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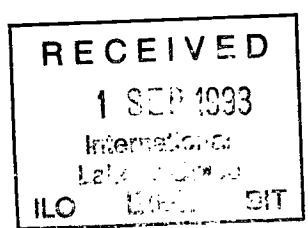
INTERNATIONAL LABOUR OFFICE
BUREAU INTERNATIONAL DU TRAVAIL
OFICINA INTERNACIONAL DEL TRABAJO

GB.254/PV(Rev.)
254th Session

GOVERNING BODY
CONSEIL D'ADMINISTRATION
CONSEJO DE ADMINISTRACION

Geneva,
16-19 November 1992

MINUTES OF THE 254TH SESSION



FIRST SITTING

(Monday, 16 November 1992, afternoon)

The sitting opened at 3.10 p.m. with Mr. Vargas Campos in the Chair.

In opening the session the Chairman welcomed the persons present, in particular those attending the Governing Body for the first time. He recalled that the present session had been shortened by one day and therefore urged that the various agenda items be dealt with as expeditiously as possible. With this aim, he outlined the proposed order of business for the entire session in order to enable the groups to plan their discussions accordingly.

FIRST ITEM ON THE AGENDA

Approval of the minutes of the 253rd Session

Subject to the correction received, the Governing Body approved the minutes of its 253rd Session.

SECOND ITEM ON THE AGENDA

Date, place and agenda of the 81st (1994) Session
of the Conference¹

The Governing Body decided that the 81st (1994) Session of the International Labour Conference should be held in Geneva.

The Chairman proposed that the Governing Body decide on the date of the 81st (1994) Session of the Conference after considering the report of its Working Party on Improvements in the Functioning of the International Labour Conference.

Mr. Oechslin (Employer, France; Employer Vice-Chairman) considered that the procedure for determining the agenda of the Conference should be rationalized. More room should be given to the revision of existing Conventions on the basis of a thorough analysis of the reasons for the non-ratification of certain very important or basic texts. There should be a closer link between the work of the Conference Committee on the Application of Standards and the efforts of the Governing Body to determine the agenda for the Conferences of the coming years. Rather than setting new standards that might not be ratified, the Governing Body should examine the directions which should be taken in revising existing Conventions and Recommendations. The selection process was now somewhat lacking in medium-term perspective. Without in any way calling into question the constitutional powers of the Governing Body in determining each year the agenda of the Conference, some guidelines should be laid down in this respect.

¹ See also fifth sitting.

As to the subjects proposed for standard setting by the Conference, he considered them interesting but not as important as the main standards which had been adopted in the past, some of which, however, had not always been applied and were in need of revision. In 1994, the Conference would engage in the second discussion of the question of part-time work, a controversial subject on which it would be difficult to reach a consensus. Consequently, it would be preferable to do fewer things better and include only two technical items in the agenda of the Conference in 1994. Among the subjects proposed for standard setting and general discussion, he attached special importance to the question of the settlement of labour disputes, especially in view of the social tensions caused by structural adjustment. The Employers were not challenging the right to strike since, despite its less pleasant aspects, recourse to industrial action was one of the possibilities guaranteed by a democratic system. Although strikes were unavoidable in certain situations, it was preferable for both parties not to have recourse to such extreme means. It was therefore necessary to find peaceful methods of dispute settlement that would be in conformity with the standards on freedom of association, would originate from the parties involved and would facilitate conciliation or voluntary arbitration, within both the enterprise and the sector concerned. A review of the ways and means employed by various countries to solve labour disputes peacefully would be both timely and useful. Equally useful would be the examination of the role of private employment agencies in the functioning of labour markets. This topic touched upon a serious problem, namely that of the relevance of the monopoly of public employment services, a question that was the subject of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), which had already been denounced by several States. The present situation called for the conjugation of all efforts to reduce unemployment and to create a synergy between public and private employment agencies. A general discussion in the Conference would be a good start for achieving that objective.

Concerning the subjects for standard setting, the Employers would accept the first item, that is the extension of the Labour Inspection Convention, 1947 (No. 81), to activities in the non-commercial services sector. This subject could be dealt with under the usual double-discussion procedure, in particular since a Convention or a Recommendation would have to be elaborated. The Employers would also not have any objection to discussing the second item, the revision of the list of occupational diseases appended to the Employment Injury Benefits Convention, 1964 (No. 121), but considered it to be a relatively minor question, which could be dealt with through other means. The third item, namely the prevention of accidents in underground mines, could be handled under the Programme of Sectoral Activities in view of the existence of an industrial committee on coal mines. The Employers expressed reservations concerning items 6 (Tripartite consultation at the national level on economic and social policy) and 7 (The protection of workers' basic rights in the face of technological development). Their preferences were put forward on the understanding that only one of these items would be included in the agenda of the Conference in 1994.

Mrs. Carr (Worker, Canada; Worker Vice-Chairperson), said that the Workers considered all the proposed items to be important but had a clear preference for those that would result in the adoption of new standards. While ensuring the updating of existing instruments, the ILO should continue its productive and innovative work inherent in its mandate, in particular, since important areas remained to be covered. The Working Party on Improvements in the Functioning of the International Labour Conference might work out a rational system for updating existing standards, and the Director-General could be requested to put forward some options and suggestions to that effect.

The Workers attached highest priority to the inclusion of item 3, the prevention of accidents in underground mines, in the agenda of the conference. The mining industry, with an estimated 15,000 victims and a much larger number of workers with injuries or occupational diseases, was still the most dangerous of all industries. However, most of the accidents were avoidable, provided that the best available mine safety techniques were applied. The achievement of this objective presupposed a proper "safety culture" and the participation of the miners and the mining community in the control of their living and work environment. She wondered why it was proposed to change the title of item 3 to "Safety and health in mines", as the problems which arose in underground mines were on a much more serious scale than those encountered in opencast mining. The present legislation concerning mining provided only a patchwork of regulations which left many miners working in unnecessary danger and made poor provisions for the event of accident or illness.

Regarding the items proposed for general discussion, the Workers favoured the selection of item 6, that is "Tripartite consultation at the national level on economic and social policy", in particular in view of the social tensions all over the world. They felt that item 4 concerning the role of private employment agencies in the functioning of labour markets was of great importance but considered the timing of the discussion not appropriate due to the fact that the Committee on Employment was still debating the question. Item 5, the settlement of labour disputes, was also an important subject, but it risked leading to a controversial debate and no conclusions.

Mr. Hakkou (Government, Morocco) proposed that in selecting the priorities the Governing Body take into account the budgetary outlook, the item already included in the agenda of the 81st (1994) Session of the International Labour Conference for second discussion and the need to have a varied agenda that could help member States to resolve problems to which they attached priority. Since the Programme and Budget for 1992-93 assumed that a total of three technical items would be placed on the agenda in 1994, and the question of part-time work required a second discussion, only two items had to be selected. One of these should be devoted to an occupational safety and health item, that is either item 2 or 3. The other subject should be chosen among items 1, 4 and 5.

Mrs. Caron (Government, Canada) shared the concern expressed by the employers about the need to review the procedure of choosing the agenda of the conference. Since the Government of Canada had, for several years, favoured the inclusion of fewer items on the agenda, she supported the suggestion of including one additional item only. As to the choice of the subject, she favoured item 3 in its original wording, i.e. the prevention of accidents in underground mines, and joined the Workers in asking why the title had been changed by the Office.

Mr. Makeyev (Government, Russian Federation) remarked that the two sets of items relating to occupational safety and health and to the settlement of labour disputes were of particular interest to his Government in view of the limited experience which it had as yet in the field of labour disputes and also because major accidents and production stoppages in the extensive mining industry of Russia would have adverse social consequences both for miners and for broad sectors of the workforce engaged in the regions concerned. His choice of the technical items proposed was, in the order of priority, as follows: items 3, 4 and 5. As to the revision of existing Conventions he was ready to accept both items 2 and 1.

Mr. Aur (Government, Brazil) stated that the governments of the Americas were virtually unanimous in advocating the selection of only one additional technical item in 1994. The Government of Brazil favoured the selection of item 5.

Ms. Hartwell (Government, United Kingdom) recalled that over the last years her Government had repeatedly spoken in favour of selecting one additional item only. That item could be either for general discussion or for the revision of an existing standard, but should not be for the elaboration of new standards, which often received few ratifications only and did not lead to tangible results. Of the items proposed, she gave preference to item 3, followed by item 1. Items 5, 6 and 7 involved such enormous areas of discussion that it was unlikely that they could be successfully contained within the limits of a general discussion. Whilst sympathetic to item 3, she felt that it was too early to treat the question of safety and health in mines, because a number of countries were in the process of revising their legislation in this field.

Mr. Takahashi (Government, Japan) felt that the agenda of the Conference should concentrate on items which were of interest to as many countries as possible and which contributed to the solution of problems faced by them. Instead of developing new standards, the Conference should revise existing ones and save scarce resources by discussing one additional technical item only. He considered that this time an item should be chosen for general discussion and expressed preference for item 7, followed by item 4. Concerning item 1 he believed that it would be too difficult to find a single comprehensive legal definition of the non-commercial sector and consequently labour inspection in this sector should be regulated by national legislation and not by an international standard.

Mr. Dejong (Government, Australia) expressed preference for item 3 and suggested that it concentrate on the prevention of accidents in underground mines. In respect of the two items proposed for the revision of standards he felt that the choice of other instruments, such as the actual text (and not just the list of occupational diseases) of the Employment Injury Benefits Convention, 1964 (No. 121), which had received only 18 ratifications in 30 years, would have been more appropriate. As to the subjects proposed for the general discussion, he gave preference to item 7 but was ready to accept other subjects as well. Item 4, for example, should be placed on the Conference agenda in the not too distant future as an item for standard setting and not for general discussion, in view of the denunciation by several States of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

Mrs. Cabrera (Government, Venezuela) stated her support for item 1 in spite of the fact that most governments of the Americas group had given preference to item 5. As regards the latter, she felt that the settlement of labour disputes was a delicate subject, the discussion of which might not result in agreement, in particular since governments might be reluctant to promulgate legislation which would have to define what constituted a legal strike. On the other hand, the question of the protection of workers' basic rights in the face of technological development (item 7) was a subject that should be discussed from a variety of aspects, including the participation of workers in its application, the impact of technology on the environment and on employment and the implications of technology for job security. Examples from several countries indicated that collaboration between employers and workers had enabled the workers to participate in decisions concerning technology and related issues such as training, productivity or competitiveness. In Japan, for example, the introduction of technologies was linked to training and retraining in order to achieve full competitiveness. In other Asian countries

the developments had been different. It was therefore essential not to enforce a unique model for the solution of the problem, in particular in view of the differences that existed between countries with regard to related legislation, labour relations and history. Since technology had the potential of threatening both employment and the environment, workers had to be enabled to participate in decisions concerning job and wage security, career development and safety and health standards. It had to be ensured that those who owned the capital were not the only beneficiaries of technology to the detriment of the workers. In view of the wide scope of the subject, any discussion of it would be a difficult and controversial one. It was actually not a general discussion that was called for but the development of an international instrument that would govern the participation of workers in the introduction of new technologies and promote the basic rights of workers such as the right to employment. She concluded by reiterating her preferences for items 1 and 7.

Mr. Hashim (Government, Nigeria) hoped that a compromise could be found in spite of the diversity of the interests which determined the choice of the topics. His preferences were, in order of priority, item 5, because economic difficulties resulted in an increased need for the settlement of labour disputes; item 1 which would help define the basic requirements of labour inspection; and item 4 because private employment agencies played an important role in the labour market, especially at times of high unemployment.

Mr. Fritz (Government, Germany) stressed the need for reaching a consensus without being dogmatic about the number of items being included in the agenda of the Conference. One topic could be selected for standard setting and another for general discussion. His preferences were items 3 and 4. The question of underground mining needed attention because it involved very arduous working conditions, as had been pointed out by the workers. An exchange of experiences concerning private employment agencies could be useful in view of their growing role in the labour market. While clearly stating his preference for these items, he remarked that some of the other subjects proposed would also be acceptable.

Ms. Zhang (Government, China) believed that all the topics proposed by the Director-General were important, but gave preference to items 3 and 5. Item 3 concerning the prevention of accidents in underground mines was particularly significant in view of the fact that the mining industry was a key for the development of many countries and that the 25 million workers employed in this industry worked in difficult and hazardous conditions. Since national legislation had to be improved in many countries, the elaboration of labour standards concerning safety and health in mines would be most useful. China had recently established many small-scale mining industries which played an important role in the local economy but were often under-equipped and subject to frequent accidents. To improve the situation her Government would promulgate a law on safety in mines. The settlement of labour disputes was an important basis for social stability and economic development, in particular in countries undergoing structural adjustment. A tripartite exchange of views in the Conference would consequently promote stability and prosperity in member States. Should the Governing Body decide to choose one item only, the Government of China's preference would go to item 5, but would be ready to accept any item on which consensus could be found.

Mr. Mayoral (Government, Argentina) joined the overwhelming majority of the governments of the Americas in suggesting that only one additional item be selected for the agenda of the Conference in 1994 and that it be either item 3 or 4. He felt that the situation of workers in the mining industry merited a discussion in the Conference of 1994, and that the question of private employment agencies was also of interest, because in many cases they engaged

in activities or introduced contracts which were not in conformity with the principles enshrined in international labour standards.

Miss Silva y Silva (Government, Peru) shared the view expressed by the majority of the Americas group that only one additional technical item be selected. She considered item 3 relating to safety and health in mines to be the most important one.

Mr. Cilia-Debono (Government, Malta) proposed that one item be selected for standard setting. His preference went to items 2 and 5. Good industrial relations were essential for economic and social progress and the settlement of labour disputes created the institutional climate for protecting workers' rights. Consequently this topic should be given priority along with item 2 or the revision of the list of occupational diseases. The prevention of accidents in underground mines was an important issue but not for all of the ILO's member States, because some, like Malta, had no mining industry at all. The question of occupational diseases was a more universally felt problem.

Mr. Gopalan (Government, India) wished to group the items proposed according to the following broad categories: standard setting, industrial relations, occupational safety and health, employment and other topical subjects, and suggested that these categories be divided in a way that alternated all of them would be covered during two Conferences. Not more than three items should be included in the agenda of any session of the Conference. The items chosen should, moreover, be well documented, including the relevant national experiences. As to the Conference in 1994 he proposed to take either items 2 or 3 as a standard-setting topic and items 5 or 6 for general discussion.

Mrs. Nyangang (Government, Cameroon) recalled that the agenda of the Conference in 1994 already included one technical item, namely part-time work which required a second discussion. For the two additional topics to be dealt with, she proposed items 4 and 5. She felt that these items could contribute to the formulation of responses to the problems experienced by developing countries in view of the present economic crisis.

Mr. Palma (Government, Philippines) preferred the selection of one topic only and proposed that the item chosen be either 3, 4 or 7.

Mr. O'Riordan (Government, Ireland) would have opted for one additional subject only but expected that two items would be chosen, one among the standard-setting items and one among the general discussion items. As to the first group of topics, he was particularly interested in item 1 in view of the comprehensive occupational safety and health legislation in his country. Although Ireland had ratified Convention No. 121, item 2 deserved lower priority and item 3 was of relatively less importance in Ireland than in other countries. As to the second group of subjects, he was ready to accept items 4 and 5, was somewhat disappointed at the apparent lack of enthusiasm for item 6 because it would have tied in well with the discussions in the Governing Body Committee on Employment, and expressed a slight reservation concerning item 7, which might lead to a very general kind of discussion without concrete results.

Mr. Spring (Government, United States) agreed with the proposal that only one additional item be selected and stated preference for item 7. The introduction of new technologies had had a strong impact on work organization, collective bargaining and employment itself. It was time to develop and introduce technologies which complemented human skills, rather than forcing workers to adjust to new technologies. Item 5, the settlement of labour disputes, was also an ongoing concern ever since the first collective bargaining agreement was negotiated. With regard to standard setting he

pointed out that to be effective a strong link had to exist between the setting and the application of standards. The revision of item 1 had been assigned to a working party already in 1987. This was an appropriate procedure which should be followed also when other items were selected for the agenda of the Conference. As to item 3 on safety and health in mining it was important, but was limited to one sector only.

Ms. Adler (Government, Denmark) supported the selection of one item for standard setting and one for general discussion. As to standard setting she proposed item 1 which, in addition to responding to substantive needs, was also in line with the desire of her Government to focus on the revision of old instruments instead of on the adoption of new ones. The second priority under standard setting was item 3. Concerning the subject for general discussion, she proposed item 4 or item 7.

Mr. Ramond (Government, France) supported the choice of one item only, namely item 1. However, if there was a consensus in favour of item 3, his Government would be ready to accept it instead of item 1.

Mr. Khan (Government, Pakistan) recognized that all seven items, on which law and practice reports had been received, had the potential to suggest remedial measures for some specific problems faced by the world of work. He proposed, however, that priority be given to items 4, 5 and 6. Item 4 should be the subject of a comprehensive examination in order to find ways to improve the labour market, in particular through a better cooperation between private and public employment agencies and through the development of national policies and programmes, aiming at matching requests and offers of employment more rapidly and judiciously. The discussion of item 5 would provide the ILO and its constituents with guidance concerning the prompt and equitable settlement of labour disputes and would identify the strength and weaknesses of the various dispute settlement machineries. Item 6 should also be placed on the Conference agenda because the achievement of an appropriate balance between economic and social development required tripartite consultation and cooperation. A general discussion on this topic could furnish guidance for the direction of future ILO activities as well as for the measures which the tripartite constituents of the ILO may wish to take in their quest for social consensus.

Mr. Kchaou (Government, Tunisia) favoured the inclusion of two new items on the Conference agenda, one for standard setting and another for general discussion. As to the items proposed for standard setting he would have preferred a wider choice, but of the three items in question he gave priority to item 3. He agreed with the Director-General that the discussion should relate to all mining activities. His second choice was item 2. Among the subjects proposed for general discussion he felt that item 5 was of interest to both governments and social partners in industrialized and developing countries. Good industrial relations depended largely on the existence of functioning dispute settlement machineries, and by examining this question the ILO would contribute to the development of sound industrial relations. His second choice was item 4 because of the need to revise Convention No. 96. In case the Governing Body would decide to choose one subject only, he proposed item 5.

Mr. Leemans (Government, Belgium) suggested that item 3 be selected. The experience of his own country could prove useful in spite of the fact that the last underground mines had been closed in Belgium just a few weeks previously. His second choice was item 7.

Mr. Fuchs (Government, Czechoslovakia) supported the selection of on additional item only and proposed to take either item 4 or 5. In case the Governing Body decided to choose an item for standard setting, priority should be given to item 3.

Mr. Mersi (Government, New Zealand) preferred the selection of on additional item only and proposed item 4 as a first and item 3 as a second choice.

Mr. Chaben (Government, Uruguay) shared the views expressed by the coordinator for the governments of the Americas that only one new item be included in the agenda of the Conference and expressed preference for item without setting aside the possibility of considering other items.

Mr. Soruco (Government, Bolivia) favoured the selection of item 3 and listed item 4 as his second choice.

At the request of the Chairman, the representative of the Director-General (the Director of the Bureau of Programming and Management) explained that the title of item 3 had been widened to include all mining activities in response to the observations made at the occasion of tripartite technical meetings, and in particular to resolution (No. 30) of the Fifth Tripartite Technical Meeting for Mines Other than Coal Mines (March 1990). Furthermore, the ILO technical unit concerned believed that the Conference Committee itself would have wished to extend its work to all mining activities. It was however for the Governing Body to decide whether it wanted to limit the discussion to underground mining only or to treat the wider subject of all mining activities.

Mrs. Caron (Government, Canada) considered that the arguments listed by the representative of the Director-General in explanation of the change in the focus of item 3 were valid. She nevertheless cautioned against choosing a subject-matter which covered too many areas and consequently made it difficult for large numbers of member States to consider ratification.

The Chairman indicated that the Governing Body would take its decision on this item after considering the report of the Working Party on Improvements in the Functioning of the International Labour Conference. He expressed the hope that the consultations that would take place in the meanwhile would make it possible to reach a consensus on the Conference agenda for 1994.

THIRD ITEM ON THE AGENDA

Action on the resolutions adopted by the Conference at its 79th (1992) Session¹

The Chairman, upon introducing the agenda item, pointed to a typographical error in paragraph 6, where the reference to "paragraphs 13-39" should be replaced by "paragraphs 13-38".

Mr. Owuor (Employer, Kenya) supported the points for decision in respect of all four resolutions. As to the resolution and conclusions concerning adjustment and human resources development, he believed that human resources

¹ See also second sitting.

Conference, which had just been approved by the Governing Body, provision was made for the Conference to begin work on the first Tuesday, instead of Wednesday, in June.

The Governing Body decided that the 81st (1994) Session of the International Labour Conference should open on Tuesday, 7 June 1994.

Mrs. Carr (Worker, Canada; Worker Vice-Chairperson) said that, in spirit of compromise, the Workers agreed to entitle the third item proposed as follows: "Safety and health in mines", as this would include all mines. As regards her group's choice of items, the Workers' first preference would unquestionably go to item 3, while item 4, the role of private employment agencies in the functioning of labour markets, would be their second choice. She hoped that the Employers' group would endorse this choice.

Mr. Oechslin (Employer, France; Employer Vice-Chairman) stated that after listening carefully to the Governing Body's discussion on this subject at the first sitting he had drawn two conclusions. First, there had been massive support in the Government group for a reduction in the number of technical items on the Conference agenda. The Employers shared this view. However, not all governments felt that this was necessary and the Workers group did not agree. In view of the adoption by the Governing Body of the report of the Working Party on Improvements in the Functioning of the Conference, which involved a substantial reduction in the Conference's work by virtue of the fact that the Resolutions Committee would meet only once every two years, he would not insist on a reduction in the number of items for the 1994 Conference. However, the Employers would reserve their position for future years. This matter should be carefully considered from year to year. The Employers had also paid great attention to the preferences expressed by the Government members concerning the choice of items to be placed on the agenda. It was evident that the question of safety and health in mines had received broad support in the Government group as well as by the Workers. While this was not a priority issue for the Employers, his group was not fundamentally opposed to placing this item on the agenda.

As regards the item for general discussion, he was pleased to note that the Government members had largely supported the item which had been proposed by the Employers, namely the settlement of labour disputes. He had understood that the Workers were not as categorically opposed to this item as they had been in the past, and hoped that they might agree to consider placing it on the agenda. He had also observed that the item concerning the role of private employment agencies in the functioning of labour markets, which was among the Employers' priorities, had been widely supported by governments. He therefore considered the Worker Vice-Chairperson's proposal an acceptable compromise.

The Governing Body decided to place the following items on the agenda of the 81st (1994) Session of the Conference:

- (a) Part-time work (second discussion);
- (b) Safety and health in mines (first discussion);
- (c) The role of private employment agencies in the functioning of labour markets (general discussion).