



EIGHTH ITEM ON THE AGENDA

**Reports of the Committee on Legal
Issues and International Labour
Standards****First report: Legal issues*****Contents***

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1. The Committee on Legal Issues and International Labour Standards (LILS Committee) met on 9 November 2001. Following the election in June 2001 of Mr. D. Funes de Rioja as Employer Vice-Chairperson of the Governing Body, the following Officers of the Committee were elected:

Chairperson: Mr. V. Rodríguez Cedeño (Government, Venezuela).

Employer Vice-Chairperson: Mr. B. Boisson.

Worker Vice-Chairperson: Mr. J.-C. Parrot.

I. Revision of the Rules for Regional Meetings

2. In view of the number of items on the Committee's agenda and the possibility of discussing the revision of the Rules for Regional Meetings in March 2002 with a view to their possible submission for adoption at the 90th Session of the International Labour Conference in June 2002, the Committee decided, as had been proposed in the Office document,¹ to postpone examination of the matter until the 283rd Session of the Governing Body (March 2002). That additional delay should enable the regional groups to carry out the necessary consultations and to transmit to the Office their observations on the document originally proposed at the 280th Session of the Government Body.²

II(a) Standing Orders of the International Labour Conference: Consolidation of measures taken to improve the functioning of the International Labour Conference

3. The Committee had before it proposals³ to consolidate in the Conference Standing Orders the reforms to the functioning of the Conference introduced on an experimental basis in 1996, and to develop them as appropriate. These proposals concern, first, the adjustments in procedure made necessary by the reduction in the time available for discussion in plenary of the reports of the Chairperson of the Governing Body and the Director-General (reduction in the time limit for speeches and the role of the Selection Committee); secondly, the extension of the use of information technologies by the Conference and its committees, including the possibility for electoral colleges to vote by electronic means during Governing Body elections; and lastly, possible adjustments to the time frame of the Conference and its committees.
4. In presenting the document, a representative of the Director-General (the Deputy Legal Adviser) noted that, with regard to the proposals contained in the document to adjust the time frame of the Conference and its committees, they did not appear to be entirely

¹ GB.282/LILS/1.

² GB.280/LILS/1.

³ GB.282/LILS/2/1.

compatible with the need to organize meetings of non-governmental groups before the opening of the Conference. He therefore suggested that the proposal contained in paragraph 25 of the Office document, to advance the opening of the Conference to Monday evening, should be replaced by a proposal to open the Conference early on the morning of the first Tuesday, so as to ensure that the objective of that measure, which was to give the technical committees more time for their discussions, could be attained. In addition, given that even if the Conference adopted the proposed amendments to its Standing Orders at its next session, it would still need to suspend some of the relevant provisions of the Standing Orders in order to be able to benefit from the reforms from the beginning of the session, he suggested that the opening of the 90th Session of the Conference should exceptionally take place on the Monday evening. The Conference could thus hold a second meeting on Tuesday morning with a view to adopting any decisions to suspend provisions of the Standing Orders, as required by article 76 of the Standing Orders, while still allowing the committees to bring forward the beginning of their discussions.

5. The Employer members agreed with the proposed consolidation in the Standing Orders of reforms which hitherto had been applied by the suspension of provisions, on the understanding that the measure should be without prejudice to any initiatives that might be taken in future to make the Conference more dynamic and participative. For example, in order to enhance the dynamic nature of the Conference, they emphasized that, quite apart from sound organization of discussions in plenary, it was important to examine the appropriateness of parallel activities not planned in advance, since they affected the ability of delegates to participate actively. Similarly, they emphasized the importance of ensuring that participation by non-governmental organizations did not adversely affect the tripartite spirit of the Organization. With regard to the reforms relating to the discussion in plenary of the reports of the Chairperson of the Governing Body and the Director-General, they considered that they should not be applied to the discussion of the Global Report. As regards the better use of information technologies by the Conference and its committees, the Employer members agreed in principle, but expressed reservations regarding the impact on attempts to reach a consensus of making an electronic voting system available to the committees. They also indicated that very detailed technical and cost assessments would need to be undertaken in order to ensure that the different needs of the committees, the nature of their work and their working methods were taken into consideration. In this regard, the LILS Committee was in the best position to determine the actual choice of information technology systems, while leaving it to the PFAC to determine the financial implications. Lastly, with regard to the time frame of the Conference and its committees, the Employer members were favourable to the proposals contained in the document, with the minor modifications suggested by the Deputy Legal Adviser, namely: opening the Conference on the Tuesday morning, as before, but as an exception allowing the opening of the next session of the Conference in 2002 to take place on the Monday evening.
6. Subject to certain observations and clarifications, the Worker members endorsed the proposals contained in the document. As regards, firstly, the arrangements for discussing the reports of the Chairperson of the Governing Body and the Director-General, they considered that the proposed arrangements should not be applied to the discussion of the Global Report. As regards the proposed amendments to article 9, they endorsed the idea that adjustments to the membership of committees could be determined directly by the groups, without any intervention by the Selection Committee, in accordance with the proposed amendment to clause (a). However, they wondered whether changes in the membership of the committees would continue to be published. As regards the proposed amendment to article 9(b), they noted that nomination of technical advisers to sit on committees was a matter for the delegate to whom the technical adviser was attached, not for the groups. Consequently, they considered that the extension of the appeal procedure to the nomination of advisers was not appropriate. As for the greater use of information technologies by the committees, the Worker members welcomed the electronic production

of documents and amendments. On the other hand, they had reservations regarding the use of an electronic voting system within the committees, in that the availability of such a tool might impede attempts to achieve a consensus. Lastly, with regard to the time frame for the opening of the Conference, the start of discussions in plenary and within the committees, they in principle supported moves to advance the work of the committees, but did not support moves to split the opening of the Conference into two separate sittings, and emphasized the importance of maintaining the solemn nature of the official Conference opening.

7. The representative of the Government of the United States, speaking on behalf of the group of industrialized market economy countries (IMEC), said that the experience acquired during recent years on the reforms introduced in 1996 was such that they could now be consolidated in the Conference Standing Orders. Nevertheless, in order to ensure that they would be effective with regard to plenary discussions, it was important for all participants to keep to a time limit of five minutes for speeches. As far as possible, on days when there was a plenary sitting, attention should be focused on speeches by delegates and ministers. High-level meetings should be limited and should concentrate on questions relating to the Conference agenda. As regards the time frame for the Conference and its committees, he favoured the Office proposals, as clarified by the Deputy Legal Adviser, including interim provisions that would be needed for the Conference in June 2002, pending adoption of the proposed amendments to the Standing Orders. His group welcomed the proposal for wider use of information technology as a means of improving the efficiency of the Conference. However, he would have preferred the cost estimates to be accompanied by an assessment of the expenditure and the savings made during the last five Conferences. Furthermore, he considered that the technical examination of the different options should take place within the committee concerned before the PFAC was asked to indicate the financial implications of the choices that had been made. As regards the committees, he recalled the position of his group regarding the choice and training of their officers and secretariat staff.
8. The representative of the Government of Namibia emphasized the need to maintain the visibility and relevance of the plenary as a high-level international forum, especially for countries like his own. With regard to the possibility of using an electronic voting system in the committees, he noted that it was not simply a question of the costs involved; the use of an electronic voting system within the committees might lead to the disappearance of attempts to achieve consensus.
9. Further to the observations made on behalf of the countries of the IMEC group, the representative of the Government of France particularly welcomed the progressive and experimental method of formalizing the reforms introduced in 1996. He also welcomed the proposed adjustments to the time frame of the Conference, which would give the committees valuable extra time to finish their work. In particular, in the case of the Committee on the Application of Standards, the additional time could be used for a more detailed examination of the General Surveys, which would acquire greater importance with the introduction of the integrated approach, but also for examination of individual cases, provided that the list could be approved at an earlier stage. He also emphasized the importance of not detracting from the attention paid to speakers in the plenary sittings by holding other high-level events in parallel.
10. With regard to the use of information technology for the production of documents and amendments in the technical committees, the representative of the Government of Germany emphasized that any examination of possible solutions and the costs involved should take into account the use of the three official languages.
11. Replying to the questions raised by the Committee, the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector explained that the reference to

opening the plenary discussion on the Monday of the second week should not be interpreted as detracting from the solemn character of the official opening. The official opening of the Conference would keep its solemn character, with the election of the Officers, the speeches of the President of the Conference and the election of the committees, while the discussion of the reports of the Chairperson of the Governing Body and the Director-General would begin only on the second Monday. With regard to that discussion, the Office would continue to take the necessary measures to ensure that as many speakers as possible could take part under the best possible conditions. As regards the observation by the Worker members regarding the proposed amendment to article 9 of the Conference Standing Orders, the Deputy Legal Adviser explained that changes in the membership of the committees would continue to be published, although no longer in the form of a report by the Selection Committee. With regard to clause (b) of article 9, he noted that the appeal procedure in practice concerned only the non-governmental groups, and confirmed that the reference to the technical advisers was not essential and that, consequently, the provision could be maintained with its current wording.

12. *The Committee recommends to the Governing Body:*

- (a) that all the measures adopted by the Conference at its 89th Session (June 2001) be maintained at its 90th Session (June 2002);*
- (b) that consequently it propose that the Conference make the necessary derogations from article 4, paragraph 2; article 9(a); article 14, paragraph 6; and article 56, paragraph 9, of the Conference Standing Orders, so as to implement the above measures at that session, pending the adoption of the proposed amendments to the Standing Orders;*
- (c) that it propose to the Conference at its 90th Session that its Officers recommend the suspension of article 52, paragraph 3, of the Conference Standing Orders to the extent necessary to allow the government electoral college to vote by electronic means;*
- (d) that it recommend to the Conference at its 90th Session (June 2002) that it amend article 4, paragraph 2; article 9; article 14, paragraph 6; article 52, paragraph 3; article 56, paragraph 9; and article 75, of its Standing Orders, as they appear in Appendix I;*
- (e) that it request the Office to present to the LILS Committee and the PFAC in March 2002 an estimate of the costs involved in updating the electronic voting system and making available various information technology facilities, as well as an assessment of the expenditure and savings made in this area during the last five sessions of the Conference; and*
- (f) that the official opening of the 90th Session of the Conference (June 2002) should as an exception be scheduled for the Monday evening, so that the committees can begin their work on Tuesday morning.*

II(b) Practical arrangements for the examination of the Global Report presented under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work

13. The Committee had before it an Office document⁴ the purpose of which was to review the arrangements for the examination of the Global Report provided for in the annex to the ILO Declaration on Fundamental Principles and Rights at Work in the light of experience acquired during the discussions on the first two Global Reports at the 88th and 89th Sessions of the Conference in 2000 and 2001. The proposals set out in the document concern possible adjustments to the regulatory arrangements for the discussion of the Global Report, on the one hand, and to the practical arrangements for that discussion, on the other, so as to ensure that the discussion would correspond more closely to the form, content and results sought by the constituents.
14. The Deputy Legal Adviser, introducing the document, explained that the proposed changes to the regulations were intended to allow discussion of the report to take place within a Conference Committee of the Whole, which would be subject to particular provisions in matters of participation, the conduct of discussions, the right to speak and publication of records. With regard to possible practical arrangements, he recalled that these were aimed in particular at providing for a discussion in two phases: a general discussion, in which delegates and ministers would speak individually during a plenary sitting during the second week of the Conference; and the second phase, which would be held within the Committee of the Whole to allow a more interactive debate focused on points for discussion. These discussions, in addition to being published in a separate record, would be brought to the attention of the Conference by a presentation to the plenary.
15. The Employer members considered that the practical recommendations contained in the document, which resulted from consultations held in September, answered the need to ensure adequate discussion of the Declaration and its follow-up. With regard to the suggestions set out in paragraph 7 of the document, the Employer members supported those concerning the need to divide the discussion into stages. On the other hand, with regard to the examination of the situation in particular countries, they recalled that the purpose of the discussion was not to criticize national conditions or policies, but rather to undertake constructive discussions with a view to establishing the framework for appropriate technical assistance. As for the suggestions concerning the right of participation in the Committee of the Whole, they noted that interventions by actors other than the tripartite constituents might be detrimental to the interactive nature of the discussions, and priority should therefore be given to governments and the social partners. The proposal for active participation by the Director-General in the discussion on the Global Report was of crucial importance to the prestige and the dynamic character of the discussions. While in principle supporting the introduction on a trial basis of these new arrangements at the next session of the Conference, the Employer members also supported the idea that the practical arrangements for the discussion of the Global Report at subsequent sessions of the Conference should be the subject of ongoing discussion with regard to the best way of improving those arrangements in the light of experience.
16. The Worker members considered that the suggestions set out in paragraph 7 were the most appropriate for improving the discussion of the Global Report. They were in agreement

⁴ GB.282/LILS/2/2.

with the practical arrangements that had been suggested at this stage, with the exception of the proposed time frame. Since in their view the general discussion in plenary should not be too far removed from the interactive discussion in the Committee of the Whole, they would prefer the Committee of the Whole to meet immediately after the general discussion or on the following day, rather than a week later, as the document proposed.

- 17.** The representative of the Government of the United States, speaking on behalf of the IMEC group, expressed a preference for more succinct Global Reports focusing on key issues of real interest and relevance in the area concerned. Furthermore, in order to stimulate media and public interest, the Global Report should be published as early as possible. Similarly, the launching of a Global Report should draw on the experience of the publicity campaign in connection with the child labour Conventions and the IPEC programme during the Global Employment Forum. The format of that Forum should also encourage discussion on the most appropriate way of enhancing the interactive nature of the discussion on the Global Report at the Conference. In this regard, he emphasized the importance of the choice of person to guide the discussions, who needed to have relevant expertise in the area covered by the Global Report. Recalling his group's support for devoting plenary sittings to the discussion of the reports of the Chairperson of the Governing Body and the Director-General, he supported the proposal to hold discussions on the Global Report within a Committee of the Whole. He agreed with the pragmatic and experimental approach that had been followed hitherto, and hoped that the practical arrangements that would be adopted in March 2002 for the discussion of the Global Report at the next Conference would be reviewed in November 2002, it being understood that a global discussion would need to take place in November 2003 following the first cycle of Global Reports.
- 18.** The representative of the Government of Thailand, speaking on behalf of the Asia and Pacific group, and supported by the representatives of the Governments of China, India, Japan and Pakistan, thought that the specific arrangements for the discussion of the Global Report at the next session of the Conference would have to be decided by the Governing Body in March 2002 on the basis of a new Office document. At this stage, he could support the idea of bringing the discussion on the Global Report forward to the beginning of the second week of the Conference, and agreed that the choice of chairperson was of great importance to the success of the debates. However, he could not support the suggestion that the situation in particular countries should be examined in these discussions. As regards the duration and time frame of discussions, they should be limited to a single day and should take place in a special plenary sitting. Lastly, he recalled that the purpose of the discussion of the Global Report was to assess the effectiveness of technical assistance provided to States by the ILO and to develop a programme of cooperation with the constituents.
- 19.** The representative of the Government of Japan said that there was no particular difficulty with regard to the idea of a discussion within a Committee of the Whole, provided that it did not become more interactive, since it might then easily become a kind of supervisory mechanism, but without the necessary guarantees of transparency and fairness.
- 20.** The representative of the Government of India noted that, if the intention was to maintain the visibility and significance of the discussion on the Global Report, that could only be achieved if the discussion took place calmly in a special plenary sitting. With regard to the proposals contained in paragraph 7(c) of the document, he drew attention to the danger of the procedure being hijacked, and suggested that the proposed measures should be implemented only with the agreement of the countries concerned and after bilateral discussions with them.

21. The representative of the Government of China agreed that some of the suggestions reflected in the document were not consistent with the promotional objective of the Declaration. With regard to the practical arrangements for the discussion, apart from sound organization, the content and form of the report itself were crucial, and the report needed to be sent out to governments as early as possible. Discussion in a Committee of the Whole would pose problems of availability for delegates of certain member States, if the Committee of the Whole were to meet at the same time as the plenary; if that were not the case, forming a Committee of the Whole and the adoption of special provisions would be unnecessary anyway.
22. The representative of the Government of Pakistan emphasized the need to keep discussion of the Global Report within the plenary sittings of the Conference, and warned of the possible threat to the global nature of the report if the discussions were to single out individual countries. With regard to the interactive character of the discussions, although other experiences were of interest, such as the Global Employment Forum, he emphasized the difficulty of applying them to the discussions of the Global Report, given that delegates spoke at the Conference on behalf of the State which they represented, not as individuals. Furthermore, the discussion on the Global Report was not a one-off exercise, but one that continued over time. For those reasons, he considered that the arrangements that had been adopted hitherto were satisfactory, but was willing to examine any proposals which the Office might make in March 2002 in the light of the views expressed by the Committee.
23. The representative of the Government of Cuba endorsed the point for decision, but wished to make a number of observations. First, with regard to the practical arrangements for the discussion, she did not think that it was useful to split the discussion between a plenary sitting and a Committee of the Whole, since the participants would be the same. With regard to the nature of the discussion, she recalled the strictly promotional objective, which was not compatible with a move to single out individual countries. Although it covered both countries that had ratified the fundamental Conventions and those that had not, the content of the Global Report needed to be limited to indicating the major trends in the world and putting forward possible solutions to situations that were contrary to the principles of those Conventions. Those solutions, under the terms of the follow-up to the Declaration, had to be expressed in terms of technical assistance, which would have to be discussed on a bilateral basis between the countries concerned and the Office, and it was unnecessary to refer to them in the Global Report or in the Conference discussions. Furthermore, focusing discussions on the Global Report on the situation of particular countries would constitute a new supervisory procedure, at least with regard to those States which had ratified the fundamental Conventions, since those States were already subject to examination by the Committee on the Application of Standards.
24. The representative of the Government of Sudan emphasized that the Global Report had not been conceived as a supervisory mechanism, and should therefore not incorporate components of the various existing supervisory mechanisms. The promotional nature of the Global Report might, for example, be strengthened if reports contained a summary of the discussions between the States and the Office regarding requirements in terms of the technical cooperation needed to attain the objectives of the Declaration. With regard to some of the practical arrangements, his Government could support the idea that the discussion of the Global Report could be facilitated and directed by moderators, provided that the choice reflected a certain geographical and technical balance. He shared the concern expressed regarding the proposals to single out certain countries, since that might lead to a new supervisory mechanism without even the right to be heard. Lastly, with regard to the suggestion that the discussion of the Global Report should take place in a smaller assembly room than the plenary sitting, that would in his view run counter to the general interest that people had in participating.

25. The representative of the Government of Namibia expressed reservations regarding the possible danger inherent in singling out particular countries during the discussion on the Global Report. Firstly, that would run counter to the global nature of the report, including its assessment of the effectiveness of technical assistance. Furthermore, it might easily lead to a form of supervision, particularly given that no indication had been given with regard to the criteria to be followed in the selection of countries whose situation might be discussed at the Conference.
26. Referring to the observations made by the Committee, the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector noted that, although the Office would endeavour to present concrete proposals at the March 2002 session of the Governing Body that would take account of all preferences and concerns expressed by the Committee, it would be difficult to find other solutions that would more effectively reconcile those concerns and preferences. The experience of the two previous Conferences had shown that a plenary discussion did not achieve the purpose of discussing the Global Report at the Conference. However, if the intention was to have something different from a plenary discussion, along the lines of the Global Employment Forum, that could not take the form of an open discussion, but rather a series of parallel events with restricted participation. On the other hand, even if the discussion of the Global Report were kept within the framework of the plenary sittings of the Conference, a large majority of the constituents had expressed the wish that the proposed reforms to the Conference should not be to the detriment of the primary task of the plenary, which was to serve as a platform for discussion of the reports of the Chairperson of the Governing Body and the Director-General. Certain proposals, such as having discussions directed by moderators with specialist knowledge in the subject area covered by the Global Report, were also incompatible with the Standing Orders. Lastly, the discussions at the last Conference on the basis of the arrangements agreed hitherto had given rise to certain procedural anomalies which had to be avoided. The diverse nature of the proposals that had been made during the last Conference, which the Office had sought to reflect as objectively as possible in paragraph 7 of the document, were evidence of the difficulty of the task. Consequently, although the Office would continue the discussion in March 2002 with a view to proposing more precise arrangements for the discussion of the Global Report at the next Conference, it was very likely that the result could not satisfy every wish.
27. *The Committee recommends to the Governing Body that it request the Office to prepare, for its 283rd Session (March 2002), a document on the ad hoc arrangements for the examination of the Global Report which the Conference will be invited to adopt at its 90th Session, taking into account the views expressed by the Committee.*

III. ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up: Review of the forms for annual reports under the follow-up

28. The Committee had before it a document⁵ containing three draft report forms (appearing as Appendices I, II and III) proposed for use under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, for examination and approval.

⁵ GB.282/LILS/3.

29. With reference to the questionnaire regarding freedom of association and effective recognition of the right to collective bargaining, the Worker members made several observations that applied to all three questionnaires. In the introductory paragraphs of each report form, they recommended aligning the three English versions with the French, which stated clearly that States had to submit reports if they had not ratified both or either of the relevant fundamental Conventions. In addition, at the end of each questionnaire, the reference should be to the most representative organizations of workers and not to the most representative organization of workers.
30. With reference to the questionnaire on freedom of association and the effective recognition of the right to collective bargaining, the Worker members expressed astonishment that the references to the ways in which the principle was recognized (in the Constitution, legislation, etc.), which appeared in the draft submitted to the Governing Body in March 2001, had disappeared from the current version, as had the issues dealing with statistics. They also wished to have the first question separated into two parts, since a State could recognize freedom of association but not the right to collective bargaining. Finally, they felt that the expression “foreign workers” should be replaced by “migrant workers” in Questions 2.1(h) and 3.1(h), and Question 7.1 should be brought into line with Questions 7.2 and 7.3.
31. In relation to the questionnaire on forced or compulsory labour, the Worker members wished to see a specific reference to prison labour, as in the March 2001 draft, and expressed surprise at the order in which the types of measures were listed (Question 8.2) and the nature of the difficulties (Question 13). Even if it did not indicate priorities, they wondered why the issue of awareness raising had been placed at the head of the list, which had not been the case in the March 2001 draft report form. This question applied as well for the questionnaire on discrimination.
32. With reference to the questionnaire on the elimination of discrimination in employment and occupation, the Worker members wanted to know if it might not be judicious to examine whether the notion of work of equal value appearing in Question 4.2 was defined and, if so, how. Some countries used the idea of “equal pay for equal work” and others “equal pay for work of equal value”, and having information on this matter was important. Finally, as regards Question 5.1, they wondered whether it would not be preferable to add examples, as was the case in the draft report form of March 2001, to assist governments in replying.
33. The Employer members indicated that, overall, the draft questionnaires posed a truly basic problem. Citing the text of the annex to the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, and particularly the text regarding the annual follow-up concerning non-ratified fundamental Conventions, they stressed the promotional nature of the Declaration and recalled that it involved simplified procedures. This was not the case, they observed, in relation to the questionnaires that had been submitted for examination by the Committee.
34. Drawing on the questionnaire regarding the elimination of discrimination in respect of employment and occupation as an example, and referring to the paragraph that preceded the first question in each of the forms, the Employer members wished all references to Conventions to be deleted. They felt that equality of remuneration did not appear in the Declaration, the fundamental principles of which are only those contained in the Constitution, which does not mention this notion. Thus all references to equality of remuneration should disappear from the questionnaire (Question 4.2, the second column in Question 5.2, and Question 7.1(b), as well as the corresponding columns in Questions 12 and 13).

35. After noting that several of these remarks applied to all three questionnaires, the Employer members concluded that the draft report forms submitted for approval by the Committee did not, in their view, meet the objectives of the follow-up to the Declaration.
36. The representative of the Government of the United States, while expressing appreciation for the efforts made to shape the report forms in the most effective way to obtain the necessary data, wondered whether the Office had sufficient staff resources to collect and analyse the data being sought. Regarding the relationship between all three proposed report forms and the existing forms, he asked for clarification of the introductory phrase, "If your Government has already submitted a report using this form, please indicate only changes since the last report", and posed a related query in connection with the final question appearing in each of the report forms. The first question in all three forms did not ask *how* the principle was being recognized, and his Government thought that would be useful. He also wished to know what was meant by the request to "describe" statistics (appearing in Question 11.2 of the draft report form on the elimination of all forms of forced or compulsory labour and in Question 8.1 of the draft report form on the elimination of discrimination in employment and occupation); he thought that a request to "provide" statistics was more appropriate. With reference to the report form on freedom of association and the effective recognition of the right to collective bargaining, he suggested that the term "foreign workers" be replaced by "migrant workers" and that the reference to women workers in Question 7.1 be added to the list appearing in Question 2.1. Subject to these suggestions, his Government could support the new report forms.
37. The representative of the Government of India noted that rigidities in the earlier report forms had been removed to some extent, to make them more flexible and relevant to socio-economic and institutional realities. His Government could thus agree to the new forms.
38. The representative of the Government of Germany wondered whether the Committee had the time to elaborate new questionnaires that could take account of the considerations of the Workers' group without being unacceptable to the Employers' group. If the proposals on the table complicated matters, would it not perhaps be preferable to stay with the existing report forms? He asked when the new forms actually needed to be sent out; if they did not have to be dispatched before the Governing Body met in March, the Committee could consider new proposals at that time.
39. The representative of the Government of Canada felt that the proposed report forms were a considerable improvement on the existing versions. Still, the discussion so far had indicated that there was room for further improvement. The *Can/Cannot* distinction that was used, for example, under point 2.1(a) of the form regarding freedom of association and the effective recognition of the right to collective bargaining would not necessarily catch the whole range of laws and practices in different member States.
40. The representative of the Government of China wished to know how countries that had ratified one of the two fundamental Conventions in question should reply to the entire report forms, since there was a risk of overlap with reports provided under article 22 of the Constitution as regards ratified Conventions.
41. In response to observations made by the Employer members, the Worker members stated that they did not agree with their analysis. Citing paragraph 3 of the Declaration, they highlighted that the Organization had as an objective, using all its means and technical cooperation, to promote the ratification and implementation of the fundamental Conventions, as well as to assist States not in a position to ratify them, to respect, promote and realize the principles concerning fundamental rights which are the subject of those Conventions. He also cited the follow-up provided for in the annex which, according to paragraph 4 of the Declaration, is an integral part of it and which is based on

questionnaires that permit the collection of the information necessary for a proper follow-up. The Worker members also remarked that the Office had taken into account recommendations made by the ILO Declaration Expert-Advisers in their Introduction to the review of annual reports examined by the Governing Body in March 2001. In concluding, they considered that in spite of their imperfections, the proposals made by the Office went in the right direction.

42. Replying to the discussion, the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector recalled the background of the Committee's deliberations, quoting Annex II.B of the 1998 Declaration: "The report forms will be drawn up so as to obtain information from governments which have not ratified one or more fundamental Conventions, on any changes which may have taken place in their law and practice ...". From the beginning there had been a consensus that the fundamental Conventions comprised seven ILO Conventions – Nos. 29, 87, 98, 100, 105, 111 and 138. The Worst Forms of Child Labour Convention, 1999 (No. 182), joined this group upon entering into force in 2000 as the eighth fundamental standard. The ILO Declaration Expert-Advisers, whose task it is to review the responses to the report forms, had criticized the existing report forms as being somewhat legalistic, insufficiently gender-sensitive and cursory when it came to envisaging technical assistance. When the Office proposed new forms in March of this year, it had only been possible to deal with the urgently needed revision of the report form concerning the effective abolition of child labour, where the principles underlying Convention No. 182 had to be accommodated. Now the other three categories of fundamental principles and rights at work ought to be dealt with.
43. The Executive Director of the Standards and Fundamental Principles and Rights at Work Sector acknowledged that Committee members had made a number of valid points on the proposed report forms, which the Office would need to take into account in further revisions. Fresh consultations could take place before the March 2002 Governing Body session, at which time the Committee could consider any new proposals and, if they were adopted at that time, the new forms could be sent out in time for the next round of annual reports under the Declaration. If there were no consensus in March 2002, the Office would have to send out the existing report forms again. As regards the Employers' group's concern with the report form regarding the elimination of discrimination in respect of employment and occupation, which in its view did not extend to questions of equal remuneration for men and women, the Office had always acted on the understanding that Convention No. 100 formed part of the fundamental Conventions. The Global Report due in 2003 on discrimination was planned in that perspective as well. Recognition of the principle of equal remuneration was part of the Organization's Constitution and the wording of the draft questionnaire reflected this fact. At any rate, the Office would look at the report forms once more in the light of today's discussions, engage in further consultations and present new proposals to the Governing Body in March 2002.
44. The Employer members stated that they did not mean to go back over Conventions Nos. 100 and 111, but that it was necessary to stick to the text of the Declaration, in which the notion of equal remuneration did not appear.
45. The Worker members voiced their disagreement, as they felt that differences in remuneration were one of the features of discrimination in employment and occupation.
46. The representative of the Government of Guatemala expressed concern about some of the comments that had been made about discrimination. Her Government did not understand the problem, since it was obvious that "elimination of discrimination in employment and occupation" was one of the fundamental principles in the Declaration, and that equal remuneration was part of that principle. Discrimination could not be eliminated without including remuneration.

47. The Chairperson noted that while there was considerable support for the new report forms, the Committee was not in a position to approve them at this time. The Committee would continue to examine them at a later date. With reference to document GB.282/LILS/3, the Committee decided to postpone review of the forms for annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work to its March 2002 session.

IV. Other legal issues: Agreement between the International Labour Organization and the Organisation internationale de la francophonie

48. The Committee had before it a draft agreement between the International Labour Organization and the Organisation internationale de la francophonie aimed at strengthening the existing links between the two organizations through the exchange of information, mutual assistance in areas of common interest and reciprocal representation at their respective meetings.
49. The Employer members endorsed the conclusion of the proposed agreement, but considered that the wording in some places needed to be modified, in particular the wording of the fourth preambular paragraph, which they considered did not adequately reflect the importance of tripartism. The paragraph should accordingly read as follows: “Valuing institutional dialogue between governments and the social partners and other actors of civil society through their respective bodies;”.
50. The Worker members expressed their agreement with the proposed text and with the amendment proposed by the Employer members. In addition, they suggested that the reference in the second preambular paragraph to “international standards” should be specifically to “international *labour* standards”.
51. The representative of the Government of Slovakia expressed the support of his Government for the proposed agreement, recalling the historic links between the French-speaking world and the founders of Czechoslovakia. The representative of the Government of France emphasized that concluding the proposed agreement would contribute to achieving the common objectives of the two organizations.
52. *The Committee recommends to the Governing Body that it approve the text of the Agreement between the International Labour Organization and the Organisation internationale de la francophonie, which is reproduced as amended by the Committee in Appendix II of the present report, and that it authorize the Director-General (or his representative) to sign the Agreement on behalf of the ILO.*

Geneva, 12 November 2001.

Points for decision: Paragraph 12;
Paragraph 27;
Paragraph 52.

Appendix I

Proposed amendments to the Conference Standing Orders as approved by the Committee

(passages which it is proposed to delete are shown between square brackets, those which it is proposed to add are underlined)

ARTICLE 4

Selection Committee

...

2. *It shall be the duty of the Selection Committee to arrange the programme of the Conference, to fix the time and agenda for the plenary sittings, to act on behalf of the Conference with respect to decisions on non-controversial questions of a routine nature and to report to the Conference on any other questions requiring a decision for the proper conduct of its business, in accordance with the Conference Standing Orders. Where appropriate, the Committee may delegate any of these functions to its Officers.*

ARTICLE 9

Adjustments to the membership of committees

The following rules shall apply to all committees appointed by the Conference with the exception of the Selection Committee, the Credentials Committee, the Finance Committee of Government Representatives and the Drafting Committee:

(a) once the various committees have been established and their initial membership appointed by the Conference, it shall be for [the Selection Committee to propose to the Conference, for its approval,] the groups to determine subsequent changes in the composition of such committees.

ARTICLE 14

Right to address the Conference

...

6. *Except with the special consent of the Conference, no speech, whether by a delegate, a visiting minister, an observer or a representative of an international organization, shall exceed ten minutes exclusive of the time for translation, and no speech concerning the reports of the Chairperson of the Governing Body and the Director-General referred to in article 12, paragraphs 1 and 2, shall exceed five minutes exclusive of the time for translation. The President may, after consultation with the Vice-Presidents, submit to the Conference for decision without debate a proposal to reduce the time limit for speeches on a specific topic before the opening of the discussion thereof.*

ARTICLE 56

Composition of committees and right to participate in their work

...

9. *Representatives of non-governmental international organizations with which the International Labour Organization has established consultative relationships and with which standing arrangements for representation at the Conference have been made, and representatives of other non-governmental international organizations which the Conference, or the Selection Committee within the limits set out in article 4, paragraph 2, has invited to be represented at the committee, may be present at the meetings of the committee. ...*

ARTICLE 52

Procedure of voting

...

3. *The counting of the votes shall be carried out under the direction of the representative of the President of the Conference assisted by two returning officers appointed by the electoral college from among its members. However, if an electoral college requests to vote by electronic means, the provisions of article 19, paragraph 16, concerning a vote by secret ballot shall apply.*

(Deleted)

[ARTICLE 75

*Procedure for the nomination of members of committees
by the Government group*

1. *In making nominations for committees, the Government group shall proceed as follows:*
2. *At the first official meeting of the group, the delegates of each government shall inform the Secretary of the group, in writing, upon which committees their government desires representation and in what order of preference.*
3. *The Secretary shall thereupon prepare for each committee a list showing what governments desire representation thereon and the order of their preference. These lists shall be communicated to the members of the group.*
4. *The group shall first make its nominations for that committee for which there are the largest number of candidates. After the members of the first committee have been nominated the same principle shall be followed in respect of the remaining committees.]*

Appendix II

The *Organisation internationale de la francophonie* (OIF) in Paris (hereinafter referred to as “the OIF”), represented by the Secretary-General,
and
The *International Labour Organization* (ILO) in Geneva (hereinafter referred to as “the ILO”), represented by the Director-General,

Considering that the objectives of the OIF include those of helping to prevent conflicts, supporting the rule of law and human rights, bringing peoples closer together through mutual knowledge and strengthening their solidarity through multilateral cooperation with a view to promoting the growth of their economies, with respect for the sovereignty, languages and cultures of different States;

Considering also that the fundamental goal of the ILO is to promote justice, social progress and access to employment, specifically through the development of international labour standards, technical cooperation programmes and research activities, with a view to achieving material progress and spiritual fulfilment for all people in conditions of freedom and dignity, economic security and equality of opportunity;

Considering, furthermore, the many member countries and areas of activity which the OIF and ILO have in common;

Valuing institutional dialogue between governments, the social partners and representatives of civil society in their respective bodies;

Recalling the institutional relations that have existed for many years between the two organizations;

Convinced of the importance of linguistic diversity as a factor in development and peace and as a key element in multilateralism and international democracy;

Desirous of continuing and strengthening their collaboration in order to enhance the effectiveness of their respective activities and better achieve their common objectives for the benefit of their members;

Agree to direct and harmonize their efforts to ensure reciprocal information, consultation and cooperation in accordance with the following provisions.

Article 1 – Reciprocal information

Subject to any provisions that may be needed to safeguard the confidentiality of certain documents, the OIF and ILO shall regularly exchange information, publications and any documents on matters of common interest, so as to promote the development of their activities. The practical means of organizing such exchanges shall be determined by the two parties jointly.

Article II – Reciprocal invitations

The parties shall invite one another to appoint representatives at meetings and conferences of common interest where the relevant regulations provide for the attendance of such representatives. To that end, each of the parties shall inform the other in advance of its schedule of meetings and of the nature of those meetings.

Article III – Consultation

1. A joint committee may be established to administer the application of the present Agreement. Its members in that case shall be appointed by the Secretary-General of the OIF and the Director-

General of the ILO. The practical organization of the committee's meetings and the content of its discussions shall be defined jointly by the parties.

2. The OIF shall inform the ILO of any of its projects relating to common objectives for which it desires the ILO's cooperation. Similarly, the ILO shall inform the OIF of any of its projects relating to common objectives for which it desires the cooperation of the OIF.

Article IV – Cooperation

1. As part of their respective programmes, the ILO and OIF may agree to formulate and implement joint collaborative activities, in particular in the following areas:
 - the social dimension of globalization, within the framework of a comprehensive social and economic development strategy in which economic and social policies are mutually reinforcing with the aim of combating poverty and bringing about broadly based and sustainable development based on respect for the fundamental rights at work, promotion of access to employment and income, improvement and expansion of social protection, and strengthening of social dialogue;
 - the promotion of the ILO Declaration on Fundamental Principles and Rights at Work – namely, freedom of association and effective recognition of the right of collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, the elimination of discrimination in employment and occupation – and of its follow-up, and the study, promotion and application of international labour standards;
 - integration of young people at work, in particular through the development of vocational training and support to the creation and management of small and micro-enterprises and cooperatives;
 - promotion of equal opportunities for men and women in the world of work, in particular through vocational training;
 - strengthening of the training capacities of the *Ecoles nationales d'administration* and the regional labour administration centres, especially in Africa, making use in particular of distance training tools and new information technologies;
 - strengthening of the capacity of management training schools with a view to promoting cooperation between enterprises;
 - harnessing of new information technologies, such as the Internet, by vocational training providers, through a programme to introduce multipurpose cyber centres;
 - promotion of cultural diversity and of the French language in the various spheres of activity of the ILO and OIF.
2. The development and implementation of joint activities in areas of common interest shall be the subject of special arrangements defining the practical, technical and financial modalities of participation of the parties which shall be clearly defined.
3. Any minor and routine expenses arising from the implementation of the present Agreement shall be borne by each of the respective organizations. Any other obligation, activity or expenditure which either of the parties might wish to undertake under the present Agreement shall be the subject of consultations between the ILO and the OIF with a view to determining the availability of the necessary resources, the best way of sharing the cost burden and, if resources are not available, the best means of obtaining them.

Article V – Implementing provisions

1. The Secretary-General of the OIF and the Director-General of the ILO shall consult one another as necessary on matters relating to the present Agreement. They may agree on additional administrative provisions for the purpose of implementing the present Agreement.
2. The present Agreement, having been approved in advance by the Governing Body of the ILO and by the competent bodies of the OIF, shall enter into force on the date on which it is signed by the authorized representatives of the parties.

3. The present Agreement shall not be amended except by formal agreement of both parties. Any such amendment shall enter into force three months after the date on which agreement is given.
4. Each of the parties may abrogate the present Agreement by giving prior notice in writing, six months in advance, to the other party. Denunciation of the present Agreement by one of the parties shall not in any way affect any obligations previously entered into.
5. Each party shall apply the Agreement in accordance with its own rules and regulations and in accordance with any decisions by its competent bodies.
6. Any dispute regarding the interpretation or application of the present Agreement shall be settled amicably by the parties.

IN WITNESS WHEREOF the representatives of the OIF and ILO have signed two copies of the Agreement in French, both copies being equally authoritative.

Done at , 2001

For the *Organisation internationale
de la francophonie* (OIF)

For the *International Labour
Organization* (ILO)
