



SECOND ITEM ON THE AGENDA

**Agenda of the International
Labour Conference****(b) Proposals for the agenda of the 95th Session
(2006) of the International Labour Conference*****Contents***

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Introduction

1. The present document is submitted for consideration by the Governing Body at its 288th Session (November 2003) and contains proposals for a first discussion on items which could be placed on the agenda of the 95th Session (2006) of the Conference and beyond.
2. In accordance with its regular practice, the Governing Body holds in November each year a first discussion on items that are proposed to be placed on the agenda of the International Labour Conference which takes place two-and-a-half years later. In the framework of the provisions of article 10, paragraph 1, of the Standing Orders, the purpose of this discussion is to select a shortlist of items for closer scrutiny in March the following year. The proposals contained in the first part of this document are submitted for consideration in this context.

Proposals for the agenda of the 95th Session (2006) of the Conference

3. The general practice has been to fix the agenda of the Conference, which will be held two years later, in March each year. Exceptionally this year, the Governing Body decided to postpone its decision to fix the agenda for the 93rd Session (2005) of the Conference until its present session. In the document submitted on this point, the Governing Body has been invited to select two out of eight proposed items.¹
4. Items considered, but not placed on the agenda of a specific year of the Conference, are normally resubmitted as a proposal for the agenda the following year. This is the case this year as well with one exception – the proposed general discussion on child labour and the protection of children and young persons. In this case, it should be recalled that a discussion on a Global Report on child labour within the context of the follow-up to the 1998 Declaration on Fundamental Principles and Rights at Work is scheduled to be held at the 95th Session (2006) of the Conference. Thus, in this case, and should the Governing Body decide not to place this item on the agenda of the 2005 Conference, it is suggested to reconsider this item in the context of the agenda of a future Conference beyond 2006.
5. Consequently, and with the exception of the abovementioned proposal, the items proposed for the agenda of the 95th Session (2006) of the Conference also include the items which will not have been placed on the agenda of the Conference in 2005. For the substance of these proposals please see the document “Agenda of 93rd Session (June 2005) of the International Labour Conference”.²
6. In addition, Part I of this document includes on the one hand a further developed proposal related to ageing entitled “Employment and social protection in ageing societies” which will address not only relevant labour market issues but also issues related to social protection in ageing societies. This item is proposed for a general discussion based on an

¹ GB.288/2/1.

² ibid.

integrated approach.³ The second proposal in this part is for standard-setting as a follow-up to the resolution on the employment relationship, adopted at the 91st Session (2003) of the Conference.⁴

7. In the context of the present first discussion on the agenda of the 95th Session (2006) of the Conference, the Governing Body is thus invited to select a short list of items from among the items indicated above. Based on this selection, concise statements of law and practice stipulated in article 10, paragraph 2, of the Standing Orders of the Governing Body will be prepared, as appropriate, for its 289th Session (March 2004) when the Governing Body will determine which items will be selected to complete the agenda of the 95th Session (2006) of the Conference.

Proposals for the agenda of future Conferences

8. Since 1997, the Governing Body has extended the scope of the November discussions to include an examination of items that could be considered for inclusion in the agenda of *future* Conferences. These are items which do not appear to be sufficiently developed to be acted upon immediately, but which could be considered for Conferences after 2006. Such proposals are contained in Part II of this document and include:
 - (a) two proposals for a discussion on *working time* and of *prevention of sexual harassment in the workplace*. The proposal on working time is an updated version of a previous proposal, while the latter proposal remains unchanged except for some added information on the scope of the problem and a reference to the fact that the Office has proposed to hold a Meeting of Experts on harassment and violence at work with a view to developing a code of practice on this subject;
 - (b) two proposals for the revision of standards in the areas of *guarding of machinery* and *chemicals*, respectively, as a follow up to the resolution on occupational safety and health adopted by the Conference in June 2003;⁵ and
 - (c) a proposal to hold a general discussion – at the earliest in 2007 – based on an integrated approach in the area of *port work*.
9. In relation to these proposals, the Governing Body may wish to give the Office directions for priorities to be set and for further research to be carried out, in order to advance their level of preparation, taking into account the resources and time necessary for this to be done.
10. ***In order to draw up the agenda of the 95th Session (2006) of the International Labour Conference and to develop items for the agenda of future Conferences, the Governing Body is invited –***

³ This latter proposal follows up on the decision by the Governing Body in November 2000 to introduce such discussions and which was endorsed by the Conference in the context of the first general discussion based on an integrated approach at the 91st Session (2003). See resolution on occupational safety and health, conclusions, para. 23, ILC, 91st Session, Geneva, 2003.

⁴ ILO: Report V, *The scope of the employment relationship*, ILC, 91st Session, Geneva, 2003.

⁵ ILC: 91st Session (2003), PV22, Report of the Committee on Occupational Safety and Health.

- (a) *to examine the proposals for the agenda of the International Labour Conference including the proposals contained in GB.288/2/1 and remaining after the agenda of the 93rd Session (2005) of the Conference has been fixed,⁶ as well as the two proposals in Part I of the present document;*
- (b) *to select the proposals to be examined in greater depth at its 289th Session (March 2004), when it will finalize the agenda of the 95th Session (2006) of the International Labour Conference; and*
- (c) *to indicate the proposals for which research work and consultation might be accelerated.*

Part I. Additional proposals for the agenda of the 95th Session (2006) of the Conference

- 11.** As noted in the Introduction, the items proposed for the agenda of the 95th Session (2006) include those which will remain after the fixing of the agenda of the 93rd Session (2005) of the Conference with the exception of the proposal on child labour and the protection of young persons.

Social dialogue

1. The employment relationship

Summary

The resolution on the employment relationship adopted at the 91st Session (2003) of the International Labour Conference requested the Governing Body to place this item on the agenda of a future session of the International Labour Conference. The conclusions appended thereto envisaged the adoption of a Recommendation to provide guidance to member States on the clarification of the scope of the employment relationship and to enable employers and workers to know their status and, consequently, their respective rights and obligations under the law. A Recommendation should promote the adoption of a national policy on the scope of the employment relationship, focus on disguised employment relationships and on the need for mechanisms to ensure that persons within an employment relationship have access to the protection they are due at the national level. It should be flexible and address the gender dimension; it should not interfere with genuine commercial and independent contracting arrangements and it should promote collective bargaining and social dialogue as a means of finding solutions to the problem at the national level and should take into account recent developments in employment relationships and the conclusions of the International Labour Conference (2003).

The general discussion

- 12.** At the 91st Session (2003) of the International Labour Conference, a general discussion was held on the scope of the employment relationship (fifth item on of the agenda).⁷ The concept of the employment relationship is common to all legal systems and traditions, but the obligations, rights and entitlements associated with it vary from country to country.

⁶ With the exception of the proposal on child labour and the protection of young persons.

⁷ ILO: Report V, *The scope of the employment relationship*, ILC, 91st Session, Geneva, 2003.

Similarly, the criteria for determining whether or not an employment relationship exists can vary even though in many countries common notions such as dependency or subordination are found. Regardless of the criteria used, there is a shared concern among governments, employers and workers to ensure that the criteria are sufficiently clear so that the scope of application of various laws and regulations can be more easily determined so that they cover those who are meant to be covered, i.e. those who are in employment relationships.

- 13.** The general discussion concluded that one of the consequences associated with changes in the structure of the labour market, the organization of work and the deficient application of the law is the growing phenomenon of workers who are in fact employees but find themselves without the protection of an employment relationship. This lack of protection exacerbates gender inequalities at work, particularly in occupations and sectors where women are predominant and where disguised and ambiguous employment relationships are frequent.
- 14.** The discussion focused on dependent workers who lack protection due to one or a combination of the following factors:
 - the law is unclear, too narrow in scope or otherwise inadequate;
 - the employment relationship is disguised under the form of a civil or a commercial arrangement;
 - the employment relationship is ambiguous;
 - the worker is in fact an employee, but it is not clear who the employer is, what rights the worker has, and against whom these rights can be enforced;
 - lack of compliance and enforcement.
- 15.** An employment relationship was considered ambiguous whenever a person works under conditions that give rise to an actual and genuine doubt about the existence of an employment relationship. It was acknowledged that there is an increasing number of these cases where it is very difficult to distinguish between employees and independent workers and in many areas this distinction has become blurred.
- 16.** A disguised employment relationship occurs when the employer disguises the status of a person who is in fact an employee so as to hide his or her true legal status. This can occur through the inappropriate use of civil or commercial arrangements. False self-employment, false subcontracting, the establishment of pseudo-cooperatives, false provisions of services and false company restructuring are amongst the most frequent means that are used to disguise the employment relationship. The discussion concluded that this phenomenon is detrimental to the interest of workers and employers and an abuse that is inimical to decent work and should not be tolerated.
- 17.** The Conference also discussed the so-called triangular employment relationships where a person works for the benefit of a third party (the user). These relationships need to be examined in so far as they may result in a lack of protection to the detriment of the employee. In such cases, the major issues at stake consist of determining who the employer is, what rights the worker has and who is responsible for them. The issue of triangular employment relationships was not resolved.
- 18.** The Conference recalled that poor enforcement and lack of compliance with the law can be significant factors in explaining why many workers lack protection. It declared that there

should be a strong political commitment from the State to ensure compliance with the law, supporting all mechanisms that facilitate this. Social partners should be involved where appropriate and cooperation should be promoted between the different government enforcement agencies to enable the pooling and more efficient use of resources to combat abuse arising out of disguised employment arrangements. Labour administrations and their services, particularly labour inspectors, have a crucial role to play in this regard.

- 19.** In order to better assess and address the various issues relating to the scope of the employment relationship, governments should develop a national policy framework in consultation with social partners. Such a policy might include, but not necessarily be limited to, the following elements:
 - providing workers and employers with clear guidance concerning employment relationships, in particular the distinction between dependent workers and self-employed persons;
 - combating disguised employment relationships which have the effect of depriving dependent workers of proper legal protection;
 - not interfering with genuine commercial or genuine independent contracting;
 - providing access to appropriate resolution mechanisms to determine the status of workers.
- 20.** Member States should undertake an in-depth review to identify shortcomings in order to explore appropriate and balanced solutions that take different interests into account. The Conference acknowledged that a substantial number of innovative measures have in fact been introduced in many countries to address the problems related to the determination of the employment status of workers.
- 21.** The Conference declared that the ILO has a significant role to play in this area. To this end it should expand its knowledge base and allocate resources for a programme of technical cooperation, assistance and guidance to member States on the scope and application of the employment relationship to address the scope of the law, general aspects of the employment relationship, access to courts, policy guidelines and capacity building to strengthen administrative and judicial action to promote compliance. Particular attention should be paid to developing more extensive and accurate statistical data. These issues will be addressed by the Office in its programme of work during the next biennium within the framework of its overall work priorities and available resources.

The background

- 22.** The resolution adopted at the 86th Session of the International Labour Conference (1998) invited the Governing Body to place the issues regarding situations where workers require protection on the agenda of a future session of the International Labour Conference with a view to the possible adoption of new instruments if such adoption was, according to the normal procedures, considered necessary by the Conference. The resolution also invited the Governing Body of the ILO to instruct the Director-General to take a number of measures with a view to completing the work commenced by the Committee on Contract Labour. In this context, 39 national studies were undertaken by the Office during 1999-2001 and the tripartite Meeting of Experts on Workers in Situations Needing

Protection took place in Geneva in May 2000. This work was used extensively in the preparation of the report submitted to the Conference for the general discussion.⁸

The proposed Recommendation

- 23.** According to the conclusions of the general discussion held at the International Labour Conference,⁹ the proposed Recommendation should provide guidance to member States in the clarification of the scope of the employment relationship, without defining universally its substance, so as to enable employers and workers to know their status and, consequently, their respective rights and obligations under the law.
- 24.** The Recommendation should promote the adoption of a national policy on the scope of the employment relationship and focus on disguised employment relationships and on the need for mechanisms to ensure that persons within an employment relationship have access to the protection they are due at the national level. Such a Recommendation should be flexible enough to take account of different economic, social, legal and industrial traditions and address the gender dimension. It should not interfere with genuine commercial and independent contracting arrangements. It should promote collective bargaining and social dialogue as a means of finding solutions to the problem at the national level and should take into account recent developments in employment relationships and the abovementioned conclusions.
- 25.** Such a Recommendation may be adopted in a single or a double discussion. A substantial body of work has already been undertaken by the Office for the general discussion at the 2003 International Labour Conference and the standard-setting discussions at the 1997 and 1998 International Labour Conferences. Also, the conclusions of the 2003 general discussion, and in particular paragraph 25, provide sufficient guidance as to the scope and content of such a Recommendation. The Office considers that it is feasible to adopt such a Recommendation in a single discussion.

Employment/social protection

2. *Employment and social protection in ageing societies*

Summary

The increase of life expectancy of men and women has been one of the most precious achievements of humankind. Paradoxically, in many countries longer life expectancy has not been accompanied by longer working lives and countries have experienced a substantial drop in average retirement ages. This is posing a threat in terms of the financial viability of pension schemes, public expenditure, implications for health care coverage, and a risk of growing numbers of older people becoming socially excluded. Ageing presents us with a real public policy dilemma and the labour market plays a crucial role in meeting this challenge. Nevertheless, many of the concerns raised over the financing of social security are based on the assumption that growth will not create enough jobs and that there will be fewer people contributing to the social security system and an increasing number seeking to benefit. However, we should not be thinking in terms of distributing jobs currently available but in creating more and better jobs. This is especially important for developing countries where old-age poverty is an issue of increasing concern. In these countries, retirement is a luxury that few older people can afford. Therefore, it is important to look for ways to gradually extend social security in order to provide the population with a reasonable income for their later years. Full employment is the best way to ensure such welfare provision.

⁸ ILO: Report V, op. cit., p. 8.

⁹ ILO: *Provisional Record*, No. 21, para. 25, p. 57, ILC, 91st Session, Geneva, 2003.

Older people nowadays have good reasons for wanting to remain in active employment for longer periods and economies and societies need their support. The extension of working life in decent conditions demands, however, some complementary measures in relation to the updating of skills of older people in a lifelong learning framework, to the improvement of conditions of work, to the adjustment of social transfers between generations, to new ways of work organization and to a new attitude among employers and older workers themselves. The ILO, with its tripartite structure, its labour standards and other means of action, could play a very important role in developing innovative strategies to meet these challenges and to take full advantage of the opportunities of ageing. It is proposed to hold a general discussion based on an integrated approach to develop an efficient plan of action covering ILO instruments, research activities, technical cooperation and other means of action that would contribute to promoting policies, strategies and approaches to ensure a decent and secure old age.

Contemporary trends

- 26.** The world is in the midst of a dramatic demographic process of change. Globally, fertility rates are declining, and people live longer. In the last 50 years, global life expectancy of women has increased from 48 to 68 years and of men from 45 to 64 years. The world's population is thus growing older at an accelerating pace. Between now and 2050, the number of people aged 60 and over should rise from about 600 million to 2 billion.¹⁰ Although longevity is one of the most positive demographic phenomena in the history of humankind, ageing trends are inverting the traditional pyramid in which there are many youths and few elders. We are in the midst of a "silent revolution"¹¹ which extends well beyond demographics and the ageing of populations has important socio-economic implications at all levels of society.
- 27.** Ageing trends vary between countries and regions. Developing countries still have a relatively young population, while populations in industrialized countries are relatively old. However, populations in developing countries are ageing at a faster rate than in industrialized ones¹² while the demographic effects of the AIDS pandemic still remain to be fully assessed. Current estimates are, however, that over the next 50 years, the older population in the developing world is expected to multiply by four.¹³
- 28.** Longer life expectancy has not been accompanied by longer working lives, however, particularly not in developed countries, where, over the past decades, the average retirement age has dropped substantially. Growing unemployment provoked by technological change and structural adjustment has generated different labour-supply reduction measures stimulating early withdrawals from the labour market. As a consequence, these countries are facing serious concerns about the financial viability of their pension systems; their public sector budgets; the implications for health and social care systems; and the possibility of a growing number of older people becoming socially excluded.

¹⁰ United Nations Population Division, *World Population Prospects, The 2002 Revision*.

¹¹ Message from the Secretary-General, Kofi Annan, launching the International Year of Older Persons, 1999.

¹² See table 2 "Velocity of ageing" (increase of population share of people above age 60 and 80) in: "An inclusive society for an ageing population: The employment and social protection challenge", Paper contributed by the ILO to the Second World Assembly on Ageing, Madrid, 8-12 April 2002.

¹³ Address by Secretary-General, Kofi Annan, to the Second World Assembly on Ageing in Madrid, 8-12 April 2002: www.un.org/ageing/coverage/pr/socm3.htm.

- 29.** While it seems that there are reasons that call for a need to alter former supply reduction policies, there are many barriers which do not allow an easy reversal of labour-supply reduction policies. For instance, companies faced with restructuring are more inclined to downsize than to expand employment. In both public and private companies, downsizing is still accompanied by early retirement. Promoting the overall growth of employment opportunities remains the overriding concern. Also, special policies are needed (notably in industrialized countries) to maintain a high labour force participation of older workers when demographic labour shortages are likely to appear. The policy dilemma is that investments in the employability of older workers have to be made at an early stage when many countries are probably still plagued by labour surpluses.
- 30.** Promoting productive employment in decent conditions is particularly important in the developing world. Policies on social security financing would then be developed in the context of greater availability of resources. In these countries, the absence or the low level of pensions which push older people back to the labour market in order to secure a living and old-age poverty is an issue of increasing concern. In many parts of the developing world, informal sector employment, where a large number of older people are concentrated, has dramatically expanded. There is a clear need to ensure that policies and programmes addressing discrimination in the informal economy specifically target the most vulnerable including women and older retrenched workers and to improve and extend social security coverage to all those in need of social protection.¹⁴

The ILO's response

- 31.** The ILO's response to these issues includes mainly standard setting, research and active collaboration in recent and ongoing international efforts to address these problems. Technical cooperation specifically addressing the needs of older workers is practically non-existent and the ILO has no specific information resources devoted to older workers.

Labour standards and older workers

- 32.** The relevant Conventions on fundamental workers' rights apply to all workers irrespective of age. In addition, there are several other ILO instruments which apply to all workers without any specific restrictions.¹⁵ Older workers as a group with specific needs are specifically identified in a series of Recommendations on the subjects of workers' housing, employment policy, job creation in small and medium-sized enterprises (SMEs) and occupational safety and health (OSH) in agriculture.¹⁶
- 33.** The only instrument *specifically relating to older workers* is the Older Workers Recommendation, 1980 (No. 162). It defines "older workers" as all those who are liable to encounter difficulties in employment and occupation because of advancement in age. It

¹⁴ See the conclusions of the general discussion on decent work and the informal economy at the 90th Session (2002) of the ILC, PV25, para. 37(l) and (k).

¹⁵ For example, the Human Resources Development Convention, 1975 (No. 142), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Occupational Health Services Convention, 1985 (No. 161), and the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

¹⁶ See the Workers' Housing Recommendation, 1961 (No. 115), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), and the Safety and Health in Agriculture Recommendation, 2001 (No. 192), Para. 4.3.

notes that employment problems of older workers should be dealt with in the context of an overall and well-balanced strategy for full employment.¹⁷ Such a strategy should give due attention to all population groups and ensure that employment problems are not shifted from one group to another. It calls on all member States to adopt a national policy to promote equality of opportunity and treatment for workers of all ages and take measures to prevent discrimination against older workers, particularly with regard to access to vocational guidance and placement services; access to employment of their choice that takes into account their personal skills, experience and qualifications; access to vocational training facilities, in particular further training and retraining; employment security, as well as conditions of work including occupational safety and health measures.¹⁸

34. This instrument was recently examined by the Governing Body.¹⁹ In the course of this examination different views were expressed as to whether this instrument was up to date or needed to be revised. The Governing Body decided to maintain the status quo with respect to this Recommendation.
35. ILO instruments on social security and human resources development are also relevant in this context. In terms of *social security*, the particularly relevant instruments include Part V of the Social Security (Minimum Standards) Convention, 1952 (No. 102), as well as the Invalidity, Old-Age and Survivors' Benefits Convention (No. 128), and Recommendation (No. 131), 1967. These instruments were examined in the light of consultations held and the general discussion on social security during the 89th Session (2001) of the ILC and were determined to be up to date. The Governing Body also invited the Office to offer technical assistance with respect to these instruments including the dissemination of information.
36. As regards *human resources*, the Human Resources Development Convention, 1975 (No. 142), is up to date, while its accompanying Recommendation (No. 150), is currently under revision. A first discussion was held on this question at the 91st Session (2003) of the ILC and the conclusions concerning the proposed content of the new Recommendation provide, *inter alia*, for the promotion of a culture of lifelong learning and access to education and training for people with special needs, including (explicitly) older workers.²⁰
37. Finally, it should be noted that in the context of *equality of opportunity* age is not listed among the grounds on which discrimination is prohibited in paragraph 1 of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Some 35 countries have, however, included age among the prohibited grounds for discrimination. This has been brought up in the context of the proposal to extend the grounds listed in

¹⁷ The continued relevance of this approach was confirmed in the context of the discussion on social security held at the 89th Session (2001) of the ILC. It concluded on this issue that the ageing of the population in many countries was a phenomenon which had a significant effect on both advance-funded and pay-as-you-go pension systems and on the cost of health care. Responses to this challenge had to be sought above all through higher levels of sustainable economic growth leading to additional numbers in productive employment.

¹⁸ On the latter issue, see Report VI, *ILO standards-related activities in the area of occupational safety and health*, para. 70, ILC, 91st Session, Geneva, 2003.

¹⁹ In the context of the Working Party on Policy regarding the Revision of Standard, see GB.279/LILS/WP/PSR/4, p. 21, and GB.279/LILS/3.

²⁰ PV19, Part II, Report of the Committee on Human Resources, proposed conclusions, para. 14(l), ILC, 91st Session, Geneva, 2003.

Article 1 of Convention No. 111 which is a proposal that has been submitted on several occasions to the Governing Body, but which has not yet been retained.²¹

Research and international collaboration

38. Work carried out by the ILO in the early 1990s resulted in working papers on training for older workers and on selected OECD countries' experience regarding national and enterprise policies directed at specific problems of older workers. The *World Labour Report* of 1995 as well as the *World Employment Reports* of 1998 and 2001 have taken up the issue.
39. The ILO contributed a paper on labour market consequences and ageing to a special G8 conference on this theme in Tokyo in September 1999.
40. More recently, the ILO was actively involved in the preparations of the Second World Assembly on Ageing²² (Madrid, 8-12 April 2002) as well as in the Assembly itself and submitted a report entitled "An inclusive society for an ageing population: Employment and social protection issues".²³
41. The Assembly adopted the Madrid International Plan of Action on Ageing 2002 and the Political Declaration.²⁴ The Madrid Plan calls for changes in attitudes, policies and practices in all sectors to address the opportunities and challenges connected with ageing. It urges that all older persons should be able to age with security and dignity, and continue to take part in society as citizens with full rights. Employment issues are included in the first priority direction of the Plan, entitled "Older persons and development" under the headings: (i) Work and the ageing labour force; and (ii) Access to knowledge, education and training. The Plan emphasizes the importance of implementing Commitment 3 of the Copenhagen Declaration on Social Development on "promoting the goal of full employment as a basic priority of our economic and social policies"²⁵ and recommends that employment growth be placed at the heart of macroeconomic policies. It also notes the importance of implementing policies to ensure lifelong education and training, of examining the special needs for safe working conditions for older workers,²⁶ and of promoting programmes that enable all workers to acquire basic social protection/social security.
42. As a follow-up to the Second World Assembly on Ageing, the ILO participated in the Ministerial Conference on Ageing (Berlin, September 2002). The Conference was organized by the United Nations Economic Commission for Europe and hosted by the Government of Germany. The Conference adopted the Regional Implementation Strategy

²¹ GB.288/2/1, paras. 29-42.

²² www.un.org/ageing/.

²³ GB.283/ESP/5 (Mar. 2002).

²⁴ GB.286/ESP/7 (Mar. 2003).

²⁵ World Summit for Social Development, Copenhagen Declaration on Social Development – Part C (www.un.org/esa/socdev/wssd/agreements/decpa.htm).

²⁶ See also Report IV, *ILO standards-related activities in the area of occupational safety and health*, para. 70, ILC, 91st Session, Geneva, 2003.

for the Madrid International Plan of Action on Ageing 2002 and the Berlin Ministerial Declaration.²⁷

- 43.** Most recently, in November 2002, the ILO, together with the Governments of Germany and Japan organized a high-level Conference on Social Dialogue and Ageing in the EU Accession Countries (Budapest). Amongst the contributions submitted to this Conference, the ILO presented a paper entitled “Employment promotion policies for older workers in the EU accession countries, the Russian Federation and Ukraine”. The paper is based on a survey of labour market institutions at national and local level and several enterprises in these countries. The ILO also participated in the G8 High-Level Meeting on Employment (Paris, May 2003) and contributed with a background paper entitled “Promoting decent work for an ageing population: Actors, partners and corporate social responsibility”.²⁸

Proposed directions

- 44.** The magnitude and importance of the current issues is reflected in the numerous international events that the ILO has taken part in. In terms of overarching policy, it seems clear that the labour market plays a crucial role in meeting the ageing challenge. The promotion of full employment appears to be the best way to ensure that people have a guaranteed pension when the time comes to leave active employment. A large number of older people prefer work to inactivity and economies and societies need their support. However, the extension of working life demands complementary measures such as those related to the updating of skills within a lifelong learning framework, to the improvement of conditions of work, to combating age discrimination and to fostering a new attitude among employers, colleagues and the older workers themselves. Furthermore, it is necessary to examine current disincentives for employers to employ older workers as well as those that discourage older workers to continue to work. While ageing is not a problem per se, it does pose policy challenges. Coping mechanisms need to be introduced and a proactive policy is required by companies, the social partners and governments.
- 45.** As current ILO instruments demonstrate, the ILO has addressed (and is addressing) the special needs of older workers in several different Conventions and Recommendations. It would seem relevant for the ILO to give further consideration to the challenges posed by the ongoing demographic revolution and to provide the member States with an opportunity to hold a comprehensive discussion on this issue. In order to enable the constituents to assess and develop a strategy in relation to all its means of action it is proposed to hold a general discussion based on an integrated approach on this subject including special consideration of the ILO’s continued contribution to appropriate strategies in this area.
- 46.** In addition to further research into current evolving trends, existing data require further examination particularly in order to establish the extent and specificities of regional differences. Further attention should be given to the identification of *labour market policies* specifically targeted at older workers, including for example the promotion of business start-ups or self-employment in order to improve the labour market position of older persons; a gradual and flexible transition from active working life to retirement through, for instance, a gradual reduction of hours of work prior to statutory retirement age, as well as the removal of disincentives for employers to employ older workers. The Conference may wish to focus on how the Global Employment Agenda is addressing these issues.

²⁷ www.mica2002.de.

²⁸ Unpublished.

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47. In the context of the development and implementation of necessary measures to combat *discrimination in employment* and occupation, special attention should be given to older and in particular older women workers.
 48. Furthermore, in terms of *human resources* development further consideration should be given to the implementation of policies to train and retrain older workers in order to help them adapt to new workplace demands and opportunities, using the guiding principle of lifelong learning as a long-term strategy, the provision of career guidance, job placement and job search assistance in helping job placement of older unemployed persons.
 49. In respect of *social security*, three main challenges lie ahead in the coming years. First, how can social security schemes, in particular pensions, health and long-term care, be financed in a sound and sustainable way in an ageing population? The promotion of full employment is the most powerful lever to cope with demographic change, given the fact that it is not the demographic ratio between those of working age and the elderly that is relevant, but the actual ratio between economically active and inactive groups of the population. Second, how can the role of social security as a productive factor in promoting employment, facilitating structural change and fostering economic growth be further strengthened? This includes the question of how the transition from work into retirement can be smoothed by policies that do not discourage employment, and facilitate gradual and flexible retirement (e.g. through poorly targeted unemployment, invalidity and early retirement benefits). Third, how can coverage of social security be extended to those groups of the population who are most vulnerable?²⁹ This applies in particular to older people in the informal economy. Which innovative solutions can be conceived, notably in low- and middle-income countries, in order to guarantee at least a minimum level of social security to the most vulnerable groups of the population?
 50. Finally, it should be recalled that providing a *safe and healthy working environment* for older workers is a crucial issue which requires particular attention, including, *inter alia*, the identification and elimination of occupational hazards and working conditions which hasten the ageing process and which reduce working capacity.

Conclusion

51. In light of the foregoing, it is assumed that it would be timely for the 2006 International Labour Conference to address the issues presented above, and to examine the challenges and opportunities related to ageing and employment in the context of decent work. Such a discussion could serve as a platform for future ILO activities on this topic and priority areas could be identified. Since four years will have elapsed since the Second World Assembly on Ageing, it will provide an opportunity to discuss progress made so far and future policy directions to implementing the Madrid Plan. Holding a discussion based on an integrated approach would allow the constituents to have a global view of all the ILO's means of action in this area and to develop a coherent strategy concerning ageing and employment.

²⁹ "In sub-Saharan Africa and South Asia, statutory social security personal coverage is estimated at 5-10 per cent of the working population and in some cases is decreasing. In Latin America, coverage is very different from country to country, ranging from 10 to 80 per cent. In South-East and East Asia, coverage can vary between 10 and almost 100 per cent", ILO: "An inclusive society for an ageing population: The employment and social protection challenge", Paper contributed by the ILO to the Second World Assembly on Ageing, Madrid, 8-12 April 2002.

Part II. Proposals for the agenda of future Conferences

- 52.** The items to consider in this context include the proposals outlined in the following. In addition, as regards child labour and the protection of children and young persons, and if this item has not been selected for the agenda of the 2005 Conference, it is suggested that it be considered in the context of a Conference beyond 2006. As noted in the Introduction, a general discussion on this item in 2006 would coincide with the discussion of a Global Report on child labour under the follow-up to the 1998 Declaration on Fundamental Principles and Rights at Work, scheduled to be held that year.

Social protection

3. Working time

International Labour Conference discussion on working time

- 53.** In light of the significant developments in the area of working time since the adoption of the international standards on this subject, and particularly since the Hours of Work (Industry) Convention, 1919 (No. 1), and the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), the Office believes that it is time for the International Labour Conference to consider the subject of working time. Therefore, it will develop a proposal for a discussion of working-time developments at the International Labour Conference which could take place as early as its 96th Session (June 2007).
- 54.** The direction, focus and form such a discussion would take is, however, dependent upon the decision of the Governing Body on the status of Conventions Nos. 1 and 30. This decision will be made in response to the results of a General Survey based upon reports submitted on these Conventions by governments in accordance with article 19 of the Constitution of the International Labour Organization, which will be conducted during 2004 for discussion by the Committee on the Application of Standards at the 93rd Session (June 2005) of the Conference.³⁰

Research and other activities

- 55.** In response to the Governing Body's decision of November 2002 that further research should be undertaken on the subject of working time, with a view to developing proposals on this subject for future sessions of the ILC, the Office has been proceeding with an extensive programme of research and information collection on developments in the area of working time, as well as technical cooperation activities in response to requests from ILO constituents such as research-based seminars and workshops. This programme includes the following major components: a report on working time in the industrialized countries that reviews developments in the area of working time across the industrialized world focusing on the relationship between workers' and employers' needs and preferences and how these can be combined in working-time policies;³¹ an online legal database on working time containing legislative provisions on working time in ILO member States; and a series of country studies on recent statistical and policy trends in

³⁰ GB.286/13/2, Appendix 2.

³¹ J. Messenger (ed.): *Finding the balance: Working time and workers' needs and preferences in industrialized countries* (London, Routledge, forthcoming 2004).

working time and work organization in developing and transition countries, which will provide the foundation for a report providing a comparative analysis of working time around the world.

- 56.** These research projects share a number of primary themes which emerge from the goal of ensuring decent working conditions in the area of working time. For example, the research explores the ways in which working hours and working-time arrangements are being designed so as to preserve worker safety and advance worker health and well-being.³² It is also attentive to gender differences in the arrangement of working time, analysing the implications of these differences for the goal of gender equality and considering which forms of working time can advance the labour market and societal status of women. Related research focuses on the impact of existing working-time arrangements on the ways in which workers are able to balance paid labour with their family lives and other non-work responsibilities and interests, examining how work/family life balance can be promoted in ways which do not jeopardize gender equality. Finally, the Office's research programme also seeks to identify working-time arrangements which not only advance decent working conditions and advance productivity, including flexible forms of work organization, as well as the business benefits of adopting policies that promote work-life balance.
- 57.** These research products, complemented by technical cooperation activities in response to requests from constituents, will provide essential inputs into both the determination of the status of Conventions Nos. 1 and 30 and the direction and substance of the proposed future discussion of working-time developments at the International Labour Conference.

4. Prevention of sexual harassment in the workplace

The problem

- 58.** It is increasingly clear that sexual harassment at work is a serious problem, especially for women workers, and a barrier to the achievement of equality. One of the reasons for the growing recognition of this problem is that women now comprise an increasing share of the labour force in all countries. Recent national and local studies throughout the regions reveal that at least 50 per cent of working women have experienced sexual harassment at work. The negative consequences of such experience for women, enterprises and society were recently documented and discussed in the Asia-Pacific region in 2001.³³ Men are now reporting experiences of sexual harassment in some regions.³⁴ A range of measures has been designed to prevent it. For example, a growing number of countries in all regions of the world have enacted national-level legislative provisions which explicitly prohibit

³² A. Spurgeon: *Working time: Its impact on safety and health* (ILO and OSHRI, 2003).

³³ Haspels, Kasim, Thomas and McCann: *Action against sexual harassment at work in Asia and the Pacific*, ILO, Bangkok, 2001; and report on the ILO/Japan Regional Tripartite Meeting on Action against Sexual Harassment at Work in Asia and the Pacific, Penang (Malaysia), 2-4 October 2001. The consensus of the Tripartite Meeting was that sexual harassment at work is a very serious issue which needs to be addressed in all countries, regardless of their level of development. It is an affront to the dignity of workers. It violates the fundamental human and workers' rights of women and men; it poses an occupational safety and health risk; and it adversely affects productivity.

³⁴ See the Official European Commission web site: http://europa.eu.int/comm/employment_social/news/2002/apr/092_en.htm.

this form of workplace mistreatment.³⁵ Several different approaches are used, but the most common method is the inclusion of harassment provisions in equality or sex discrimination measures.³⁶ Laws entirely devoted to sexual harassment have also been enacted in a number of countries.³⁷ In conjunction with these trends, in a number of countries where sexual harassment is not specifically addressed in legislation, equality, discrimination and labour law provisions have been interpreted to cover it.³⁸ In many cases, the legislation is recent. More than half the countries which have enacted legislation dealing specifically with sexual harassment have done so for the first time in the period since 1995.³⁹

- 59.** The number of employers who have introduced policies on sexual harassment has also increased over the last decade; more information is available on industrialized countries, but there are examples also in developing countries. During this period, it has become widely accepted that the primary preventive role belongs to workplace measures. In addition, a range of other tools has been used by governments, employers' and workers' organizations and NGOs both to reinforce national legal prohibitions and in countries where none exists. These include codes of practice, guidelines, training initiatives and awareness campaigns.
- 60.** At the international level, sexual harassment is not yet the explicit subject of any binding international Convention, and the only international Convention that explicitly prohibits this practice is the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169). Article 20 specifically prohibits sexual harassment of indigenous and tribal women and men. However, this lack of explicit attention in international treaties does not mean that sexual harassment is not addressed at the international level. International forums and supervisory bodies of the ILO and the United Nations have highlighted and condemned sexual harassment and considered it to be covered by existing international instruments on human rights, sex-based discrimination, violence against women, and occupational safety and health. Within the United Nations, for example, it has been addressed as both a manifestation of sex discrimination and a form of violence against women, by the Committee on the Elimination of Discrimination against Women⁴⁰ and in the Platform for Action adopted at the Fourth World Conference on Women held in Beijing in 1995.⁴¹ It

³⁵ According to an incomplete list: Argentina, Australia, Austria, Bahamas, Bangladesh, Belgium, Belize, Canada, Costa Rica, Dominican Republic, Fiji, Finland, France, Germany, Guyana, Honduras, Hong Kong (China), Iceland, Ireland, Israel, Japan, Republic of Korea, Lesotho, Luxembourg, Mauritius, Namibia, Netherlands, New Zealand, Panama, Paraguay, Philippines, Portugal, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, United Republic of Tanzania, Uruguay, Venezuela.

³⁶ Australia, Austria, Finland, Guyana, Ireland, Japan, South Africa, Sweden, Switzerland, Uruguay.

³⁷ Belgium, Belize, Costa Rica, Israel, Luxembourg, Philippines.

³⁸ Greece, India, United Kingdom, United States.

³⁹ Costa Rica, Finland, Paraguay, Philippines, Sri Lanka, Switzerland (1995); Belize (1996); Guyana, Uruguay (1997); Ireland, Israel, Mauritius, Portugal, South Africa, United Republic of Tanzania, Thailand (1998); Fiji, Japan, Venezuela (1999); Luxembourg (2000)

⁴⁰ General Recommendation No. 19 on violence against women. Sexual harassment is also within the mandate of the United Nations Special Rapporteur on Violence against Women.

⁴¹ Report of the Fourth World Conference on Women (Beijing, 4-15 September 1995) (UN doc. A/CONF.177/20, 17 Oct. 1995, New York), para. 13, and strategic objective F6.

has also been dealt with as a human rights violation.⁴² At the regional level, sexual harassment has been treated as both sex-based violence and discrimination by the European Union,⁴³ while it has been conceptualized primarily as a manifestation of violence against women within the Organization of American States.⁴⁴ The ILO Committee of Experts on the Application of Conventions and Recommendations has identified sexual harassment as a form of discrimination based on sex under Convention No. 111. Over the last decade, only a few ILO meetings have been entirely devoted to this subject, but a large number of events include it among the subjects discussed.

- 61.** A significant number of the countries in which it is directly prohibited do not include a definition in their legislation, allowing decision-making bodies to clarify the kinds of actions covered and the circumstances in which they are prohibited. However, definitions used in laws, codes, policies, court decisions and collective agreements throughout the world may differ, but, generally speaking, contain the following key elements:
 - conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable and offensive to the recipient;
 - a person's rejection of, or submission to, sexual harassment is used explicitly or implicitly as a basis for a decision which affects that person's job; or
 - conduct that creates an intimidating, hostile or humiliating working environment for the recipient.
- 62.** Among those countries which do define sexual harassment, the tendency is to describe it as behaviour which is both unreasonable and unwelcome to its recipient. The meaning of reasonableness can then be elaborated on in accordance with prevailing cultural norms and differing perceptions of what constitutes sexual harassment. In many cases prohibition covers not only sexual behaviour (inappropriate touching, sexual comments, sexual violence, etc.) but also covers sex-based behaviour (harassing behaviour which is based on the fact that the victim is a woman or, less often, a man).
- 63.** There are different approaches to defining potential victims and perpetrators of sexual harassment. Under some measures, only individuals in a supervisory relationship with the victim can be held responsible for sexual harassment. In others, harassing behaviour perpetrated by co-workers and even subordinates is prohibited. Some definitions of sexual harassment recognize that it can be perpetrated against men. Others confine it to conduct directed at women. There are also variations in whether same-sex harassment and harassment of homosexuals is recognized.
- 64.** There are also differences concerning the liability and duties of employers. Legal measures tend to provide that employers should be held responsible for the actions of supervisory employees. But, the extent to which the employer will be liable for the behaviour of co-workers and subordinates of the victim, as well as for the actions of non-employees present

⁴² For example, at the World Conference on Human Rights held in Vienna in 1993 (UN doc. A/CONF.157/23, 1993).

⁴³ European Parliament, resolution of 11 June 1986 on violence against women (OJC176, 14 July 1986), p. 73; 92/131/EEC, Commission Recommendation of 27 Nov. 1991 on the protection of the dignity of women and men at work.

⁴⁴ Intra-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, "Convention of Belem do Para", Article 2(b).

on their premises (including clients, contractors and customers), varies considerably. Moreover, the obligations imposed on employers under sexual harassment laws range from the obligation to respond to incidents and to the duty to introduce a specific policy or maintain a workplace free of sexual harassment. The degree to which workers and their representatives are involved in designing and implementing workplace measures also varies.

- 65.** As regards remedies and sanctions, the legal sanctions are available according to the branch of the law under which sexual harassment is prohibited. Under most criminal law regimes, for example, imprisonment and fines can be imposed, but the victim cannot be awarded compensation, nor can the employer be required to introduce preventive workplace measures. However, in some countries where specific provisions have been enacted, remedies and sanctions have been fashioned specifically to address sexual harassment in the workplace, for example, by requiring that the harasser compensates the victim in ways which take into account job-related losses or the employer introduces and effectively implements a preventive policy.

Proposed solution

- 66.** It is proposed that the subject of sexual harassment be further developed and preparatory work undertaken. The aim would be to assess what strategies and measures could be adopted by governments, employers and workers to combat sexual harassment and how the ILO might support these measures, including the development of practical tools that could be used by its constituents. This would require, in addition to continuing research, opportunities for dialogue among constituents. The Regional Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific, held in Malaysia in October 2001, was the Office's first region-wide opportunity in recent years to discuss with constituents the rapid evolutions in this area. The Seminar brought out the diversity of views in the region on the desirability of standard setting, with Worker members calling for the adoption of an international standard, Employer members considering that a new standard was unnecessary and Government members calling for a more encouraging role by the Office "in educating the member countries and providing assistance towards the enhancement of awareness on the issue of sexual harassment until such time before any ILO Convention on sexual harassment is introduced".⁴⁵ It would be advisable to conduct further national or regional-level tripartite consultations, or possibly a meeting of experts on preventing sexual harassment. On the basis of such preparatory work, it would be possible to assess whether sexual harassment might be suitable for standard setting.

Origin of the proposal

- 67.** Sexual harassment was discussed by the Committee of Experts in the 1988 General Survey on equality in employment and occupation and was included in the 1996 Special Survey on equality and employment.⁴⁶ A number of meetings of experts have also included this issue in their discussions. The 1989 Meeting of Experts on Special Protective Measures for Women and Equality of Opportunity and Treatment, for instance, viewed personal security, including sexual harassment, as a safety and healthy problem affecting women more than men. The 1990 Tripartite Symposium on Equality of Opportunity and Treatment for Men and Women in Employment in Industrialized Countries emphasized the role of enterprise-level policies. The 1997 Tripartite Meeting on Breaking through the Glass

⁴⁵ Report of the Regional Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific (Penang, 2-4 October 2001).

⁴⁶ See especially paras. 39, 40, 179 and 180 of the Special Survey.

Ceiling: Women in Management also emphasized the important roles of governments and the social partners in promoting policies on the prevention of sexual harassment and other forms of discrimination. The subject has also been addressed at sectoral meetings,⁴⁷ at judges' meetings⁴⁸ and, at a regional level, a tripartite seminar on sexual harassment was held in Manila in 1993,⁴⁹ and at national and regional-level seminars held in Malaysia in 2001.

Relation to existing instruments

- 68.** As indicated above, the only international Convention adopted by any organization that specifically prohibits sexual harassment at work is the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169). However, the Committee of Experts on the Application of Conventions and Recommendations has confirmed that it views sexual harassment as a form of sex discrimination under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).⁵⁰ Action to combat sexual harassment has therefore been taken up and promoted within the context of the promotion of Convention No. 111 and, more generally, within the Declaration on Fundamental Principles and Rights at Work.

Progress in research and preparatory work

- 69.** The ILO has conducted research on the dynamics of sexual harassment at work and methods of addressing it. The 1992 edition of the *Conditions of Work Digest* reviewed legal measures and enterprise policies on sexual harassment across 23 industrialized countries, action taken by international organizations and measures recommended by governments, employers' and workers' organizations and NGOs. More recently, in 1999, an annotated bibliography was published which extensively reviews the literature in this area. A new report has been prepared, analysing developments in legislation and practice on sexual harassment in the Asian region, and a further report covering all regions is being prepared.⁵¹ A number of other publications have specifically examined sexual harassment or included it as part of more wide-ranging discussions.⁵² In preparation for the Regional

⁴⁷ See, for example, the 1992 report of the Standing Technical Committee for Health and Medical Service (STC/HMS/1/1992/13, *Note on the proceedings*), paras. 17 and 18.

⁴⁸ Equality issues in employment: Judges' and assessors' subregional seminars held in Zimbabwe, 1999; Trinidad and Tobago, 2000; and Uganda, 2001.

⁴⁹ ILO: Regional Office for Asia and the Pacific, *Towards gender equality in the world of work in Asia and the Pacific* (Technical report for discussion at the Asian Regional Consultation on the follow-up to the Fourth World Conference on Women, Manila, 6-8 October 1999) (Geneva, ILO, 1999).

⁵⁰ ILO: *Equality in employment and occupation* (Special Survey on equality in employment and occupation in respect of Convention No. 111) (Geneva, ILO, 1996).

⁵¹ ILO: Technical report for discussion, "Action against sexual harassment at work in Asia and the Pacific" (Geneva/Bangkok, 2001).

⁵² See, for example, A. Reinhart: *Sexual harassment: Addressing sexual harassment in the workplace – A management information booklet* (Geneva, ILO, 1999); N. Kapur: "Sexual harassment at the workplace – A guide to sexual harassment law in India" in A. Kapur (ed.): *Women workers' rights in India: Issues and strategies – A defence guide* (New Delhi, ILO, 1999), p. 119; and L. Wirth: "Sexual harassment at work", in E. Date-bah (ed.): *Promoting gender equality at work – Turning vision into reality*, Zed Books Ltd, London and New York, 1997.

Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific (Penang, 2-4 October 2001), the ILO commissioned a number of studies from the region which reviewed national developments in this field.⁵³ It should also be noted that the Office has proposed to hold a Meeting of Experts on harassment and violence at work with a view to developing a code of practice on this subject.

Prospects

- 70. In conjunction with the growing awareness of sexual harassment as a problem at the workplace, experience is growing on the most effective ways of defining and tackling the problem. However, at this stage most countries still do not have specific legislation on sexual harassment. Where it exists, national legislation is so recent that member States have very limited experience of efforts to combat the problem or opportunities to assess the effectiveness of different approaches in their own contexts. Moreover, some questions still remain concerning awareness of the problem, as distinguished from the importance of the topic. Although there is a growing body of experience and expertise at the enterprise level, it is confined to relatively few enterprises. Even from these experiences, little is known outside the enterprises concerned. There is therefore a pressing need to document workplace experience and to draw lessons from the success or otherwise of legislative and other approaches to tackling sexual harassment. Most importantly, there is a need for tripartite dialogue at national and regional levels in order to develop an understanding of the potential nature of eventual ILO standard setting on this subject.
- 71. The Office is preparing a report covering the nature and extent of the problem, trends in law and jurisprudence, and enterprise policies and programmes. This will update the information in the 1992 *Conditions of Work Digest* on selected industrialized countries and, in particular, extend the knowledge base to cover developing countries. On the basis of this report, and of focused country-level preparatory research, the Office will propose holding further regional meetings on sexual harassment at the workplace in the next biennium, following on from the Regional Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific, October 2001. The Office will subsequently propose a meeting of experts. This meeting would contribute not only to raising the profile of sexual harassment as an issue of concern but also to providing an opportunity to interact with ILO constituents and experts, to determine areas of common concern and agreement that might eventually form a basis for standard setting in this area if the Governing Body so decided.

5. Follow-up to the 2003 Conference resolution on occupational safety and health

- 72. As a result of the general discussion based on an integrated approach held in June 2003, the Conference drew up a global strategy for action in this area which included the setting of priorities in terms of revisions of existing instruments in this area and the development of new instruments. The development of a new instrument establishing a promotional framework in the area of OSH has been proposed to the Governing Body as an item for the agenda of the 95th Session (2005).⁵⁴

⁵³ ILO East-Asia Multidisciplinary Advisory Team and Bangkok Area Office: "Technical report for discussion at the ILO/Japan Regional Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific", Penang, Malaysia, 2-4 October 2001 (Bangkok, ILO, 2001).

⁵⁴ GB.288/2/1.

- 73.** Other standard-setting priorities set by the Conference include the revision of the Guarding of Machinery Convention (No. 119) and Recommendation (No. 118), 1963, and of the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4), the White Phosphorus Recommendation, 1919 (No. 6), the White Lead (Painting) Convention, 1921 (No. 13), the Benzene Convention (No. 136) and Recommendation (No. 144), 1971. In accordance with these priorities the Office will develop and submit standard-setting proposals for consideration by the Governing Body in the context of future Conferences.

Social dialogue (specific categories of workers)

6. An integrated approach to work in ports

- 74.** At its 285th (November 2002) Session, the Governing Body had before it a paper⁵⁵ prepared by the Office containing proposals for the agenda of future Conferences. It decided⁵⁶ that further research should be undertaken on an integrated approach to work in ports with a view to developing a proposal on this subject for a future session of the International Labour Conference.
- 75.** This updated proposal includes relevant developments since November 2002 and the results of preliminary further research. The Office proposes that the Governing Body postpones consideration of a general discussion on an integrated approach to work in ports to 2007 at the earliest (see paragraph 83).
- 76.** Since November 2002, five new licences for the use of the Portworker Development Programme (PDP) have been issued by the ILO and, in some cases, it provided technical assistance in the training of instructors. The Office also revised PDP Unit P.3.1 (handling of dangerous cargoes in ports) so that it would reflect the latest version of the International Maritime Organization International Maritime Dangerous Goods Code IMDG Code). Preliminary research indicated that further expansion of the PDP in the domain of bulk terminals would best serve the current priorities of the port industry. The Office will continue its research on the most appropriate expansion of the PDP and will act accordingly.
- 77.** As a result of the rapid technological and structural changes, which the industry has undergone, the Office has recently prepared a draft revised code of practice on safety and health in ports, combining both elements of the existing code and the guide on safety and health in dock work into a single document. It will be examined by the Tripartite Meeting of Experts on Security, Safety and Health in Ports (Geneva, 8-17 December 2003).⁵⁷ A draft code of practice on security in ports that has been proposed by a Joint ILO/IMO Working Group on Port Security⁵⁸ in July 2003 will also be examined by the Meeting of Experts.
- 78.** As part of its contribution to integrating the social and environmental concerns in the port industry, the Office has developed a draft “Port health and safety audit manual”, which is

⁵⁵ GB.285/2, paras. 16 and 156-166.

⁵⁶ GB.285/2, para. 21.

⁵⁷ GB.287/12, paras. 17-22.

⁵⁸ ILO/IMO WGPS/2003/8.

currently being reviewed internally. The aim of the manual is to assist regulatory and port authorities, port management, berth/terminal operators and other parties involved in port operations in assessing their compliance with ILO standards and their own policies and national requirements. This activity will strengthen the linkage between the work of the ILO and environmental protection.

79. Any consideration of port-related issues should be linked with all modes of transport, namely: sea and inland waterways, road, rail and air. This approach reflects the multimodal nature of the twenty-first century supply chain. Consequently, an integrated approach to standard setting or other standards-related activities in the domain of work in ports should include the linkages and identification of gaps between all ILO transport-related standards. In this respect, the Governing Body decided⁵⁹ that the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27), should be revised and information should be requested from member States on the possible need to replace the Hours of Work (Inland Navigation) Recommendation, 1920 (No. 8). The Maritime Conference in September 2005 will also consider the adoption of a new consolidated maritime labour standard.
80. Port-related work of other organizations also needs to be taken into account. In some cases, they may have an impact on and even an overlap with that of the ILO. For instance, the *World Bank port reform tool kit*, which was published in 2002 that contains a module on “Labour reform and related social issues” is relevant to the conclusions⁶⁰ adopted by the Tripartite Meeting of Experts on Social and Labour Problems caused by Structural Adjustments in the Port Industry, which was held in Geneva in May 1996. Another example is the request of the IMO⁶¹ for the assistance of the ILO to build the necessary linkages between ILO Convention No. 152 and the IMDG Code, which will be mandatory under SOLAS from January 2004. The rationale behind this request lies in the need to extend implementation of the IMDG Code to all shore-side cargo interests involved in the packing and shipping of cargoes of dangerous goods for transport by sea to ensure comprehensive application. This is especially relevant to the aforementioned revision of the ILO code of practice on safety and health and security in ports.
81. Similarly, work by other organizations, which are not part of the UN system, sometimes needs to be taken into account as in the case of the International Organization for Standardization (ISO), which in 1995 published the third edition of ISO 6346 (Freight containers – Coding, identification and marking of containers), which is highly relevant to the intended revision of the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27).
82. The promotion of the relevant ILO Conventions and Recommendations, the development of a code of practice on security, safety and health in ports, the provision of advisory services and guidance in the process of structural adjustments and private sector participation in ports, developing linkages between port-related ILO instruments with relevant instruments of other United Nations or non-UN organizations, expanding the scope and implementation of PDP and the strengthening of the linkage of the work of the ILO with environmental protection, would suggest the potential benefits of pursuing an

⁵⁹ GB.283/LILS/WP/PRS/1/2, paras. 7 and 48.

⁶⁰ TMPI/1996/10, paras. 3, 4, 5, 6 and 20.

⁶¹ Letter to the Director-General of the ILO on 26 Jan. 2001 (based on IMO MSC 72/18/2 and DSC 6/WP.8/Add.1).

integrated approach to addressing decent work in the port sector. The aimed main outcome of the proposed general discussion on an integrated approach to work in ports is expected to be an action plan for ILO standards-related activities in this area that would address any identified gaps and further enhance the effort to achieve the ILO objectives concerning port workers. It would also serve to better target ILO non-standards related work in the sector.

- 83.** In the light, however, of the Office's commitments on maritime and fishing issues in 2004 and 2005 and pending the outcome of the Meeting of Experts referred to above and of the Maritime Conference in 2005, the Office proposes to postpone consideration of a general discussion on an integrated approach to work in ports to 2007 at the earliest.
- 84.** The Office will continue to undertake further research on all pertinent issues with a view to preparing in due course an updated proposal for a general discussion on an integrated approach to work in ports at a future Conference.

Geneva, 10 October 2003.

Point for decision: Paragraph 10.