



THIRTEENTH ITEM ON THE AGENDA

**Reports of the Committee on
Legal Issues and International
Labour Standards****Second report: International labour
standards and human rights****Contents**

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I. General status report on ILO action concerning discrimination in employment and occupation

1. The Governing Body had before it a document¹ on ILO action concerning discrimination in employment and occupation.
2. The Employer members noted with interest the document submitted by the Office. They welcomed the increased number of ratifications of the relevant fundamental Conventions, while pointing to the need to continue to promote the application of those Conventions. Future reports on the issue should focus on the impact in reality of the action taken, including specific examples of progress achieved.
3. The Worker members welcomed the information provided on the wide scope of programmes and activities implemented at headquarters and in the field. The focus on better application of the relevant Conventions was endorsed. Similar reports in the future should include information on assessments and impact of the activities, including those regarding gender mainstreaming, with the integrated approach highlighting also the role of social dialogue. Governments should seriously consider the possibility of adding additional grounds of discrimination, as provided for under Article 1 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The progress made in some countries in closing the wage gap between men and women was welcome, and it was hoped that further efforts were being made in that regard. They stressed that programmes to promote Conventions Nos. 100 and 111 should also promote related Conventions, such as those on home work, part-time work, workers with family responsibilities and maternity protection. Full support was pledged for ensuring the visibility of the gender dimension in projects not specifically dealing with gender. The gender component within the ILO/ADB technical cooperation programme was welcomed, and it was hoped that similar initiatives could be developed with other international and regional economic institutions. The Workers wanted to see wider initiatives to promote efforts to get children and particularly girls involved in child labour into formal education, as well as further joint activities with ACT/EMP and gender awareness and entrepreneurship. The Worker members underlined the importance of questioning old prejudices against disabled persons. They considered the resources of the Disability Programme to be insufficient and called for involvement of workers' organizations in legislative reviews concerning disability issues. The development of a United Nations Convention on the Rights of Persons with Disabilities and the ILO's contribution to that process was welcomed. The Worker members also welcomed the activities mentioned in paragraphs 40 to 42 related to discrimination in the context of HIV/AIDS, and stressed the importance and urgency of the HIV/AIDS programme and would like to see an increase in the budget. They urged all member States concerned to provide full information under the supervisory process in respect of the Indigenous and Tribal Populations Convention, 1957 (No. 107) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The contacts with trade unions established by the Special Action Programme to Combat Forced Labour, as well as its initiative concerning discrimination, poverty and indigenous people in Latin America, was appreciated and should be repeated in the regions, strengthening further its cooperation with ACTRAV. The International Migration Programme (MIGRANT) was congratulated on its excellent work to raise the ILO's profile on the issue. It was important to involve trade unions in the national research project concerning discrimination against migrant

¹ GB.286/LILS/5.

workers in Italy. Attention was drawn to certain immigration measures recently taken in the Dominican Republic, Malaysia and Thailand. Information had been received on visa restrictions to Thailand and on forced repatriation and harassment of migrants from Myanmar, especially representatives of the Federation of Trade Unions and other trade unionists, within Thailand. The Worker members urged the ILO to ensure that the social partners were able to contribute to policy discussions on migration, and said that information on the campaign for ratification of the United Nations Convention on Migrant Workers should be included in the report.

4. The war that had just begun in Iraq would worsen the situation of workers in the occupied Arab territories, as the start of peace negotiations would be delayed. The importance of the Director-General's report on the issue was affirmed, and it was hoped that the proposals contained in it would be rapidly implemented, including the establishment of a Palestinian Fund for Employment and Social Protection. Even before the war against Iraq, the Palestinian economy had been in an extraordinary crisis. The blocking of the territories prevented Palestinian workers from getting to workplaces, thus increasing unemployment and poverty. The ILO needed to continue to play its role for the promotion of dialogue between Israeli and Palestinian people on social issues.
5. The representative of the Government of the Libyan Arab Jamahiriya underlined the importance of this agenda item. His Government appreciated the technical activities carried out in support of workers in the occupied Arab territories. Since the International Labour Conference had discussed the issue in 2002, the situation in the occupied Arab territories had further deteriorated owing to new occupations and demolitions of homes, workshops and factories, leading to a level of unemployment close to 100 per cent. The Office therefore needed to redouble its efforts and put an end to such discrimination. All member States were asked to assume their responsibilities. The Office should send another mission to the region as soon as possible in order to gather first-hand information. In the current international context of a war which was against the will of the international community, there was no cause for optimism regarding the situation in the occupied Arab territories, and even more reason for the Organization to intervene in an objective and fair manner.
6. The representative of the Government of India welcomed the paper and shared some experiences from India, referring to the Government's efforts to develop vocational training programmes for women. The representative also acknowledged the activities undertaken by INDICSO in his country. While India had ratified Convention No. 107, national laws and practice would not allow ratification of Convention No. 169 at this stage.
7. The representative of the Government of the Bahamas, speaking on behalf of the Caribbean group, thanked the Office, and in particular the Port-of-Spain MDT, for the positive work in the region to promote the implementation of the relevant fundamental Conventions. The Promotion of Management and Labour Cooperation project (PROMOLCO) mentioned in paragraph 10 of the document would lead to the introduction of a national task force in the Bahamas. He also highlighted activities which had taken place in the Caribbean concerning the promotion of gender equality, disabled workers and discrimination related to HIV/AIDS, mentioned in paragraphs 22, 37 and 45 of the document.
8. The representative of the Government of Nigeria, speaking on behalf of the African Government group, expressed appreciation for the Director-General's efforts to encourage universal ratification of the fundamental Conventions, and stressed the responsibility of member States for applying national legislation prohibiting discrimination. The initiative of the Bureau for Gender Equality to promote gender mainstreaming within constituents' organizations was noted with interest. The group requested the Office to look into the

possibility of appointing a disability specialist in the African region. The number of HIV/AIDS specialists and the number of countries in which projects were carried out needed to be increased as well. The situation of workers in the occupied Arab territories was noted with concern, and intensified efforts by the Office were called for under its Decent Work Agenda.

9. The representative of the Government of Saudi Arabia thanked the Director-General for his ratification campaign and its successful outcome. He was in agreement with the statements made by the representative of the Government of the Libyan Arab Jamahiriya and the Worker members concerning the situation of workers in the occupied Arab territories, and congratulated the Director-General for his support for Palestinian workers. He welcomed the report of the Arab Labour Organization mentioned in paragraph 53 of the document, and said that the obstacles concerning wages, closures, discrimination in respect of employment opportunities and working conditions, as well as flagrant violations of fundamental principles and rights at work, were even worse now than before. The current prohibition of imports and exports and the halt of services and production had led to serious repercussions for workers. Some 360,000 workers were affected by unemployment, which was still increasing. Efforts had to be made to ensure that aid from international and humanitarian organizations would reach those affected. The Director-General should send a delegation to the territories and prepare a report to the next session of the Conference, which should be available sufficiently early to allow for proper analysis of the situation and submission of proposals to the Conference. He supported the establishment of a technical assistance fund, and said that the resumption of peace negotiations would help to improve the situation.
10. The representative of the Government of Norway said that the document presented was informative, but asked that future reports include more on the impact of activities undertaken.
11. The Committee noted the information in the document.

II. Form for reports on the application of ratified Conventions (article 22 of the Constitution): The Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

12. The Committee had before it a document prepared by the Office² and was requested to examine the draft forms to be used as a basis for the reports on this instrument which the governments of ratifying States would be required to submit under article 22 of the Constitution of the ILO.
13. The Employer members proposed to add to question No. 3 under Article 2 of the Protocol a request for an indication of the names of the representative organizations of employers and workers consulted. They considered that this would be useful, in view of the discussions that had taken place within the Committee. The Employer members also noted a difference between the English and the French versions of the final part of the questions under Article 2 of the Protocol and requested clarifications from the Office as to which version was the correct one.

² GB.286/LILS/6.

14. The Worker members expressed their acceptance of the amendment proposed by the Employer members.
15. The representative of the Director-General indicated that, regarding the questions in the draft report form under Article 2 of the Protocol, the English version was the correct one and the final part applied to all three questions.
16. *The Committee on Legal Issues and International Labour Standards recommends to the Governing Body that it adopt the report form for the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155), as amended in the light of the observations of the Employer and Worker members (see Appendix I).*

III. Form for reports on the application of unratified Conventions (article 19 of the Constitution): The Hours of Work (Industry) Convention, 1919 (No. 1) and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)

17. The Committee had before it a document³ concerning forms for reports on the application of unratified Conventions under article 19 of the Constitution, specifically the Hours of Work (Industry) Convention, 1919 (No. 1) and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30).
18. The Employer members indicated that they endorsed the report form for reports on the application of non-ratified Conventions. However, they would have preferred to leave out the reference to the possibility of a general discussion on working hours based on an integrated approach. That, in their view, did not correspond to any of the questions raised in the form, and their group was not favourable to a discussion on the issue of working hours on that basis. Given that point VII of the report form regarding working time arrangements went beyond the scope of the instruments in question, the Employers had also wondered whether it would be appropriate to include it in a report form addressed to States that had not ratified those Conventions.
19. The Worker members supported the proposal of the Employers to delete the reference in the report form to a general discussion based on an integrated approach. So far, no decision had been taken on such an integrated approach. They stressed, however, that point VII of the report form should be maintained, since information on working time arrangements might be useful. They also inquired whether a difference existed between “constituent states, provinces or cantons” cited in paragraph (a) of the clause on federal States in the report form and “constituent units” used in paragraph (c).
20. The representative of the Government of Mexico agreed with the Employer members that point VII of the report form was wider in scope than Convention No. 1, adding that the same applied to point VIII on policies concerning hours of work.

³ GB.286/LILS/7.

21. The representative of the Director-General proposed that the terms used in the clause of the report form concerning federal States could be consolidated by adopting the term “constituent states, provinces or cantons” used in article 19 of the ILO Constitution, in place of the term “constituent units”.
22. *The Committee on Legal Issues and International Labour Standards recommends to the Governing Body that it adopt the report form on the application of unratified Conventions (article 19 of the Constitution): The Hours of Work (Industry) Convention, 1919 (No. 1) and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), as amended in the light of the observations of the Employer and Worker members (see Appendix II).*
23. In reply to a point raised by the Employer and Worker members and by the representative of the Government of the United States, the Legal Adviser said that consultations on the report forms between the Officers of the LILS Committee and the regional coordinators might be envisaged with a view to reducing the Committee’s workload. He recalled that under the terms of article 22 of the Constitution of the ILO, report forms required the formal approval of the Governing Body.

IV. The proposed consolidated maritime labour Convention: Key features

24. The Committee had before it an information paper⁴ prepared by the Office with the assistance of the Subgroup of the High-level Tripartite Working Group at its meeting in February 2003 which had held a general discussion on it. The objective was to outline the progress achieved in the development of the consolidated maritime labour Convention by the High-level Tripartite Working Group on Maritime Labour Standards and its Subgroup and to invite the Committee to take note of the key features of the proposed consolidated Convention as envisaged so far. The document made particular reference to the role that the supervisory system might play.
25. The Employer and Worker members noted the contents of the paper, which recalled some of the required essential characteristics of the new instruments, including a flexible amendment procedure and strengthened enforcement.
26. The Worker members added that matters of substance should be raised at the next meeting of the High-level Tripartite Working Group. The Office should, pending the adoption of the new Convention, continue to promote the existing maritime labour standards and member States should ratify them, as this would facilitate the acceptance of the new instrument.
27. The representative of the Government of Germany noted that most participants in the High-level Group were maritime experts and there were few experts familiar with ILO procedures in general. He was concerned by the absence of a sentence that had appeared in the earlier draft of the document as submitted to the Subgroup referred to above which included a reference to a parallel body to the Committee of Experts on the Application of Conventions and Recommendations. He inquired as to the intention behind such a reference to a parallel supervisory body. He also raised a question concerning the non-inclusion of a requirement that ratification of the new consolidated Convention be subject

⁴ GB.286/LILS/8.

to ratification of certain IMO Conventions, as had been the case with the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

28. A representative of the Office replied that the text to which reference was made did not relate to any parallel body to the Committee of Experts. Rather, it was aimed at providing the supervisory machinery, in the particular case in question the Conference Committee on the Application of Standards, with maritime expertise to enable it to better supervise the implementation and application by member States of their obligations in respect of the proposed new single maritime labour Convention. The overall thrust in the discussions to date had been to seek ways of strengthening the ILO supervisory system and ensuring that it had the necessary elements and expert maritime opinion to enable it to undertake its work effectively. As to any preconditions for ratification of the new Convention, discussions in the High-level Group had reflected the view that such preconditions were not justified, as the IMO Conventions concerned were now so widely ratified that they needed no extra promotion in an ILO instrument. However, discussion on this issue was still ongoing and would only be finalized at the Conference.
29. The representatives of the Governments of Nigeria, the United Kingdom and Italy commended the work of the High-level Group and the Office. They supported the preparation of the consolidated instrument, which should be simple and widely ratifiable with an appropriately flexible amendment procedure and effective enforcement, as well as the establishment of a tripartite maritime committee.
30. *The Committee invites the Governing Body to take note of the information contained in the document submitted by the Office.*

V. ILO cooperation with the Asian Development Bank: Core labour standards and ADB activities

31. The Governing Body had before it a document⁵ on ILO cooperation with the Asian Development Bank: Core labour standards and ADB activities.
32. The Employer members welcomed ILO cooperation with other organizations, because it enhanced the ILO's standing on the international stage. However, they expressed disagreement with the document, which in their view dictated conditionality by imposing standards on enterprises whether the relevant Conventions were ratified or not. The project in question addressed three activities supported by the Employer members: moving children from the worst forms of employment to school; improving employment for women; and reducing occupational safety and health hazards. However, the ADB was not a means of imposing standards, and funding of assistance should not be made conditional on the application of standards.
33. The Worker members agreed that failure to respect labour standards carried a penalty for development. They welcomed the ILO's ground-breaking initiative to mainstream core labour standards in ADB activities, and hoped that so laudable an initiative would be replicated by the World Bank and other regional banks, as well as other international development agencies. Resources needed to be identified in order to publish the draft handbook containing guidelines for incorporating labour standards in ADB activities, as it

⁵ GB.286/LILS/9.

would be useful for other regional and international banks. The Office had done exactly what it needed to do to promote core labour standards and their wider acceptance.

- 34.** The representative of the Government of the Republic of Korea, speaking on behalf of the Asia and Pacific group, supported collaboration with the ADB on the three areas cited but felt that insufficient consultation had taken place before, during and after the signing of the Memorandum of Understanding (MOU) with the ADB in 2002. Consequently, the recommendations made to the ADB by the ILO were being evaluated carefully, since governments in the Asia and Pacific region would be responsible for implementing labour laws, not the ADB. With regard to the socio-economic implications of non-implementation of labour standards, support was expressed for the ADB's initiative in carrying out a Regional Technical Assistance (RETA) project to increase awareness and improve the capacity of key policy-makers in developing countries. However, such an initiative had to be promotional in nature and should not be used to impose blanket conditionality, or have implications for financial lending and technical assistance programmes, since such an approach would overstep the ADB's mandate and could result in complex implications, e.g. a social clause.
- 35.** The Employer member of Pakistan felt that there were significant policy implications with the ADB's RETA project. He expressed regret that of 77 participants present at the meeting in Manila in 2002, only three were representatives of employers' organizations within the Asian region, and had not been briefed about the issues involved. ADB-financed activities were being made subject to conditionality, and the Office was requested to clarify whether the ADB was being asked to make international labour standards binding on enterprises as a condition of procurement contracts. With reference to the effect of non-observance of international labour standards on the cost of development, an explanation of the methodology used to make the link between the two was sought. He also wondered why the draft handbook was sent to the ADB before tripartite discussion by the LILS Committee.
- 36.** The Employer member of the Republic of Korea, speaking on behalf of the Confederation of Asia-Pacific Employers (CAPE), joined the previous speaker in voicing concerns over the Memorandum of Understanding (MOU) between the ADB and the ILO. If it implied a linkage between financial aid and core labour standards, it would mean compulsory implementation of labour standards. The Employer members felt that this undermined the promotional nature of the ILO's work on core labour standards. He asked the Office to respond to the Employer members' misgivings over what they felt was another form of social clause.
- 37.** The Employer member of Australia, supporting the comments made by the Employer Vice-Chairperson and the Employer member of Pakistan, agreed that consultations had not been carried out on a tripartite basis. His understanding was that the ADB would impose conditionality on individual enterprises, not only by referring to a country's labour legislation, but also by referring to an extensive body of standards including Conventions not ratified by the relevant country.
- 38.** The Employer member of Japan requested the Office to provide empirical evidence of the real and measurable cost to development of disregarding labour standards, to which the paper referred. He thought that the ADB's Social Protection Strategy implied conditionality.
- 39.** The Employer member of India said that prospective investment in the South Asian region would be deterred if conditionality were understood to be an element of ADB-financed activities, and that in turn would be counterproductive to poverty eradication and decent work. The agreement should not have been concluded without proper consultation.

40. The Worker member of Malaysia pointed out that the meeting in Manila in 2002 had been convened by the ADB, which had invited tripartite representatives from within the region. He concluded that support should be extended for the conclusions reached and then reviewed at the meeting in Manila, as well as for the draft handbook containing guidelines for the use of ADB staff on the incorporation of labour standards in ADB activities. He congratulated the ADB and the Office on this initiative, which had been carried out in a transparent way. He supported the conclusion that failing to take account of standards carried a penalty for development, which was particularly important in Asia, which had the highest incidence of poverty in the world.
41. The Worker member of Bangladesh said that his organization had participated fully in the tripartite process under this project. He refuted the notion that conditionality would result from the ILO providing technical assistance, and pointed out that the MOU had been made known to the Governing Body in March 2002.
42. The Worker member of Nepal felt that the ADB's initiative had led to positive results in Nepal. A follow-up programme in Kathmandu with the ADB had resulted in an agreement being reached between the Federation of Chambers of Commerce of Nepal (FNCC) and three trade unions, and included seven areas for improving the application of labour standards. Subsequently, discussions on how to improve the country's labour law had been held, and a follow-up seminar on the subject was due to take place in April 2003.
43. The representative of the Government of Nigeria, speaking on behalf of the African Government group, shared the opinions expressed by the Worker members and welcomed cooperation between the ADB and the ILO on core labour standards and ADB activities. Such an initiative was requested for the African region through cooperation between the African Development Bank and the ILO.
44. The representative of the Government of India supported the statement made on behalf of the Asia and Pacific group. ADB assistance to India and other member States in the region was appreciated, while the MOU was welcomed as a means of facilitating the implementation of poverty reduction strategies in Asia. However, he warned that no conditionality in return for ADB assistance should be imposed, and it should not result in a social clause.
45. Endorsing the comments of the Asia and Pacific group, the representative of the Government of China felt that the activities carried out under the MOU deviated from its spirit, and expressed concern over any notion of exerting pressure on member States and developing countries by withholding ADB assistance. The principle of promotion of core labour standards had to be preserved.
46. The representative of the Government of France said that the only valid point for discussion was whether the ILO's intervention was legitimate. He pointed out that the ADB decided on the criteria required for financing activities, not the ILO. When a major regional bank such as the ADB requested ILO technical assistance, the ILO should not refuse. The representative of the Government of Germany endorsed those views. The representative of the Government of Norway also supported the point made and said that it was not within the ILO's mandate to criticize the ADB for the methods it used to implement its own policies.
47. The representative of the Government of Belgium stated that the cooperation with the ADB was exemplary, and responded to the Governing Body's frequent request for support from other organizations.

48. The representative of the Government of the United States asked the Office to explain the consultation process undertaken to produce the document in question.
49. The Employer members favoured development of cooperation with other economic development organizations, but said that there was confusion on two matters. Did the project promote the general principles embodied in the Declaration, the three areas covered in paragraph 1 of the document, or all standards including those not ratified? Furthermore, was the ILO proposing a link between the application of standards and ADB financing and procurement? The fact that the Governing Body had been notified of further developments after the ADB had considered the draft handbook indicated a lack of tripartite consultation. There should be a wider discussion in the Committee on the ILO's strategy for cooperating with other institutions.
50. The Worker members recalled that the draft handbook concerned the implementation of the ADB's own Social Protection Strategy and was thus the ADB's handbook. All the ILO's tripartite partners called frequently for promotional activities by the Office, and when those were actually carried out they should be received with less suspicion. The comments made by the representative of the Government of Nigeria on behalf of the African Government group were welcomed, as the region would benefit from a similar initiative.
51. A representative of the Director-General addressed the concerns raised by the Employer members and regretted any lacunae in communications that might have led to misunderstandings. The important issue was whether the activities undertaken in 2000 by the ILO at the ADB's request had been carried out in the best way and rendered positive results. There were two separate matters being discussed. The MOU signed with the ADB in 2002 had been submitted to the LILS Committee in March 2002, and the draft handbook had been produced as technical advice for the ADB at its request. Furthermore, he stressed that the ADB specifically rejected the concept of conditionality, and the ILO's technical advice to the ADB on applying a policy it had already adopted was to take account of labour standards in providing technical assistance, but not to impose the standards. The September meeting had been convened by the ADB, and the ILO had attended in a technical capacity; the conclusions adopted there were not binding. The ILO was not suggesting that standards be applied in any way other than the usual methods, and there was no suggestion that they would be applied to individual enterprises. The standards being referred to were those enumerated in the ADB's Social Protection Strategy.
52. In the light of the previous discussion, the Committee took note of the information contained in the document.

VI. Other questions

53. The Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, speaking as representative of the Director-General, indicated that as regards the work programme of the Committee for future sessions, decisions had already been taken to have a further paper on the Credentials Committee, and a follow-up to the discussions on agenda item 1(a) at the current session with a further paper on the elaboration of standards. A decision had also been taken to hold consultations on the issues raised under agenda item 1(b) of the current session on the final provisions of Conventions.
54. He added that the Office had been asked during the previous session of the Governing Body to hold consultations on the organization of the International Labour Conference. In November there should be a start to discussions on the functioning of the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, as it would be completing

its first full cycle. As usual, a detailed paper would be needed for the next November session on the results of the ratification campaign. There would also have to be discussions in the coming November and March sessions on article 24 procedures and on article 19, and the Office would be consulting the groups informally to determine which of those topics should be taken up for November. Another paper on the agenda of the November session would be on promotion of international labour standards through technical cooperation. Usually, the Office also submitted at that session a report on the activities of standards specialists in the field. Some of those matters might be discussed in the Governing Body itself, rather than in the Committee, and others might be determined subject to further consultations.

Geneva, 24 March 2003.

Points for decision: Paragraph 16;
Paragraph 22;
Paragraph 30.

Appendix I

Appl. 22.155
155. Occupational Safety and Health, 1981
Protocol of 2002

INTERNATIONAL LABOUR OFFICE GENEVA

REPORT FORM

FOR THE

**PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND
HEALTH CONVENTION, 1981 (No. 155)**

The present report form is for the use of countries which have ratified the Protocol. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

First report

If this is your Government's first report following the entry into force of the Protocol in your country, full information should be given on each of the provisions of the Protocol and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only:

- (a) on any new legislative or other measures affecting the application of the Protocol;
- (b) in reply to the questions in the report form on the practical application of the Protocol (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **in reply to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Protocol in your country which may have been made by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

Article 22 of the Constitution of the ILO

Report for the periodto.....
made by the Government of

on the

PROTOCOL OF 2002 TO THE OCCUPATIONAL SAFETY AND HEALTH CONVENTION, 1981 (No. 155)

(ratification registered on

**In addition to the information requested in the report form concerning the Convention,
please give detailed information for each of the following Articles of the Protocol.**

I. DEFINITIONS

Article 1

For the purpose of this Protocol:

- (a) the term “occupational accident” covers an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury;
- (b) the term “occupational disease” covers any disease contracted as a result of an exposure to risk factors arising from work activity;
- (c) the term “dangerous occurrence” covers a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public;
- (d) the term “commuting accident” covers an accident resulting in death or personal injury occurring on the direct way between the place of work and:
 - (i) the worker’s principal or secondary residence; or
 - (ii) the place where the worker usually takes a meal; or
 - (iii) the place where the worker usually receives his or her remuneration.

II. SYSTEMS FOR RECORDING AND NOTIFICATION

Article 2

The competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:

- (a) the recording of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
- (b) the notification of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.

Please indicate:

1. *the laws or regulations that have been adopted;*
2. *the method followed if the requirements and procedures are being established by means other than laws or regulations; and*
3. *the manner in which the most representative organizations of employers and workers were consulted as well as the names of the organizations consulted;*

to establish and periodically review requirements and procedures for matters referred to in subparagraphs (a) and (b) of this Article.

Article 3

The requirements and procedures for recording shall determine:

- (a) the responsibility of employers:
 - (i) to record occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases;
 - (ii) to provide appropriate information to workers and their representatives concerning the recording system;
 - (iii) to ensure appropriate maintenance of these records and their use for the establishment of preventive measures; and
 - (iv) to refrain from instituting retaliatory or disciplinary measures against a worker for reporting an occupational accident, occupational disease, dangerous occurrence, commuting accident or suspected case of occupational disease;
- (b) the information to be recorded;
- (c) the duration for maintaining these records; and
- (d) measures to ensure the confidentiality of personal and medical data in the employer's possession, in accordance with national laws and regulations, conditions and practice.

Please indicate the measures taken to ensure that the requirements and procedures for recording determine:

- (a) *the responsibility of employers concerning matters listed in subparagraph (a) of this Article;*
- (b) *the information to be recorded;*
- (c) *the duration for maintaining these records; and*
- (d) *the measures ensuring the confidentiality of personal and medical data in the employer's possession.*

Article 4

The requirements and procedures for the notification shall determine:

- (a) the responsibility of employers:
 - (i) to notify the competent authorities or other designated bodies of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases; and
 - (ii) to provide appropriate information to workers and their representatives concerning the notified cases;
- (b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services, medical practitioners and other bodies directly concerned;
- (c) the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and
- (d) the time limits for notification.

Please indicate the measures taken to ensure that the requirements and procedures for notification determine:

- (a) *the responsibility of employers concerning matters listed in subparagraph (a) of this Article;*
- (b) *where appropriate, arrangements for notification of occupational accidents and occupational diseases by the institutions, services, practitioners and other bodies referred to in subparagraph (b) of this Article;*

- (c) *the criteria according to which occupational accidents, occupational diseases and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases are to be notified; and*
- (d) *the time limits for notification.*

Article 5

The notification shall include data on:

- (a) the enterprise, establishment and employer;
- (b) if applicable, the injured persons and the nature of the injuries or disease; and
- (c) the workplace, the circumstances of the accident or the dangerous occurrence and, in the case of an occupational disease, the circumstances of the exposure to health hazards.

Please indicate the extent to which the notification includes data on the items listed in subparagraphs (a) to (c) of this Article.

III. NATIONAL STATISTICS

Article 6

Each Member which ratifies this Protocol shall, based on the notifications and other available information, publish annually statistics that are compiled in such a way as to be representative of the country as a whole, concerning occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, as well as the analyses thereof.

Please indicate the measures taken to give effect to this Article, and please provide copies of such published annual statistics.

Article 7

The statistics shall be established following classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations.

Please indicate the extent to which the classification schemes established under the auspices of the International Labour Organization or other competent international organizations have been followed in establishing the statistics.

Appendix II

Appl.19
C.1
C.30

INTERNATIONAL LABOUR OFFICE

REPORTS ON
**UNRATIFIED CONVENTIONS AND
RECOMMENDATIONS**

(article 19 of the Constitution of the International Labour Organization)

REPORT FORM FOR THE
**HOURS OF WORK (INDUSTRY) CONVENTION, 1919 (No. 1);
HOURS OF WORK (COMMERCE AND OFFICES) CONVENTION, 1930 (No. 30)**

GENEVA
2003

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5 and 7 of this article read as follows:

“5. In the case of a Convention:

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- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.
-

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal government shall:

.....

 - (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise.”

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present report form. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 1 April 2004, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of , on the position of national law and practice in regard to the matters dealt with in the following instruments:

HOURS OF WORK (INDUSTRY) CONVENTION, 1919 (No. 1);

HOURS OF WORK (COMMERCE AND OFFICES) CONVENTION, 1930 (No. 30)

This General Survey will focus on two selected instruments. The report form is available on the ILO web site and Members are encouraged to send their report in electronic form, including any attachments. Certain questions relating to hours of work may go beyond the immediate competence of the ministry responsible for labour and social affairs. The preparation of a report on the two Conventions in question may require consultation with other ministries or government agencies concerned, such as those responsible for economic affairs and statistics.

I. Please indicate the legislative, administrative or practical provisions in your country in regard to the matters dealt with in the Conventions.

- (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to certain provisions of the Conventions.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Conventions.

II. Prospects for ratification and implementation

- (a) Has your government considered ratifying Convention No. 1?
- (b) Has your government considered ratifying Convention No. 30?
- (c) Please explain any difficulties in the legislation, national practice or any other reason, which may prevent or delay the ratification of the Conventions.

III. Normal and actual hours of work

- (a) Please indicate the statutory limit on normal daily and weekly hours of work and the level of hours of work generally fixed by collective agreements or arbitration awards.
- (b) Please indicate the number of hours actually worked or paid for on national average.
- (c) Please specify any sectors in which hours limits lower than the national limits specified under (a) have been introduced as a result of collective bargaining or by other means.
- (d) Please describe the sectors in which the level of working hours may exceed the prescribed standard (extension of hours of work).

IV. Distribution of working hours

- (a) If daily and weekly limits were specified under Question III(a), please specify any limits on the amount by which the daily limit may be exceeded.
- (b) Please indicate the national legislation and practice providing for the distribution of working hours by averaging over periods of more than a week and describe the circumstances in which it is permitted.
 - i. Does the national legislation and practice provide for a specific period over which hours of work may be averaged and for the number of additional hours that may be worked in a day or in a week?
 - ii. Please also describe any authorization procedure to be observed for this kind of hours averaging, including consultations of employers' and workers' organizations concerned.
 - iii. How do the provisions permitting averaging of hours relate to measures prescribing minimum daily or weekly rest periods?
- (c) Please describe any legislative or other measures permitting shift work and indicate the processes for its authorization and the limits imposed.
- (d) Please provide information on whether making up hours of work lost during a given period is practised by exceeding the limit during another period. Please describe the circumstances (e.g. collective stoppages of work due to accidents, interruptions to the power supply, inclement weather, etc.), the time lapse within which the lost hours of work must be made up, the number of hours that may be worked, any authorization procedure and remuneration in such cases.

V. Exceptions (overtime hours)

- (a) Please describe the circumstances established under national law and practice, in which permanent or temporary exceptions from normal hours of work are permitted.
- (b) Please indicate whether limits are set to the total number of hours of overtime that may be worked during a specified period.
 - i. Are there different limits for permanent and temporary exceptions?
 - ii. Are there special arrangements for cases of accident, urgent work and *force majeure*?
- (c) Please describe payment for overtime, in particular, the level of overtime rates and their variations, as well as compensatory rest periods.
- (d) Please provide information on the procedures for the authorization of extensions of working hours and any necessary consultation with the representative organizations of employers and workers.

VI. Measures of enforcement and consultation of employers' and workers' organizations

- (a) Please indicate by which measures, such as the posting of notices, the keeping of records, inspections and sanctions, the provisions on hours of work are enforced.
- (b) In so far as not already done in your previous responses, please indicate on which questions relating to the general application of hours of work consultation of employers' and workers' organizations is required by national legislation and practice.

VII. Working time arrangements

- (a) Please indicate the standard working time schedule prevailing in your country.
- (b) Are there any working time arrangements which differ from the standard full-time workweek such as part-time work, compressed workweeks, staggered working times, variable daily shift lengths, annualized working hours, flexitime or on-call work? Please describe the possible impact of such arrangements on the continuing relevance of the instruments under consideration.

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- (c) Please describe any national legislation or practice, which governs these types of working time arrangements.
 - (d) To what extent does legislation permit workers to influence the length and arrangement of their working hours, e.g. to allow them to meet family responsibilities such as caring for family members?

VIII. Policies concerning hours of work

Please indicate the policies and measures aimed at reducing or extending hours of work or changing the arrangement of working hours, taking into account economic and social conditions in your country.

IX. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.⁶

X. Please state whether you have received from the organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.

FEDERAL STATES

- (a) Please indicate whether the provisions of the Conventions are regarded by the federal government as appropriate, under the constitutional system, for federal action or, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
- (b) Where federal action is appropriate, please give the information specified in points I to X of this form.
- (c) Where action by the constituent states, provinces or cantons is regarded as appropriate, please supply general information corresponding to points I, and III to X of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Conventions, giving a general indication of any results achieved through such action.

⁶ Article 23, paragraph 2, of the Constitutions reads as follows: “*Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.*”