accordingly, any action taken by the ILO to abrogate particular Conventions would not affect the legal status of those Conventions among the States that were parties to them.

¹ The complete text of each comment in the original language is available on the [Governing Body's web page](#), together with the decision.

Legal Issues Segment

5. Proposed agreement between the International Labour Organization and the International Civil Aviation Organization and proposed agreement between the International Labour Organization and the African Union (GB.343/LILS/5)

- 103.** In preparation for the adoption of a decision by correspondence, the Office held a briefing session for Governing Body members on this item on 19 October 2021.
- 104.** The Screening Group agreed to put the item for a decision by correspondence and the decision was approved by consensus and announced to all Governing Body members on 1 November 2021.

Decision

- 105. The Governing Body approved the text of the proposed agreement between the International Labour Organization and the International Civil Aviation Organization (ICAO) and the proposed agreement between the International Labour Organization and the African Union (AU), and authorized the Director-General or his representative to sign the agreements on behalf of the ILO.**

(GB.343/LILS/5, paragraph 11)

Summary of the written comment received during the consideration of the item by correspondence ²

- 106. The Workers' group** welcomed the proposed agreement between the ILO and the International Civil Aviation Organization (ICAO) as the need for a better understanding between the two organizations had been exacerbated by the COVID-19 pandemic. While welcoming the scope of the agreement, the group noted that it fell short of the coordinated response required from the UN system to respond to the labour challenges facing the aviation industry. The implementation of the agreement should ensure that the ratification and implementation of international labour standards and health and safety issues were addressed in a timely manner, prior to future discussions on a green, sustainable and inclusive economic recovery for the civil aviation sector.
- 107.** While it agreed with the proposed agreement between the ILO and the African Union, the group was of the view that the language in the third preambular paragraph that described the ILO could have better reflected the unique added value of international labour standards and tripartism. That should be addressed during the implementation of the agreement.

² The complete text of each comment in the original language is available on the [Governing Body's web page](#), together with the decision.