



THIRD ITEM ON THE AGENDA

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

	<i>Page</i>
Introduction	1
A. Information note on the progress of work and decisions taken concerning the revision of standards	2
B. Deferred examination of the Minimum Age (Fishermen) Convention, 1959 (No. 112)	5
C. Deferred examination of the Holidays with Pay Convention (Revised), 1970 (No. 132) – Short survey	7
D. Deferred examination of the Termination of Employment Convention, 1982 (No. 158) – Short survey	10
E. Follow-up on consultations concerning instruments on social security	10
F. Methods of revision of instruments concerning occupational safety and health.....	10
G. Examination of Recommendations (fourth stage)	11
I. Forced labour	11
II. Employment security	11
III. Working conditions.....	11
Weekly rest	11
Paid leave.....	12
IV. Occupational safety and health – Protection in certain branches of activity – dockers	12
V. Maternity benefits	13
VI. Employment of women	14
General.....	14
Night work	14

VII.	Employment of children and young persons	14
	Minimum age	14
	Night work	15
	Medical examination and conditions of employment.....	16
VIII.	Older workers.....	16
IX.	Indigenous and tribal peoples, indigenous workers in non-metropolitan territories	17
	Indigenous workers	17
	Workers in non-metropolitan territories.....	17
	Indigenous and tribal peoples.....	17
X.	Specific categories of workers	18
	Plantations	18
	Tenants and sharecroppers	18
	Nursing personnel	18
H.	Programme of work for forthcoming meetings of the Working Party	19

Introduction

1. The Working Party met on 6 November 2000, chaired by Mr. J.-L. Cartier (Government, France). The Employer Vice-Chairperson and Worker Vice-Chairperson were, respectively, Mr. D. Funes de Rioja (Argentina) and Mr. U. Edström (Sweden).
2. The Employer members proposed that, for reasons of methodology, the information note, submitted under the fifth item on the agenda of the Working Party, be examined first as it made it possible to take stock of the progress of the work of the Working Party. They also proposed to defer the examination of item 1(c) – the short survey concerning the Termination of Employment Convention, 1982 (No. 158), due to the late reception of the Spanish version of this document.
3. The Worker members supported the first proposal by the Employer members. While they were prepared to discuss the short survey concerning Convention No. 158, they did not oppose the proposal to defer its examination proposed by the Employer members.
4. The representative of the Government of Switzerland agreed with the two proposals by the Employer members. He also requested the Office to make available a copy of the study requested from an external expert by the Office for the purpose of the short survey concerning Convention No. 158. The short survey should have contained a reference to a recent study relevant to the question of termination of employment conducted by the Organisation for Economic Co-operation and Development (OECD).¹ The short survey on Convention No. 158 that would be submitted by the Office in March 2001 could be supplemented by excerpts from that study.
5. A representative of the Director-General thought it useful to clarify the methodology used until now in the short surveys. In the light of the statements made during the meeting of the Working Party in March 2000, the two short surveys now presented by the Office were submitted under its responsibility. Like other studies, they were based on published material, research and preliminary studies commissioned by the Office. The practice of the Office was not to distribute such preliminary studies.
6. The Chairperson recalled that this Convention, which raised particularly complex issues, was now submitted for examination by the Working Party for the fourth time. Following an attempted innovative approach, the Working Party has reverted to a more traditional method of work, i.e. a discussion based on a study carried out by the Office. The only working document was this study. As regards the proposal by the representative of the Government of Switzerland, the study by the OECD seemed to raise certain problems. The OECD was an organization concerned primarily with economic issues and was not universal. Furthermore, other studies could also be found. The Office could, however, in a brief introductory document, note the interest expressed by certain members of the Working Party in the OECD study and include references to it.
7. The Employer members expressed their support for the proposal by the Government of Switzerland to complement the short survey with a reference to the OECD study, as modified by the Chairperson so as to include a reference to the OECD study. The Working Party would thus be informed of the situation in OECD member States without thereby changing the content of the short survey. A consensus should be developed through a common effort and be based on information that was as complete as possible.
8. The Worker members considered that the Office should assume responsibility for the documents it submitted to the Working Party, as otherwise only a theoretical discussion could be held. With reference to the proposal by the representative of the Government of Switzerland, there were

¹ *OECD Employment Outlook*, Paris, June 2000, 248 pp.

perhaps other studies that the Worker members would have liked to append to the short survey. They were not prepared to discuss a document published by another organization, even in the form of a summary. The Working Party members remained free to make any references it saw fit to this or any other studies in the course of its discussion in March 2001. The Office should therefore resubmit the short survey in March 2001, subject only to minor factual corrections.

9. After an exchange of views the Working Party noted that its report to the LILS Committee would contain a reference to the OECD study, as well as a summary of its discussions on this subject. Furthermore, the Working Party agreed that, at its meeting in March 20001, the Office would resubmit the short survey on Convention No. 158 as presented at its present meeting, subject only to minor factual corrections.

A. Information note on the progress of work and decisions taken concerning the revision of standards ²

10. The Chairperson recalled that the information note summarized the decisions taken by the Governing Body on the recommendations made by the Working Party and that it was updated after each session of the latter.
11. The Employer members expressed their satisfaction with the document, which they considered very useful. They particularly appreciated the reference in paragraph 52 of the information note to the credibility and efficiency of the standards system of the ILO, which was a common concern among ILO constituents. Beyond any different approaches to the matter, a consensus should be reached on this objective. With regard to the fundamental Conventions, they considered that it was the subject matter of these Conventions, and not the instruments themselves, which were immutable. With time it might become necessary to adapt these Conventions, without touching on the substance of the fundamental principles they contain. Among the priority Conventions, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), was particularly important. Furthermore, it was necessary to be realistic and to provide technical assistance for the application of Conventions on labour inspection in developing countries, and not to lose sight of the universal character of standards. Finally, the measures set forth by the Employment Policy Convention, 1964 (No. 122), were only viable in the context of sustainable economic growth that allowed for the creation of employment. Paragraph 7 and those following summarized the decisions of the Governing Body concerning revision of standards. Paragraph 13 invited governments to inform the Office of any obstacles to the ratification of revised Conventions. With reference to the request for information regarding the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employer members recalled that a general discussion on this subject would take place at the next session of the Conference in June 2001. In the context of this general discussion, constituents could take stock of any obstacles to the ratification of Convention No. 102. It was important that governments respond to requests for information. As for the matter addressed in paragraph 32, the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), was outdated and it was regrettable that the decision to shelve it had been deferred due to opposition from the Worker members. Finally, the Employer members expressed the wish that no efforts would be spared to give effect to the recommendations of the Working Party, especially the ratification of the constitutional amendment.
12. The Worker members thanked the Office for updating the information note, which continued to improve in quality. The complexity of the work of the Working Party made the dissemination of such information important. Governments, as well as employers' and workers' organizations, should have more clear information at their disposal enabling them to fully understand the measures which they were invited to take and the reasons for these decisions. A report containing information on the measures taken by the Office to ensure the implementation of the decisions of the Governing

² GB.279/LILS/WP/PRS/5.

Body and the results obtained should also be presented. It would be useful to know, for example, if letters had been sent to governments and if the social partners had been informed, as well as the number of responses that had been received to any requests for information. The tripartite mechanisms were important and all member States should ratify Convention No. 144. The Office should take specific measures to promote the decisions of the Governing Body, especially concerning the ratification of up-to-date and revised Conventions and the ratification of the constitutional amendment. The Worker members also recalled that the ratification campaign on the fundamental Conventions had been a large success, and the Office should launch a similar campaign for the four priority Conventions. Furthermore, the Worker members were opposed to the prospect, raised by the Employer members, of revising the fundamental Conventions. These instruments had been recognized as fundamental at the Working Party on the World Summit for Social Development in 1995 and in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998. It would not be wise to enter into such a discussion, since this could undermine the ratification campaign for those Conventions. While a proposal regarding the enlargement of the prohibited grounds of discrimination listed in Article 1 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), was included among the proposed items for the Conference, this proposal was aimed at the adoption of a Protocol to Convention No. 111, and not as an amendment of the Convention itself.

- 13.** The representative of the Government of India thanked the Office for the information note. India had ratified seven of the 12 fundamental and priority Conventions and was making efforts to give effect to provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), despite the economic difficulties that it faced. Ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), was not possible at the moment due to problems in applying those Conventions to civil servants. Since other developing countries were faced with similar obstacles, it was necessary to find a means to eliminate these difficulties so as to facilitate the ratification of those Conventions.
- 14.** The representative of the Government of Trinidad and Tobago shared the interest expressed by the Worker members in simplifying the information addressed to constituents. This information should be adapted to the situation of each country and should take into consideration their technical capacities. Furthermore, Trinidad and Tobago had ratified the constitutional amendment mentioned in paragraph 35 of the information note.
- 15.** The representative of the Government of Sudan thanked the Office for a very important document, which contained useful information. He supported the view of the Worker members that this information should be simple and clear so that all countries could be well informed. It should also reflect the changes brought about by globalization and the development of information technology. The work of the Working Party was important and the resulting documents should be translated into all of the official languages of the ILO. The Office should continue to promote the fundamental and priority Conventions and conduct a truly universal ratification campaign. The ILO had already led other successful campaigns, most notably within the Bretton Woods institutions, for which the Organization had demonstrated that it was necessary to take into account the social dimension of economic development. Finally, the Government of Sudan had initiated the process of ratifying Conventions Nos. 138 and 182.
- 16.** The representative of the Government of the Dominican Republic thanked the Office for this important document, which was discussed in tripartite meetings at the national level, the results of which were transmitted to the Office for information. The Dominican Republic had ratified seven of the eight fundamental Conventions and two of the four priority Conventions. The procedure for the ratification of Convention No. 122 was under way, while certain obstacles to the ratification of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), persisted.
- 17.** The representative of the Government of El Salvador thanked the Office for this important and very useful document. His Government had ratified four Conventions in the previous month, including the Equal Remuneration Convention, 1951 (No. 100) and Convention No. 182. Overall, El Salvador had ratified 24 Conventions and was working with the ILO's Regional Office in San José to implement the Conventions, in particular Convention No. 182.

18. The representative of the Government of Malaysia expressed satisfaction with the information note and supported the proposal by the Worker members regarding the launch of a campaign to promote the ratification of the constitutional amendment, which his Government, for its part, had ratified. Malaysia had ratified four of the eight fundamental Conventions and would submit in the next few days to the Director-General the instrument of ratification concerning Convention No. 182.
19. The representative of the Government of the United States thanked the Office for a very clear document and noted that tables 2 and 3 in the annex were very useful. These synthesized the results obtained by the Working Party, while the rest of the document explained how these results had been achieved. The United States was not opposed to a ratification campaign on priority Conventions, but was concerned that such a decision would increase the number of reports that would have to be submitted.
20. The representative of the Government of the Netherlands thanked the Office for the document, which summarized the current status regarding the revision of standards, and expressed satisfaction at the scope of the work accomplished by the Working Party so far. She also approved of the idea, set forth in paragraph 3 of the information note, of presenting the decisions of the Governing Body in the light of the strategic approach, and concentrating on groups of subjects rather than types of decisions. Implementation of the Governing Body's decisions was important, and the Netherlands had always made an effort to follow up on them rapidly in consultation with the social partners. Finally, she supported the United States Government concerning the promotion of the priority Conventions.
21. The representative of the Government of New Zealand thanked the Office and added that the present version of the information note was much clearer than previous ones. She also requested the Office to fix a more realistic schedule for the requests for information, since many smaller countries encountered difficulties in following up on such requests. The time allotted for responding to the request for information concerning instruments on social security was much too short. It was also necessary to keep in mind that, in the middle of the year, many governments had to prepare article 22 reports, both those related to the context of the Declaration and those related to the Conference.
22. The representative of the Government of Namibia found the information note very instructive, and suggested that the Working Party always examine this note first. Namibia had ratified seven of the eight fundamental Conventions. He supported the suggestion by the Worker members regarding the transmission of clear information to governments. It would furthermore be useful for the Working Party to clarify the context of requests for information sought from governments, since there was often the impression that the same information had already been submitted in other contexts, such as, for example, in the context of follow-up to the Declaration.
23. The representative of the Government of Indonesia thanked the Office for the information note. Indonesia had ratified the eight fundamental Conventions. A new law on trade unions had been adopted, although civil servants were still excluded from its scope of application. However, this issue will be regulated in a separate law. The Government sought technical assistance from the Office regarding the possibility of extending freedom of association to civil servants.
24. In reply to the remarks by the United States Government, the Worker members stated that their proposal regarding the promotion of priority Conventions was not intended to entail an increase in the reports requested from governments, but rather the organization of promotional activities by the Office.
25. The Chairperson welcomed the interesting discussion on standards policy in general, which was good preparation for the discussion in the plenary sittings of the Governing Body in the coming week. As regards the fundamental and priority Conventions, the Working Party had a specific mandate, which did not include an examination of the possible need for revision of those Conventions. Numerous speakers had noted the readability of the document and the interest it had generated. The document was useful both to the Working Party and to others. As the representative of the Government of the United States had underlined, the attached tables 2 and 3 were particularly useful and gave an indication of the work that had been accomplished since the creation of the Working Party. For the moment, the information note remained essentially an internal document. At

the end of the work of the Working Party, it would be necessary to transform it into a more instructive document aimed at a wider audience, with an improved presentation and a glossary to explain certain terms. The Working Party should perhaps devote a meeting to the question of certain publications, such as the collection of international labour Conventions and Recommendations and the information note. This work would of course depend on the allocation of sufficient resources. With regard to follow-up on the Working Party's recommendations, including the promotion of standards, the Office prepared every year in March a document summarizing the current status of the matter. Certain promotional campaigns had enjoyed great success, such as that promoting the ratification of Convention No. 138, which had more than doubled the number of ratifications of the Convention. With regard to the country-specific documents requested by Trinidad and Tobago, it was difficult for the Office to complete such work for all member States. Nonetheless, certain country profiles had already been prepared. Of course, constituents who sought specific information could always contact the International Labour Standards Department.

26. A representative of the Director-General indicated that the Office prepared country profiles on a case-by-case basis in relation to requests and seminars, which were organized with a view to explaining standards policy.
27. Mr. Blondel (Worker member), spokesperson for the Worker members in the Programme, Financial and Administrative Committee, drew attention to the need to provide the necessary resources so that the Office could respond to the requests made of it.
28. With regard to the excessive workload faced by the Office, the Employer members felt that it was necessary to simplify the manner of requesting and processing information. It was necessary to concentrate on the most important questions. The remark by the United States Government was relevant in this regard. If certain countries did not respond to the requests for information, it was because they did not have the infrastructure to do so. Tables 2 and 3 appended to the information note attested to the quality of the work accomplished by the Working Party so far.
29. The Chairperson stressed that human resources were limited and that the requests of the Working Party should be as clear as possible and avoid redundancy. Information in effect seemed to get mislaid within the Organization, for example between the Committee of Experts and other bodies of the ILO. This question required further consideration, which could be done in the context of the discussion next week in the plenary sittings of the Governing Body on the question of possible improvements in ILO standards-related activities.

B. Deferred examination of the Minimum Age (Fishermen) Convention, 1959 (No. 112)³

30. The Chairperson noted that the Working Party had already examined this Convention in the past but had not been able to reach a consensus.
31. The Employer members agreed with the idea of recommending the ratification of Convention No. 138 and inviting the States concerned to take into account the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry (TMFI meeting) in consultation with the employers' and workers' organizations concerned. They also agreed with subparagraph (b) of the Office proposals. However, the Employer members expressed their opposition to the part of these proposals starting with "that is to say that the minimum age ...". In fact, this part amounted to attaching conditions to the ratification of Convention No. 138 which fell outside the mandate of the Working Party. It was appropriate to recommend, but not require, member States to take into account the conclusions of the TMFI meeting. Furthermore, this could represent an obstacle to ratification of Convention No. 138. It was up to each State to decide, in consultation with

³ GB.279/LILS/WP/PRS/1/1.

employers' and workers' organizations, the terms of ratification of Convention No. 138. For instance, it was not certain that fishing should a priori and in all cases be regarded as a hazardous occupation.

- 32.** The Worker members stated that, in their view, the examination of this Convention had been deferred due to an uncertainty on a terminological issue and not because of a disagreement on a standard regarding minimum age in the fishing industry. With reference to the comment by the Employer members, they underlined that fishing was clearly a hazardous occupation, with 24,000 fatalities per year. To avert fears of creating an obstacle to ratification of Convention No. 138, the Office could directly contact the nine member States that were still parties to Convention No. 112 and explain to them the substance of the conclusions of the TMFI meeting. The Worker members proposed an amendment to paragraph (a)(ii) of the Office proposals to read as follows: "to give effect to the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry, that is, that the minimum age for admission to employment and work in the maritime fishing industry should in no case be lower than 16 years, and to specify that Article 3 of Convention No. 138 applies to maritime fishing". The Worker members also asked what measures had been taken by the Office to ensure that the States parties to Convention No. 138 regarded fishing as a hazardous occupation in the terms of Article 3 of Convention No. 138.
- 33.** As regards the proposal by the Worker members to invite States to specify that Article 3 of Convention No. 138 applied to the maritime fishing industry, a representative of the Director-General stated that the determination of hazardous occupations in accordance with Article 3 was not the subject of a specific declaration at the time of ratification and that this question was examined in the framework of the application of the Convention. In reply to the question by the Worker members, she stated that the States concerned by the recommendation of the Working Party were the parties to Convention No. 112. There were only nine of them and could be directly informed of this issue.
- 34.** Following the observation by the representative of the Director-General, the Worker members withdrew their proposed amendment to the Office proposals.
- 35.** The representative of the Government of Mexico stated that her country was a party to Convention No. 112 and was examining the possibility of ratifying Convention No. 138. In this context, she supported the view of the Employer members and considered that it was up to the Government to decide the conditions of ratification of Convention No. 138. Nevertheless, it was absolutely feasible to invite States to take into account the conclusions of the TMFI meeting at the time of ratification.
- 36.** The representative of the Government of India supported subparagraph (a)(i) of the Office proposals: Convention No. 138 should in fact be ratified by all member States. Nevertheless, fishing often constituted a family undertaking. If it were regarded as a hazardous activity, this would have been explicitly mentioned in Article 3 of Convention No. 138. Enlarging the scope of that Article would make the ratification of the Convention more difficult.
- 37.** After an exchange of views, *the Working Party proposes:*
- (a) to invite the States parties to the Minimum Age (Fishermen) Convention, 1959 (No. 112):**
- (i) to contemplate ratifying the Minimum Age Convention, 1973 (No. 138);**

(ii) *to take into consideration the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry*⁴ (Geneva, 13-17 December 1999), *in consultation with the organizations of employers and workers concerned;*

(b) *that the Working Party (or the LILS Committee) re-examine the status of Convention No. 112 in due course, with a view to its possible abrogation when the number of ratifications of Convention No. 112 has substantially decreased as a consequence of ratification of Convention No. 138.*

C. Deferred examination of the Holidays with Pay Convention (Revised), 1970 (No. 132) – Short survey⁵

38. The Chairperson recalled that this Convention was submitted for examination to the Working Party for the fourth time. The Office had taken up the study prepared by an external expert in March 2000 and was now submitting the short survey to the Working Party under its own responsibility. The elements taken into account in the framework of the short survey included the consultations conducted in 1997, the results of which were examined in more depth and included late replies, the examination of relevant legislation in 41 member States and a study of the social and economic objectives of the Convention. Thus, the survey provided a complete analysis. The results were mixed. On the one hand, almost half of the countries examined experienced no or few obstacles to ratification and four new ratifications had been registered since 1997. On the other hand, the other half of the countries examined reported obstacles which concerned almost all aspects of the Convention. The analysis of the current relevance of the social and economic objectives of the Convention had been based on two elements: the protection of the safety and health of workers and the redistribution of the profits generated by increases in productivity. Furthermore, the impact of recent developments in the labour market towards more flexible forms of work had been examined.
39. The Employer members considered that the maintenance of the status quo was necessary. First, it was not possible to place on an equal footing the 30 ratifications registered for this Convention and the 31 States which had reported obstacles to ratification. Such a quantitative comparison was artificial in the context of an in-depth examination of the Convention. To analyse an instrument in such a manner, one must know the instrument's objective. The Holidays with Pay Convention (Revised), 1970 (No. 132), should be seen in the context of the protection of the safety and health of workers and not in the context of a redistribution of productivity gains. Since the 1970s, the world economy had undergone spectacular changes characterized by greater freedom and a contraction of regulation in the organization of production and work. This phenomenon had provided the basis for new forms of work flexibility. The autonomy gained also made it possible to settle a number of issues by collective agreements. Thus, the ratification record of Convention No. 132 seemed to be of minor importance on account of its objective and scope of application. Moreover, certain countries had presented their very specific objections to this Convention. The rigidity of Convention No. 132 gave rise to negative reactions when it came to ratifying it. The Employer members supported the status quo with respect to this Convention and considered it appropriate to closely follow the new and emerging forms of work organization. A Convention had to be realistic and aim at receiving the largest number of ratifications possible. Some countries were still far from being able to ratify and implement the Convention because it did not have the required universal character.

⁴ According to these conclusions, the minimum age for admission to employment and work in the maritime fishing industry should in no case be lower than 16 years, and this activity should be considered a hazardous occupation within the meaning of Article 3 of Convention No. 138.

⁵ GB.279/LILS/WP/PRS/1/2.

- 40.** The Worker members considered that the Office document should be examined in the light of the discussions that had already taken place in the Working Party. In November 1996, the Governing Body had decided to invite the States parties to the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to contemplate ratifying Convention No. 132, a ratification which would involve the immediate denunciation of Convention No. 101. This invitation had been accompanied by a request for information on any obstacles to ratification of Convention No. 132 (35 member States were still bound by Convention No. 101). In March 1997, the same decision had been taken with regard to Convention No. 52 (42 member States were still bound by Convention No. 52). At that time Convention No. 132 had received 26 ratifications. The examination of the Convention had been deferred from March 2000 to the present meeting. The Worker members thanked the Office for the document, which contained relevant information and allowed a better understanding of the situation prevailing in each country. The Worker members did not agree with the conclusions of the Office concerning the ratification prospects of this Convention. Since 1997, Convention No. 132 had received four new ratifications and ten other member States reported in the consultations that they were examining the possibility of ratifying this Convention. Furthermore, as indicated in paragraph 8 of the document, there were no or few obstacles to ratification in almost half of the 41 member States whose legislation had been examined. A minor confusion might arise since answers regarding obstacles to ratification had been submitted by States parties to Convention No. 132 as well as by States that had not ratified the Convention. The main obstacle to ratification was the non-conformity of national legislation with the provisions of the Convention. If the legislation of all member States had been in conformity with international labour standards, there would be no need to adopt Conventions. The Office should offer technical assistance to member States reporting obstacles to the ratification of Convention No. 132. The Convention was up to date and its ratification should be promoted, with technical assistance for certain countries. The Office should make special efforts to ensure follow-up on the Governing Body's decisions on Conventions Nos. 52 and 101.
- 41.** The representative of the Government of Denmark supported the Office proposals contained in paragraph 12 of the document. Convention No. 132 was a very important Convention dealing with issues concerning the safety and health of workers. This was an important issue at a time of globalization. The speaker also supported the proposal to hold a general discussion on working time at the Conference, prepared and conducted in accordance with the proposed integrated approach. Denmark had just revised its legislation on annual leave and was considering the ratification of Convention No. 132. The Government hoped that it had thus overcome the obstacles to ratification related to Article 6, paragraph 2, of the Convention.
- 42.** The representative of the Government of the Netherlands thanked the Office for the document, which revealed the complexity of the question under examination and drew a clear picture of the situation. The survey demonstrated that Convention No. 132 continued to exert an influence in the majority of countries where traditional forms of employment relationships continued to prevail. This factor should not be neglected. In addition, the question arose of whether the Convention responded to the needs linked to developments in the labour market, and especially the call for greater flexibility. The lack of flexibility attributed to the Convention constituted an obstacle to ratification, including for the Netherlands. This was a development to take into account. The relatively recent character of this phenomenon called for an in-depth examination. She thus supported the proposal to hold a general discussion on working time and to maintain the status quo with regard to the Convention until such a general discussion had been held.
- 43.** The representative of the Government of Canada supported the proposals contained in paragraph 9 of the document. Contrary to what was stated in paragraph 27, Canadian legislation did include relevant provisions at the federal level. Nevertheless, Canada should figure, in footnote 34, among the countries reporting obstacles relevant to the provisions setting the minimum duration of annual leave at three weeks.
- 44.** The representative of the Government of Namibia supported the proposal for the maintenance of the status quo with regard to the Convention. The situation in developing countries should be examined, especially the increasingly important informal sector, which was not covered by Convention No. 132. Concerning flexibility, it was important also to examine the question of contract labour. In many cases, a system of time-based remuneration was being replaced by a task-based remuneration.

If this trend persisted, ratification of Convention No. 132 would prove difficult since the Convention had been drafted at a time when the latter form of remuneration was not prevalent.

45. The representative of the Government of Switzerland thanked the Office for the document and especially for the appended table. Convention No. 132 addressed very important issues. It was important to maintain a balance between, on the one hand, the protection of the health of workers, and, on the other, the existence of sufficient flexibility. He supported the Office proposals.
46. The representative of the Government of the United States shared the view of other speakers that the entire set of instruments on working time should be examined in the framework of a general discussion in order to examine the protection they offered and to identify any existing gaps. Such a general discussion could take place within the framework of the new integrated approach which was being proposed.
47. The Worker members drew the attention of the members of the Working Party to paragraph 29 of the document, which provided an overview of the calls for revision of the Convention. One country in favour of revision, Finland, had ratified the Convention and seemed to call for even stronger protection. The views expressed by other countries seemed to indicate a tendency to weaken the protection offered by the Convention. Moreover, paragraph 54 referred to the alarming increase in certain hazards and unhealthy behaviours and drew attention to questions of occupational safety and health. The Convention had received 30 ratifications, four of which were recent, and one could conclude that it was up to date, that it was still relevant and that its ratification should be promoted. Generally speaking, a number of the calls for a general discussion or a revision of the Convention came from countries that had much higher standards than those provided for in Convention No. 132. Furthermore, the maintenance of the status quo would be difficult to reconcile with the Governing Body's decisions regarding Conventions Nos. 52 and 101. Finally, the proposal for an integrated approach, which had been mentioned, would be examined in the plenary sitting of the Governing Body independently of the Working Party's discussions.
48. The Employer members noted that paragraph 9 revealed a lack of research on the new forms of work flexibility. They hoped that the integrated approach would be adopted and proposed to undertake discussion and research within this framework. The questions under examination were in constant evolution and it was necessary to face new realities. Consequently, the status quo seemed to be a prudent conclusion. Concerning Conventions Nos. 52 and 101, the Governing Body had already adopted a decision which should not be affected. The main concern of the Employers was the maintenance of a viable standard-setting system. Convention No. 132 had received a relatively low number of ratifications and 31 member States had expressed objections regarding some of its aspects. Thus, the Convention was not a truly universal instrument.
49. After an exchange of views, the Worker members stated they would accept the maintenance of the status quo regarding Convention No. 132, on the understanding that the decisions taken by the Governing Body regarding Conventions Nos. 52 and 101 would not be affected.
50. *The Working Party proposes to recommend the maintenance of the status quo with regard to the Holidays with Pay Convention (Revised), 1970 (No. 132), it being understood that any subsequent development will be taken into account in due time.*

D. Deferred examination of the Termination of Employment Convention, 1982 (No. 158) – Short survey⁶

51. The Working Party agreed to defer the examination of Convention No. 158 to its next meeting during the 280th Session (March 2001) of the Governing Body, taking into account the views expressed at the outset of the meeting (paragraphs 2-9).

E. Follow-up on consultations concerning instruments on social security⁷

52. The Worker members noted that only 44 member States had so far responded to the request for information. If the examination of follow-up on this consultation was deferred, it seemed appropriate to issue a reminder in order to ensure that the Working Party would have at its disposal a larger number of responses when it examined the question.

53. The Employer members requested that member States that had responded to the request for information be listed in the report of the Working Party to the Committee on Legal Issues and International Labour Standards.⁸

54. The Working Party agreed to defer the examination of follow-up on consultations concerning instruments on social security until its meeting during the 282nd Session (November 2001) of the Governing Body.

F. Methods of revision of instruments concerning occupational safety and health⁹

55. The Working Party agreed to refer to the Governing Body the examination of the question of the methods of revision of instruments concerning occupational safety and health for examination in the larger context of the question of the possible improvements of ILO standards-related activities and of the proposals for the agenda for the 91st Session (2003) of the Conference.

56. The representative of the Government of India considered that an examination of the occupational safety and health standards was most appropriate for the proposed integrated approach.

⁶ GB.279/LILS/WP/PRS/1/3.

⁷ GB.279/LILS/WP/PRS/2.

⁸ As at 1 November 2000, 48 member States had replied to the request for information from the Office: *Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Canada, Chile, Czech Republic, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, Egypt, Estonia, Finland, Germany, India, Indonesia, Italy, Japan, Kuwait, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Morocco, New Zealand, Norway, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saint Vincent and the Grenadines, Slovenia, Spain, Switzerland, Syrian Arab Republic, Thailand, Turkey, Uganda, United Kingdom and United States.*

⁹ GB.279/LILS/WP/PRS/3.

G. Examination of Recommendations (fourth stage)¹⁰

57. The Chairperson recalled the main aspects of the methodology approved by the Working Party for the examination of Recommendations, contained in paragraphs 3-4 of the document.

I. Forced labour

I.1. R.36 – Forced Labour (Regulation) Recommendation, 1930

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

(a) *note that the Forced Labour (Regulation) Recommendation, 1930 (No. 36), is obsolete;*

(b) *propose to the Conference the withdrawal of Recommendation No. 36 in due course.*

II. Employment security

II.1. R.119 – Termination of Employment Recommendation, 1963

59. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it note the replacement of the Termination of Employment Recommendation, 1963 (No. 119), by the Termination of Employment Convention (No. 158) and Recommendation (No. 166), 1982.*

II.2. R.166 – Termination of Employment Recommendation, 1982

60. The Working Party agreed to defer the examination of the Termination of Employment Recommendation, 1982 (No. 166), to its next meeting, as decided in relation to Convention No. 158, which it supplements.

III. Working conditions

Weekly rest

III.1. R.18 – Weekly Rest (Commerce) Recommendation, 1921

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

(a) *note that the Weekly Rest (Commerce) Recommendation, 1921 (No. 18), is obsolete;*

¹⁰ GB.279/LILS/WP/PRS/4.

(b) *propose to the Conference the withdrawal of Recommendation No. 18 in due course.*

III.2. R.103 – Weekly Rest (Commerce and Offices)
Recommendation, 1957

62. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103).*

Paid leave

III.3. R.47 – Holidays with Pay Recommendation, 1936
R.93 – Holidays with Pay (Agriculture) Recommendation,
1952

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

(a) *note that the Holidays with Pay Recommendation, 1936 (No. 47), and the Holidays with Pay (Agriculture) Recommendation, 1952 (No. 93), are obsolete; and consequently,*

(b) *note that Recommendations Nos. 47 and 93 should be withdrawn, and defer the proposal for the withdrawal of these instruments by the Conference until the situation has been re-examined at a later date.*

III.4. R.98 – Holidays with Pay Recommendation, 1954

64. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body –*

(a) *the maintenance of the status quo with regard to the Holidays with Pay Recommendation, 1954 (No. 98);*

(b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 98 in due course.*

III.5. R.148 – Paid Educational Leave Recommendation, 1974

65. The Working Party agreed to defer the examination of the Paid Educational Leave Recommendation, 1974 (No. 148), to its next meeting, as decided in relation to Convention No. 140.

IV. Occupational safety and health – Protection in certain branches of activity – dockers

IV.1. R.33 – Protection against Accidents (Dockers) Reciprocity
Recommendation, 1929
R.34 – Protection against Accidents (Dockers)
Consultation of Organisations Recommendation, 1929

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

- (a) *note that the Protection against Accidents (Dockers) Reciprocity Recommendation, 1929 (No. 33), and the Protection against Accidents (Dockers) Consultation of Organisations Recommendation, 1929 (No. 34), are obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendations Nos. 33 and 34 in due course.*

IV.2. R.40 – Protection against Accidents (Dockers) Reciprocity Recommendation, 1932

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

- (a) *note that the Protection against Accidents (Dockers) Reciprocity Recommendation, 1932 (No. 40), is obsolete; and consequently,*
- (b) *note that Recommendation No. 40 should be withdrawn, and defer the proposal for the withdrawal of this instrument by the Conference until the situation has been re-examined at a later date.*

IV.3. R.145 – Dock Work Recommendation, 1973

68. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body –*

- (a) *the maintenance of the status quo with regard to the Dock Work Recommendation, 1973 (No. 145);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 145 in due course.*

IV.4. R.160 – Occupational Safety and Health (Dock Work) Recommendation, 1979

69. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160).*

V. Maternity benefits

V.I. R.12 – Maternity Protection (Agriculture) Recommendation, 1921

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

- (a) *note that the Maternity Protection (Agriculture) Recommendation, 1921 (No. 12), is obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendation No. 12 in due course.*

V.2. R.95 – Maternity Protection Recommendation, 1952

71. The Working Party agreed to defer the examination of the Maternity Protection Recommendation, 1952 (No. 95), until after the entry into force of the Maternity Protection Convention, 2000 (No. 183).

VI. Employment of women

General

VI.1. R.123 – Employment (Women with Family Responsibilities) Recommendation, 1965

72. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it note the replacement of the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123), by the Workers with Family Responsibilities Recommendation, 1981 (No. 165).*

Night work

VI.2. R.13 – Night Work of Women (Agriculture) Recommendation, 1921

73. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body –*

- (a) *that it invite member States to communicate to the Office any additional information on the possible need to replace the Night Work of Women (Agriculture) Recommendation, 1921 (No. 13);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 13 in due course.*

VII. Employment of children and young persons

Minimum age

VII.1. R.41 – Minimum Age (Non-Industrial Employment) Recommendation, 1932

R.52 – Minimum Age (Family Undertakings) Recommendation, 1937

74. The Employer members supported the proposals by the Office, but noted that the reference to the continued usefulness of these instruments was not very clear. They requested the Office to examine in more detail the question of whether the provisions referred to in these Recommendations (concerning the concepts of “light work” and “family undertakings”) were applied in practice.

75. The Chairperson stressed that the question of minimum age was an important one that was regularly examined by the Office. It would certainly not fail to address the question raised by the Employer members.

76. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body –*

- (a) *the maintenance of the status quo with regard to the Minimum Age (Non-Industrial Employment) Recommendation, 1932 (No. 41), and the Minimum Age (Family Undertakings) Recommendation, 1937 (No. 52);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendations Nos. 41 and 52 in due course.*

VII.2. R.96 – Minimum Age (Coal Mines) Recommendation, 1953

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

- (a) *note that the Minimum Age (Coal Mines) Recommendation, 1953 (No. 96), is obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendation No. 96 in due course.*

VII.3. R.124 – Minimum Age (Underground Work) Recommendation, 1965

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

- (a) *note that the Minimum Age (Underground Work) Recommendation, 1965 (No. 124), is obsolete; and consequently,*
- (b) *note that Recommendation No. 124 should be withdrawn, and defer the proposal for the withdrawal of this instrument by the Conference until the situation has been re-examined at a later date.*

Night work

VII.4. R.14 – Night Work of Children and Young Persons (Agriculture) Recommendation, 1921

79. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body the revision of the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921 (No. 14), and the inclusion of this revision in the item on the night work of children and young persons included in the proposals for the Conference agenda.*

VII.5. R.80 – Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946

80. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body the revision of the Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946 (No. 80), and the inclusion of this revision in the item on the night work of children and young persons included in the proposals for the Conference agenda.*

Medical examination and conditions of employment

- VII.6. R.79 – Medical Examination of Young Persons
Recommendation, 1946
R.125 – Conditions of Employment of Young Persons
(Underground Work) Recommendation, 1965

- 81.** The Employer members considered that, as formulated, the Office proposals seemed to present two contradictory options. This was rather a question of formulation than of substance and a single conclusion would seem more logical.
- 82.** The Worker members had similar views on the Office proposal, which amounted to a proposal to undertake two types of action: to give effect to the Recommendation and to examine the need for its possible replacement. They proposed to delete section (1)(b) of the Office proposal.
- 83.** The Working Party expressed its agreement with the proposals made by the Office as amended by the Worker members. *It proposes to recommend to the Governing Body that it –*
- (a) *invite member States to give effect to the Medical Examination of Young Persons Recommendation, 1946 (No. 79), and to the Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125), and to inform the Office of any obstacles and difficulties encountered in the implementation of these two Recommendations;*
- (b) *invite the Office to examine the possibilities to consolidate Recommendations Nos. 79 and 125.*

VIII. Older workers

- VIII.1. R.162 – Older Workers Recommendation, 1980

- 84.** The Worker members disagreed with the observation by the Office that “As the supply of young people in the labour force is declining, the older workforce will have to remain additional years in the labour market ...”. This was one point of view, but there were others. In certain cases migrant workers and the unemployed could be put to work. The Worker members wished to add the words “It has been argued that ...” at the beginning of the phrase. Recommendation No. 162 concerned a very important subject and member States should be invited to give effect to it and inform the Office of any obstacles and difficulties encountered in its implementation.
- 85.** The Employer members proposed to defer the examination of this Recommendation until the holding of a general discussion on social security at the 89th Session (2001) of the Conference.
- 86.** The representative of the Government of Namibia stated that in developing countries the number of young workers was increasing and that the observation by the Office mentioned by the Worker members was not justified in their view. He also supported the idea of a revision of the Older Workers Recommendation, 1980 (No. 162), in view of the impact of HIV/AIDS on the active population, and in particular with regard to older workers.
- 87.** Mr. Blondel (Worker member) stated that the question of older workers could not be confined to a problem of social security. The Recommendation also dealt with matters concerning equal opportunity and treatment, the provision of satisfactory working conditions, including through the use of specific protective measures, and preparation for and access to retirement. The observation by the Office mentioned by the Worker members did not reflect a general fact. It would be wiser to invite member States to give effect to the Recommendation.
- 88.** The Employer members proposed to delete subparagraph (1)(a) of the proposals by the Office.

89. After an exchange of views, *the Working Party proposes –*

- (a) *to recommend to the Governing Body the maintenance of the status quo with regard to the Older Workers Recommendation, 1980 (No. 162);*
- (b) *that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 162 in due course.*

IX. Indigenous and tribal peoples, indigenous workers in non-metropolitan territories

Indigenous workers

IX.1. R.46 – Elimination of Recruiting Recommendation, 1936
R.58 – Contracts of Employment (Indigenous Workers) Recommendation, 1939

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

- (a) *note that the Elimination of the Recruiting Recommendation, 1936 (No. 46), and the Contracts of Employment (Indigenous Workers) Recommendation, 1939 (No. 58), are obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendations Nos. 46 and 58 in due course.*

Workers in non-metropolitan territories

IX.2. R.70 – Social Policy in Dependent Territories Recommendation, 1944
R.74 – Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945

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

- (a) *note that the Social Policy in Dependent Territories Recommendation, 1944 (No. 70), and the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (No. 74), are obsolete;*
- (b) *propose to the Conference the withdrawal of Recommendations Nos. 70 and 74 in due course.*

Indigenous and tribal peoples

IX.3. R.104 – Indigenous and Tribal Populations Recommendation, 1957

92. The Working Party expressed its agreement with the proposals made by the Office. *It proposes to recommend to the Governing Body that it invite member States to give effect to the Indigenous and Tribal Populations Recommendation, 1957 (No. 104).*

X. Specific categories of workers

Plantations

X.1. R.110 – Plantations Recommendation, 1958

93. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it invite member States to give effect to the Plantations Recommendation, 1958 (No. 110).***

Tenants and sharecroppers

X.2. R.132 – Tenants and Share-croppers Recommendation, 1968

94. The Employer members recalled that more modern provisions than those contained in paragraphs 18 and 25 of the Tenants and Share-croppers Recommendation, 1968 (No. 132), would undoubtedly be contained in the instruments on safety and health in agriculture which would be discussed at the 89th Session (2001) of the Conference. Consequently they proposed not to invite member States to give effect to the Recommendation but to await the discussion at the next session of the Conference before making any decisions on this matter.

95. The Chairperson raised the question of the possible relation between the instruments that might be adopted at the Conference in 2001 and Recommendation No. 132.

96. The Worker members supported the proposal by the Office. Recommendation No. 132 was autonomous, and covered issues that were more general than the instruments that could be adopted on occupational safety and health in agriculture. A re-examination of this Recommendation could be considered in the light of the discussion at the forthcoming session of the Conference, provided that issues having a direct bearing on the Recommendation were raised.

97. After an exchange of views, ***the Working Party proposes to recommend to the Governing Body –***

(a) ***to invite member States to give effect to the Tenants and Share-croppers Recommendation, 1968 (No. 132);***

(b) ***that the Working Party (or the LILS Committee) re-examine the status of Recommendation No. 132 in due course.***¹¹

Nursing personnel

X.3. R.157 – Nursing Personnel Recommendation, 1977

98. The Working Party expressed its agreement with the proposals made by the Office. ***It proposes to recommend to the Governing Body that it invite member States to give effect to the Nursing Personnel Recommendation, 1977 (No. 157), and to inform the Office of any obstacles and difficulties encountered in the implementation of this Recommendation.***

¹¹ In the light of the discussion at the 89th Session (2001) of the Conference with a view to the adoption of a Convention and Recommendation on safety and health in agriculture.

H. Programme of work for forthcoming meetings of the Working Party

99. The Chairperson listed the items that could be placed on the agenda of the Working Party at the next session of the Governing Body:

- follow-up measures concerning the Working Party's recommendations, including the usual information note;
- deferred examination of the Paid Educational Leave Convention, 1974 (No. 140) (short survey), as well as its accompanying Recommendation (No. 148);
- deferred examination of the Termination of Employment Convention, 1982 (No. 158) (short survey), and Recommendation (No. 166), which complements it;
- for information, the outcome of the examination of the social security instruments concerning seafarers by the Joint Maritime Commission.

100. The Chairperson also indicated that, at its meeting in November 2001, the Working Party could examine the following items:

- the information note on the progress of work and decisions taken regarding the revision of standards;
- follow-up on consultations concerning Conventions regarding social security

101. Furthermore, an examination of publications on international labour standards, in order to reflect the decisions taken by the Governing Body concerning policy regarding the revision of standards, should be considered at a forthcoming session.

102. In addition, after the entry into force of the Maternity Protection Convention, 2000 (No. 183), the status of the Maternity Protection Convention, 1919 (No. 3), the Maternity Protection Convention (Revised), 1952 (No. 103), and the Maternity Protection Recommendation, 1952 (No. 95), should be re-examined.

103. The programme of work was adopted without modification.

104. The Employer and Worker members thanked the Government representatives for their active participation in the meeting. The Chairperson also expressed his thanks to the Governments and to the spokespersons of the two groups for their constructive attitude.

105. *The Committee on Legal Issues and International Labour Standards is invited –*

- (a) *to take note of the report of the Working Party on Policy regarding the Revision of Standards, based on the documents submitted by the Office;*

(b) to adopt the proposals in the corresponding paragraphs of this report on which the Working Party has reached a consensus.

Geneva, 10 November 2000.

Point for decision: Paragraph 105.