



Governing Body

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Legal Issues and International Labour Standards Section

LILS

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DRAFT MINUTES

Legal Issues and International Labour Standards Section

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Legal Issues Segment

First item on the agenda

Standing Orders of the International Labour Conference: Further proposed amendments concerning the reform of the International Labour Conference and other matters (GB.320/LILS/1)

1. *A representative of the Director-General* (Deputy Legal Adviser) emphasized that the document under consideration was not meant to pre-empt in any way the result of ongoing discussions on Conference reform. In the context of the Working Party on the Functioning of the Governing Body and the International Labour Conference, it had been generally admitted that the 103rd Session (2014) of the Conference would be transitional and in 2015 the Conference would take the form of a trial two-week session. It had also been acknowledged that all trialling would need to be completed and evaluated before any final decisions were taken. Most amendments proposed in the document reflected apparent consensus, while others concerned provisions that might warrant modernization and simplification. The views of the Governing Body would help the Office to advance during the period of transition and trial of new arrangements.
2. *The Worker spokesperson* reiterated that amendments to the Conference Standing Orders should be sent to the Conference for adoption only upon agreement on the overall reform package. Regarding the proposed amendment to article 2(3)(d), he proposed the addition of “or additional persons representing employers’ and workers’ organizations” at the end of the last sentence, while emphasizing that the number of other persons attending should remain limited. Regarding article 11ter(2), the inclusion of a new item on the agenda for general discussion should entail the creation of a specific committee; the Workers did not support the idea of a general discussion in plenary. Regarding article 12(1) and (2), he supported the proposal that the Director-General’s Report should always be devoted to a social policy theme. Regarding article 12(2), it was unclear why the text requiring the programme implementation reports to provide information on the steps taken to give effect to previous decisions of the Conference and on the results achieved had been omitted. The Office needed to ensure a better mechanism to follow up on Conference decisions and to report on it to the Governing Body. Regarding article 12(4) and (5), the added value of interactive debates during the Conference remained to be seen so the proposed amendments did not currently seem pertinent. Regarding article 17(3), the Workers considered that all resolutions relating to matters not included in a Conference agenda item should be discussed in the Selection Committee and did thus not support the amendment proposed in that respect. Regarding articles 26bis(1)(a) and 26ter(3)(a), his group would prefer that any decision on the reduction of deadlines for objections be subject to conducting a trial of the reduced deadlines, on the basis of an Office proposal. He proposed that, to clarify the status of the discussion on that item, the Governing Body should adopt a decision “request[ing] the Office to take into account the views expressed during the debate with a view to preparing a consolidated set of proposed amendments to the Standing Orders of the International Labour Conference, to be submitted to the Governing Body at the appropriate time following the outcome of the discussion on the Conference reform”.

3. *The Employer coordinator* expressed overall support for the intention and design of the proposed amendments. However, there was still room to make the Standing Orders simpler, more comprehensible and more consistent. He recognized the common ground with some of the Workers' proposals but his group had more proposals to make with a view to producing a set of simple and understandable Standing Orders, which it would submit directly to the Legal Office for reflection. His group fully supported the draft decision proposed by the Workers. The Office should be instructed to take account of views expressed during the debate or submitted shortly afterwards by the Employers with a view to preparing a consolidated set of proposed amendments to be submitted to the Governing Body at the appropriate time following the outcome of the discussion of the Conference reform.
4. *Speaking on behalf of the industrialized market economy countries (IMEC)*, a Government representative of Canada welcomed the proposals to abolish the Resolutions Committee and transfer its task to the Selection Committee, and also to adapt the Standing Orders to the use of technology. However, her group did not support the proposed amendment to article 11ter(2), since it was not in favour of general discussions taking place in plenary, preferring that the existing arrangement of referring general discussion items to a committee be kept. Otherwise, an amended wording for article 11ter(2) might be: "The question shall be referred by the Conference to a committee for report unless the Conference decides otherwise." IMEC also wished to propose an amendment to the draft decision proposed by the Workers, replacing the words "at the appropriate time following the outcome of the discussion on the Conference reform" by "following agreement on the Conference reform".
5. *Speaking on behalf of the Africa group*, a Government representative of Angola noted that divergences persisted on certain provisions and encouraged the Working Party to seek consensus on them. He supported the proposed amendments referred to in paragraphs 7 and 8 of the document. He also supported the proposed amendments to articles 14, 22 and 62 of the Standing Orders. However, he considered that the proposed amendments to articles 15, 17, 22, etc. would be difficult to implement in practice, particularly if documents were to be published in electronic form only.
6. *Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC)*, a Government representative of Costa Rica said he agreed that approval of amendments by the Governing Body might await final approval of an overall reform package. He noted a certain inconsistency between some of the proposed amendments and the remainder of the Standing Orders. Regarding article 1(3)(3), in view of unforeseen absences that often arose during the Conference, it was not helpful to formalize matters as proposed; the suggested wording must be improved or otherwise deleted altogether, especially as the rest of article 1 as amended was perfectly clear. Regarding article 11ter(2), his group preferred to keep the current wording. Regarding article 12(4) and the proposal that panel discussions should no longer be specifically mentioned as an example of interactive debates, he recalled that it was his group's view that panel discussions should not be held simultaneously, but consecutively to enhance coherence with respect to the important social policy theme contained in the Director-General's Report. Regarding article 12(4)(a), he was concerned about the implicit possibility of discussions being prolonged through more than one intervention per speaker. With regard to article 12(4)(b), the apparent absence of an order of speakers and of time limits for the speeches also gave rise to concerns. Regarding article 12(5), GRULAC had already referred to the need for a rigorous and restrictive selection of moderators who were not members of duly accredited tripartite delegations and therefore did not in principle have the right to participate in the Conference. Further clarification was necessary with regard to all the proposed amendments to article 12. Article 18(1) needed to be harmonized by replacing the reference to the Resolutions Committee by one to the Selection Committee, in view of the

abolition of the Resolutions Committee proposed in the document. GRULAC greatly welcomed the amendment to article 24 as it reflected longstanding practice with respect to the official languages of the Conference without generating additional costs for the Conference. Regarding article 26bis(1)(a) concerning time limits for objections, the term “justified cases” was imprecise and undermined the legal certainty and predictability of the Standing Orders. The proposed time limits could be seen as reasonable in the context of an overall reduction of the length of the Conference but there appeared to be little sense in having the possibility of extending the time limit for objections based on a revised list of delegations, which was published at an advanced stage of the Conference, so that that time limit would be the same as for the initial list.

7. Regarding article 40(6), GRULAC did not support the proposed amendment. At the 313th Session of the Governing Body, GRULAC had argued that the technical committees responsible for the substantive discussion of instruments should still be able to determine the figures for the entry into force and the time limit for the denunciation of Conventions, as that question was linked to the content of the instrument under review. His group’s position had not changed. GRULAC was not in favour of deleting article 56(2), as the provision contained therein was not affected by the proposed amendment to article 56(1). If the Office insisted on deleting the paragraph, it should provide a more detailed explanation for doing so. His group could not at that time support the amendment to the last part of article 57(5). That issue would be addressed again in the Working Party. Article 59 might be subject to a further amendment relating to the composition of the drafting groups of technical committees, which it was proposed should comprise eight representatives of each of the three groups. In addition, members of the drafting groups of a committee not responsible for drafting normative instruments were not necessarily required to be conversant in the other two official languages. Regarding article 63(3), his group had doubts about adding the word “motions” as its content would then differ from that of article 15(3). A more detailed explanation was needed. GRULAC endorsed the draft decision proposed by the Workers’ group and IMEC’s amendment thereto.
8. *The Employer coordinator* said that his group endorsed the draft decision proposed by the Workers’ group and IMEC’s amendment thereto.
9. *The representative of the Director-General* (Deputy Legal Adviser) said that drawing up a set of coherent and up-to-date Standing Orders based on the guidance of the Governing Body members was work in progress. The Office had taken note of all the views and suggestions expressed and would take them into account as it moved forward with the preparation of the package of reform of the International Labour Conference.

Decision

10. ***The Governing Body requested the Office to take into account the views expressed during the debate with a view to preparing a consolidated set of proposed amendments to the Standing Orders of the International Labour Conference, to be submitted to the Governing Body following agreement on the Conference reform.***

(GB.320/LILS/1, as amended.)

Second item on the agenda

Privileges and immunities of the International Labour Organization: Identification document for Employer and Worker members of the Governing Body (GB.320/LILS/2)

11. *A representative of the Director-General (Deputy Legal Adviser)* recalled that the item followed up on prior Governing Body discussions in March and October 2013. The proposed identification document for non-governmental members of the Governing Body would not be a travel or identity document. It would simply attest the holder's status as an elected member of the Governing Body for a three-year term. Instead of having that certified through an official letter, it was proposed to use a more convenient card format. The Office could provide more information on the modalities for issuing such a card, or provide specimens if required.
12. *The Employer coordinator* said that, as the identification document was of particular concern to governments, his group would be interested to hear whether they wished to pursue the matter.
13. *The Worker spokesperson* said that the protection the proposed document would afford non-governmental members of the Governing Body while exercising their functions and as they travelled to and from meetings was of particular importance. To illustrate that, he referred to an incident where a member of his group had been detained by the police and not treated respectfully while in transit at an airport to attend the Governing Body. The Workers' group endorsed subparagraph (a) of the draft decision.
14. *Speaking on behalf of IMEC*, a Government representative of the United States, recalling IMEC's statement on the subject at the previous session of the Governing Body, welcomed the clarifications concerning the proposed identification document. The card would not create new privileges and immunities nor extend existing ones. Only States bound by the 1947 Convention would be obliged to accord the privileges and immunities under it. Regarding safeguards, holders should be obliged to return the document if they left the Governing Body before the end of their term – in such cases the Office could also invalidate the document – and to report lost or stolen documents to the Office. If text was to be included on the card she suggested the following wording: "The holder of this document is a member of the Governing Body of the ILO and enjoys privileges and immunities in accordance with Annex I of the 1947 Convention on the Privileges and Immunities of the Specialized Agencies in States that have accepted its provisions by ratification or by bilateral agreement with the ILO." The identification document should be issued on a trial basis for the following term of the Governing Body and its usefulness evaluated.
15. *Speaking on behalf of the Africa group*, a Government representative of Angola noted that other arrangements outlined in the Office paper could be relied upon, that the added value of the document was limited since the Swiss authorities would continue to issue a laissez-passer to Governing Body members, and that the UN Secretariat was not aware of any comparable cards or similar practices in other organizations. His group was concerned that the document would be difficult to introduce, especially since it would not be recognized by all member States, and that issues relating to its legal status and applicability would place a burden upon the Office. The Africa group endorsed subparagraph (b) of the draft decision.

16. *Speaking on behalf of GRULAC*, a Government representative of Costa Rica said that the views his group had expressed at the previous session of the Governing Body remained unchanged. Only States bound by the 1947 Convention and its Annex I had the obligation to recognize the privileges and immunities set out in their provisions, which were not applicable in relation to the authorities of a State of which the person was a national or had been a representative. Regarding safeguards, the Office should remain available to attest when the Governing Body members exercised their functions, and when they were travelling to and from an official meeting. When preparing a new proposal, the Office should take into account the comments made by his group at the previous session. GRULAC endorsed subparagraph (a) of the draft decision.
17. *A Government representative of India*, speaking also on behalf of China, the Islamic Republic of Iran, Singapore and Viet Nam, welcomed the clarifications provided following the discussions held at the previous session of the Governing Body. However, the identification document would be of little use, as it did not address any of the difficulties previously experienced by Governing Body members. Irrespective of whether an ILO card was issued, the countries that recognized the privileges and immunities of Governing Body members would continue to do so. Moreover, the Swiss laissez-passer would continue to be issued, diminishing the added value of the proposed document. The potential for the misuse and mismanagement of the document, owing to its minimal security features, remained a cause for concern. Furthermore, the proposed method of contacting the Office to confirm the validity of the card could impede immigration procedures and compromise security. He endorsed subparagraph (b) of the draft decision.
18. *A Government representative of Australia* said that his Government aligned itself with the statement delivered by IMEC and endorsed subparagraph (a) of the draft decision.
19. *A Government representative of the Russian Federation* agreed that such a document could help to extend necessary legal privileges and immunities to Governing Body members and that it would also help them to avoid difficulties while discharging their duties. His Government endorsed subparagraph (a) of the draft decision.
20. *The Employer coordinator* said that his group endorsed subparagraph (a) of the draft decision.

Decision

21. ***The Governing Body decided to request the Office to prepare a new detailed proposal for the issuance of an identification document taking into account the discussions at its 319th and 320th Sessions.***

(GB.320/LILS/2, paragraph 9.)

Promotion of the ratification of the Instrument for the Amendment of the Constitution of the International Labour Organisation, 1997 (GB.320/LILS/INF/2)

22. *The Employer coordinator* stressed that more than 16 years after its adoption, the 1997 Instrument of Amendment had not yet entered into force. However, only two more ratifications were needed for it to do so. The Employers observed that almost a third of the member States represented in the Governing Body had not yet ratified the 1997 Amendment and appealed to those governments to lead by example. The Amendment

was necessary to make use of the abrogation procedure, an important tool to follow up on future decisions of the standards review mechanism and to take action on ILO Conventions identified as potential candidates for abrogation.

International Labour Standards and Human Rights Segment

Fourth item on the agenda

The standards initiative: Follow-up to the 2012 ILC Committee on the Application of Standards (GB.320/LILS/4)

23. *The Director-General* recalled that, at its October 2013 session, the Governing Body had mandated him to hold informal consultations with all three groups, with a view to submitting to the Governing Body proposals to address the main outstanding issues in relation to the standards supervisory system. Constituents had engaged positively and constructively in the consultation process, which had permitted the submission of a carefully constructed draft decision. While adopting the decision would not bring a definitive resolution to the issues in question, it would allow the Governing Body to move forward in that direction, including by enabling the successful completion of the work of the Committee on the Application of Standards at the 103rd Session (2014) of the International Labour Conference. Concrete courses of action to address each set of issues had been proposed, and he was of the view that the Governing Body could decide on some of them at its current session, while agreeing on the steps to be taken to address others at a later stage. He strongly encouraged the Governing Body to adopt the draft decision.
24. *The Worker Vice-Chairperson* recalled, with reference to paragraph 14 of the document, that the Committee on the Application of Standards was never intended to be above the Committee of Experts on the Application of Conventions and Recommendations (CEACR); it added a degree of discussion and political direction to the cases examined each year. There were no particular objections to the statement on the mandate of the CEACR included in its 2014 report, which had the advantage of having been prepared independently by the experts. The group supported the draft decision in paragraph 40(b).
25. Concerning action in the case of disagreement on the interpretation of a Convention, the group would be willing to consider recourse to the International Court of Justice (ICJ) on the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), regarding the right to strike. The reservations expressed in the document in that regard might have been overstated. The group was also open to exploring the modalities for establishing a tribunal based on article 37(2) of the ILO Constitution under conditions that would need to be discussed and agreed upon prior to the Workers' group approving its establishment. Such a mechanism should only be used in serious situations. The group did not support a tripartite tribunal, but rather one composed of independent judges with extensive international legal expertise, who would hear the interested parties through an adversarial procedure. The tribunal's views should not substitute those of the CEACR. Furthermore, the CEACR's views that were not under review by the tribunal should be treated as valid and generally recognized. The group did not support the option of holding a Conference discussion on issues arising from the application of given Conventions, leading to differences of understanding. In such cases, the Conference could revise a Convention, but a general discussion was not a way to

obtain a final interpretation of a Convention. The group supported the draft decision in paragraph 41(a).

26. With regard to the functioning and working methods of the CEACR and the Committee on the Application of Standards, he reiterated his group's request for additional resources to support the work of the secretariat of the CEACR. It was also important to ensure that the CEACR had a full complement of experts, and consideration should be given to expanding its membership in the light of the increase in the ratifications of Conventions. The group supported the draft decision in paragraph 41(c) and (d), although adjustments to procedures to fill vacancies on the CEACR, referred to in paragraph 41(d), needed to be clarified. Regarding calls for a more clearly understood use of agreed and objective criteria in the selection of cases to be examined by the Committee on the Application of Standards (paragraph 28 of the document), he recalled that such criteria had already been adopted and included the possible examination of cases of progress. It was important to clarify that the list of cases needed to be endorsed by the Committee on the Application of Standards every year and therefore could not be finalized any earlier. The Tripartite Working Group on the Working Methods of the Committee on the Application of Standards should pursue its efforts and report ongoing progress to the Governing Body as appropriate. The group supported the draft decision in paragraph 43(a) and (b). Concerning the use of the different components of the supervisory system (paragraph 30 of the document), the group would not support any attempts to rebalance the system towards an increased use of representations under article 24 of the Constitution. The CEACR needed to continue to examine the application of ratified Conventions both in law and in practice under article 22 of the Constitution. Representations were more cumbersome to prepare and would be impracticable for many unions. The group also opposed a review of the receivability criteria for representations, notably with regard to the exhaustion of remedies available at the national level, given that the judicial systems of many countries did not function properly. Regarding the working methods of the CEACR, greater recourse to unpublished direct requests (paragraph 31 of the document) would diminish the ability of the Committee on the Application of Standards to supervise those cases. There was no margin for further adjustments to reporting cycles on ratified Conventions (paragraph 32, reiterated in paragraph 34 of the document). The group would find it difficult to agree to the draft decision in paragraph 40(e) if the steps to be examined with a view to improving the working methods of the standards supervisory system related to the issues mentioned in paragraphs 30–32 of the document. The establishment of national mechanisms to deal with matters that would otherwise go directly to the ILO (paragraph 36 of the document), required careful consideration and should not preclude access to the ILO supervisory system.
27. Finally, regarding the standards review mechanism, which was adequately addressed in paragraph 38 of the document, he reiterated that the disputes concerning the Committee on the Application of Standards, and other issues related to the supervisory system, needed to be satisfactorily resolved before making the mechanism operational. The Office should give careful consideration to that issue when preparing proposals in relation to the draft decision in paragraph 41(b) of the document.
28. *The Employer Vice-Chairperson* emphasized the group's willingness to engage in a constructive process to find solutions to improve the functioning of the ILO supervisory system as a whole. The status quo was no longer an option and the constituents should engage in a process to address those matters in a structured and systematic manner, on the basis of concrete time frames and objectives. The mandate of the CEACR was a core issue and the group recognized the effort made by the Committee to address its concerns with the new wording included in its 2014 report. To demonstrate its resolve to move forward, the group was prepared to accept that wording as a permanent addition to CEACR reports.

29. The delay in the adoption of the list of cases of the Committee on the Application of Standards, and the presence of excessively political components, negatively affected the credibility of the system. An earlier determination of the list would enable proper preparation and ensure that the Committee's work was more effective. Objective criteria for the list already existed (contained in Document D.1 on the Work of the Committee on the Application of Standards),¹ and there should be agreement to effectively apply those criteria in June 2014. A realistic short-term deadline should be set to achieve a solution at the March 2015 session of the Governing Body for the Committee on the Application of Standards discussion in 2015, based on certainty and adequate preparation, in line with the new Conference format. The group was ready to engage in a process to establish a new methodology that guaranteed a fair and equitable list of cases.
30. Regarding the interpretation of Conventions, the group considered that all potential solutions should be examined in good faith. It recognized the possibility provided in article 37(1) and (2) of the Constitution, as well as other possibilities provided by the Conference to deal with important disagreements on the specific non-binding guidance provided by the CEACR. The group wanted to identify areas where consensus existed and what items required planning in the following 12 months. Regarding the architecture of the supervisory system, all possibilities should be explored in an integrated manner. The most important challenge, in order to improve the system's credibility, was to engage in a process to find solutions to other equally relevant issues, such as the complementarity of the different existing mechanisms and the graduation in their use; clarification of the difference between the roles of the CEACR and other ILO bodies (including the Committee on Freedom of Association); and a better use of articles 23 and 24 of the Constitution or a proper application of the receivability criteria. That was linked to the increased workload of the CEACR and the reasons for such an increase needed to be identified before a decision on assigning further resources could be taken. A proper rationalization of the different existing tools to avoid overlap could also be an adequate solution.
31. The standards review mechanism was an extremely important issue, and it should be made operational without further delay. Over the previous 12 months, the discussions within the "Swiss Chalet Process"² and the Governing Body had established the level of trust required by the Workers' group to further establish the modalities and to operationalize the standards review mechanism.
32. The group did not consider the draft decision to be very clear, but it was willing to accept it on two conditions. First, efficient and concrete action should be taken, within a specific time frame, to find solutions in cases of disagreement on the interpretation of a Convention and to improve coherence in the use of the different supervisory system mechanisms. A first proposal should be discussed by the Governing Body at its November 2014 session. Second, it was necessary to find an efficient and predictable methodology to establish a list of cases well in advance of the Conference session, using the existing objective criteria. It was necessary to engage on that prior to the November 2014 session of the Governing Body, with a view to achieving a result prior to the Conference session in 2015. On that basis, the group welcomed the statement of the CEACR in its 2014 report, understanding that it would be a permanent addition to the report, and endorsed the draft decision.

¹ ILO: *Report of the Committee on the Application of Standards*, Part One, Annex I, *Provisional Record No. 16-1(Rev.)*, International Labour Conference, 102nd Session, Geneva, 2013.

² See GB.319/PV, paras 548–567.

33. *Speaking on behalf of the Government group*, a Government representative of the Islamic Republic of Iran reiterated that, to exercise fully its constitutional responsibilities, it was essential for the ILO to have an effective, efficient and authoritative standards supervisory system and he reaffirmed the group's full commitment to the ILO supervisory system. The group welcomed the statement on the mandate of the CEACR included in its 2014 report and emphasized the importance of the independence, objectivity and impartiality of the experts. The increased number of member States and ratifications, as well as the constituents' increased awareness and use of reporting, representation and complaint mechanisms, reflected well on the importance of the ILO supervisory system. The system should have the capacity to respond effectively and efficiently to the increased workload. Further consideration should be given to the options for addressing any questions or disputes that might arise with respect to the interpretation of a Convention within an agreed time frame. The group looked forward to the establishment of a standards review mechanism.
34. *Speaking on behalf of the Asia and Pacific group (ASPAG)*, a Government representative of Australia recalled that his group was of the view that the supervisory system was operating satisfactorily and remained a model for tripartite cooperation and international governance. As that view was not shared across the ILO, the group was committed to contributing to the steps proposed in the document. The group highly appreciated the paragraph prepared by the CEACR for its 2014 report, which lent clarity and certainty to the status of the Committee's recommendations and observations and provided an important reference point for jurisdictions when considering the implications of ILO standards. With respect to the interpretation of a Convention, the ICJ provided an avenue for the resolution of disagreements, although there might be some issues regarding recourse thereto. Dealing with disputes internally, as envisaged in the Constitution, was a positive approach that should be taken into account. Thus, the option of a tribunal should be considered on its merits but issues arising in that regard would require clarification and certainty before ASPAG could agree to embark on that course of action. Options for reviewing the establishment of the list of cases to be discussed by the Committee on the Application of Standards could be considered, with a view to ensuring a balance across regions and Conventions, while also taking national developments into account. ASPAG had submitted a paper to the Office containing options for consideration on how to better manage the increasing workload of the supervisory system. It had been a long time since the Governing Body had agreed to the establishment of the standards review mechanism and the group looked forward to its implementation. ASPAG supported the draft decision.
35. *Speaking on behalf of the Africa group*, a Government representative of Botswana underlined the need for an impartial and effective supervisory system that enjoyed the support of all parties. Failure to provide satisfactory responses to all concerns raised would damage the functioning and the strength of the system. The group welcomed the statement concerning the mandate of the CEACR and the efforts to explore options for addressing questions or disputes that could arise with respect to the interpretation of a Convention. Consensus building and commitment by ILO constituents to the resolution of disputes through dialogue should form an integral part of the options proposed. The group welcomed the continuation of dialogue on the working methods of the Committee on the Application of Standards. Consensus was needed on fair and objective criteria for the selection of cases to be discussed by the Committee on the Application of Standards. Launching a standards review mechanism was critical for improving the quality of, and compliance with, ILO standards. The Africa group supported the draft decision.
36. *Speaking on behalf of GRULAC*, a Government representative of Costa Rica reiterated her group's strong commitment to the ILO supervisory system and to seeking solutions for the outstanding issues. Her group would have preferred the draft decision in paragraph 40(a) to highlight the criteria of objectivity, transparency and predictability of the supervisory

system, but would not object to joining a possible consensus in that respect. Regarding the mandate of the CEACR, she emphasized that no ILO supervisory body was competent to establish legally binding interpretations of international labour Conventions, as that fell within the exclusive competence of the ICJ, in accordance with article 37(1) of the ILO Constitution. GRULAC took note of, and welcomed, the paragraph included in the 2014 report of the CEACR on the Committee's mandate. Regarding the draft decision in paragraph 40(b), in the light of discrepancies between the English, French and Spanish versions, it should be specified that the CEACR received its mandate from the constituents through the Governing Body. With regard to measures in the event of disagreement on the interpretation of a Convention, the group appreciated the proposal to prepare a document for the November 2014 session of the Governing Body (paragraph 41(a) of the document), but pointed out that the document should allow for a real comparison of the two options, by including a table setting out the costs involved and the estimated time frames for the consultation process before the ICJ and the establishment of the tribunal contemplated under article 37(2) of the ILO Constitution. GRULAC was still not convinced that establishing a tribunal was the most advisable option, but it was prepared to consider the matter from all angles. It supported the draft decision in paragraph 40(c). It considered that the content of the draft decision in paragraph 41(a) was important and would like clarification regarding the substantive competence of the tribunal, the actors involved in its proceedings, and its relationship with the Office. The tribunal should be impartial, transparent, objective and independent, should not overburden any ILO department, and should therefore have its own secretariat, with the same characteristics.

37. With regard to the functioning of the supervisory system, consideration should be given to what a country's inclusion in the list of individual cases actually entailed, the selection methodology and the use of objective and clear criteria. The elements contained in Document D.1 on the work of the Committee on the Application of Standards,³ adopted by that body, should be reviewed. The group had doubts regarding the criterion relating to comments received from employers' and workers' organizations, which lacked objectivity. The group once again highlighted the need for geographic and thematic balance, and for improvements to ensure that the final list of cases was published early enough to allow Governments to prepare properly. Paragraph 43(a) was understood to mean that the recommendations in question would be presented to the Governing Body for consideration. A better graduation of the components of the supervisory system was needed to avoid the simultaneous examination of the same allegations against a country by different mechanisms. The group supported the draft decision in paragraphs 40(e) and 42(a) and (b). Regarding the standards review mechanism, it supported the establishment of a mechanism that would develop a clear, sound and updated body of standards. GRULAC maintained its commitment to contribute to ensuring that the Committee on the Application of Standards would be able to carry out its functions in a satisfactory manner at the 2014 session of the Conference. GRULAC supported the draft decision in paragraphs 40(d) and 43(b). Considering paragraph 41(b) as one of the most important parts of the draft decision, the group wondered whether November 2014 would not be too late to receive a time frame for the consideration of the remaining outstanding issues. GRULAC hoped that the matter would not be left at a standstill until November 2014, which would not be appropriate given the seriousness of the issues. While it supported the draft decision in paragraph 41(c), the group wished to highlight its understanding that the Office's work did not have to be supervisory. If it took that approach, the Office would not run the risk of becoming part of the problem, but could have a key role in seeking and providing the solutions. Regarding the draft decision contained in paragraph 41(d), GRULAC noted that vacancies in the CEACR should be filled in an objective, impartial and transparent manner. With regard to the draft decision in paragraph 41(e), the group supported the continuation of broad informal consultations, focused on building tripartite consensus.

³ ILO: *Report of the Committee on the Application of Standards*, op. cit.

38. *Speaking on behalf of IMEC*, a Government representative of the United States said that maintaining the strength and authority of the ILO supervisory system was of fundamental importance to the ILO as a whole. Tripartite participation and consensus would be key to implementing the multifaceted draft decision and IMEC would engage substantively in that regard. IMEC welcomed the statements contained in paragraph 40 of the document (draft decision), in particular in relation to the explicit recognition of the mandate of the CEACR as expressed in its 2014 report. While steps could be examined to improve the working methods of the supervisory system, that examination should not compromise the independence of the CEACR. IMEC supported the draft decision in paragraph 41(a) requesting the preparation of a document for the Governing Body at its November 2014 session, setting out the possible modalities, scope and costs of action under article 37(1) and (2) of the Constitution in relation to the interpretation of a Convention. However, until recourse to one of those constitutional mechanisms was initiated, the opinions and recommendations of the CEACR would remain in place. IMEC supported the development of a time frame for considering the remaining outstanding issues in respect of the supervisory system and for launching the standards review mechanism, as set out in the draft decision in paragraph 41(b). The Governing Body should adopt a comprehensive package on the most critical issues. In the meantime, the achievement of the overall goals of the standards initiative was dependent on the Committee on the Application of Standards' ability to undertake its work successfully at the June 2014 session of the Conference, and on the commitment of all parties to cooperate to that end. IMEC fully supported the draft decision.
39. *A Government representative of France* said that the supervisory system should remain at the heart of the ILO's work and that adjustments were needed to maintain and strengthen it. The Governing Body should approve the clarification of the mandate of the CEACR in its 2014 report. The mechanism contemplated under article 37(2) of the ILO Constitution would appear to provide a solution to limit the risk of legal uncertainty arising from the non-binding nature of the CEACR's opinions. Recourse to such a body should be limited to exceptional disagreements on the interpretation of Conventions under Governing Body decisions and a clear commitment and time frame for its establishment should be provided. His Government would also support any other measure that would increase the transparency and effectiveness of the supervisory system.
40. *Speaking on behalf of the European Union (EU) and its Member States*, a Government representative of Italy said that the following countries aligned themselves with the statement: Turkey, the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Bosnia and Herzegovina, Republic of Moldova and Georgia. They supported the IMEC statement. The ILO supervisory system contributed to the promotion of universal human rights, which was important to the EU. The system played a key role in monitoring and promoting international labour standards, which were referenced in EU policies and law. The EU supported the draft decision.
41. *A Government representative of Switzerland* said that the issue that had arisen during the 2012 session of the Conference had highlighted the challenges facing the supervisory system, which should be addressed as a coherent whole. The supervisory system should contribute to the credibility and effectiveness of the ILO and ensure legal certainty. It was essential for the constituents to reach consensus on topics for examination within a strictly respected time frame. The Constitution should be observed and the level of protection surrounding international labour standards should in no way be diminished. Prompt consideration should be given to the standards review mechanism and the creation of a mechanism under article 37(2) of the ILO Constitution.

42. *A Government representative of India* said that disagreements on the interpretation of a Convention by the CEACR should be referred to the Conference, as it was up to that supreme forum to decide on any matter pertaining to the world of work. In the light of the ILO Constitution, the ICJ could address serious issues of interpretation. Her Government did not support resorting to article 37(2) of the Constitution as it might further complicate the supervisory system. Some selection criteria could be established with respect to the list of cases for examination by the Committee on the Application of Standards, with a view to ensuring balance across regions and Conventions. It supported an increased use of online reporting systems, provided that due precautions on security and accessibility were taken. Her Government supported the draft decision.
43. *A Government representative of Japan* said that the issue of the mandate of the CEACR was adequately addressed by the statement included in its 2014 report. Regarding the action to be taken in case of disagreement on the interpretation of a Convention, his Government would not object to the preparation of a document for the November 2014 session of the Governing Body, setting out the possible modalities, scope and costs of action under article 37(1) and (2) of the Constitution. Conflicts arising from the interpretation of a Convention should be settled within the Organization and resorting to the ICJ should be avoided. Moreover, if a tribunal was to be established pursuant to article 37(2) of the Constitution, it should not duplicate or undermine the functions of the CEACR. The standards review mechanism was a crucial tool to improve and update international labour standards that would contribute to reducing conflicts related to interpretation and should therefore be established as soon as possible. His Government supported the draft decision.
44. *A Government representative of Zimbabwe* welcomed the ongoing consultations regarding the outstanding issues for the Committee on the Application of Standards. Convergence and mutual understanding would hopefully be reached as soon as possible, thus enabling the Committee on the Application of Standards to fulfil its mandate. The ILO should find long-lasting internal solutions with regard to disputes relating to the interpretation of a Convention. His Government supported the draft decision.
45. *A Government representative of China* agreed with the lines of action set out in paragraph 10 of the document to ensure the strength and authority of the supervisory system in the future. The Governing Body should recognize the clear statement concerning the mandate of the CEACR included in its 2014 report. Vacancies in the CEACR should be filled as soon as possible. Regarding action to resolve disagreements on the interpretation of a Convention, his Government would favour the option under article 37(1) of the Constitution because a ruling of the ICJ would be more timely and authoritative. Regarding the working methods and functioning of the Committee on the Application of Standards, while the progress achieved was welcomed, further improvement could be made on the selection of individual cases. In that respect, the criteria in paragraph 28 of the document concerning the determination of the list of cases should be applied more consistently and discussions should focus on how to help member States improve their capacity to implement the Conventions. The different supervisory procedures should be coordinated to avoid the discussion of the same cases on different occasions. Concerning the standards review mechanism, the Director-General should take concrete action as soon as possible to ensure that standards were up to date to further improve the authority of the supervisory machinery.
46. *The Director-General* said that the discussion showed that the Governing Body was in a position to approve the draft decision on the basis of full tripartite consensus. The Governing Body was dealing with a package of decisions through an integral process, which was partly why it had been presented as “a standards initiative”. The establishment of a timetable for the road ahead should not result in a piecemeal approach, which could

obstruct overall progress. The draft decision had been carefully calibrated and the Office had made proposals for moving forward as far and as quickly as was judged possible and compatible with the maintenance of consensus. General formulations had been used intentionally in the draft decision, such as those concerning the working methods and the methodology for filling vacancies in the CEACR, given the wide range of views on possible responses on those matters, and further consultations were required. The merits of different options could be examined as the process advanced and issues that could be the object for decision-making could be determined during the November 2014 session. The Employers' group and the Governments had expressed eagerness for the launch of the standards review mechanism in the light of the ILO's obligation under the 2008 ILO Declaration on Social Justice for a Fair Globalization to ensure that international labour standards met the needs of the contemporary world of work. However, a certain degree of progress on the outstanding issues needed to be achieved before the standards review mechanism could be launched. That concern was taken up in the draft decision point on the establishment of a time frame. Although it was not yet possible to be precise on time frames, the Governing Body needed to move closer to determining the matters at stake. A successful session of the Committee on the Application of Standards at the forthcoming session of the Conference would be essential in that regard and a fundamental element of the draft decision was its call on all parties to contribute to that outcome. Finally, concerning informal consultations prior to November 2014, the Office would continue to invest the same levels of energy and commitment in the process as it had since October 2013. Much remained to be accomplished before November 2014, and some of the issues were quite formidable. The task would require effort and commitment from both the Office and constituents. The Office would do everything within its power to ensure progress towards the planned objectives for November.

Decision

47. The Governing Body:

- (a) reaffirmed that in order to exercise fully its constitutional responsibilities, it is essential for the ILO to have an effective, efficient and authoritative standards supervisory system commanding the support of all constituents;*
- (b) welcomed the clear statement by the Committee of Experts of its mandate as expressed in the Committee's 2014 report;*
- (c) deemed it necessary to give further consideration to options to address a dispute or question that may arise with respect to the interpretation of a Convention;*
- (d) underscored the critical importance of the effective functioning of the Committee on the Application of Standards in conformity with its mandate at the 103rd Session of the International Labour Conference; and*
- (e) recognized that a number of steps could be examined with a view to improving the working methods of the standards supervisory system.*

48. The Governing Body therefore requested the Director-General to:

- (a) prepare a document for its 322nd Session (November 2014) in setting out the possible modalities, scope and costs of action under article 37(1) and (2) of the ILO Constitution to address a dispute or question that may arise in relation to the interpretation of an ILO Convention;*

- (b) present to the 322nd Session of the Governing Body, a time frame for the consideration of remaining outstanding issues in respect of the supervisory system and for launching the standards review mechanism;*
- (c) continue to enhance the effectiveness of the support provided by the Office to the Committee of Experts in the discharge of its mandate;*
- (d) take all necessary action to expedite the filling of vacancies on the Committee of Experts and to propose any adjustments to the relevant procedures to facilitate this objective; and*
- (e) continue informal consultations with all groups of the Governing Body in respect of all matters referred to in this decision.*

49. The Governing Body also:

- (a) encouraged the continuation of informal dialogue between the Committee of Experts and the Conference Committee on the Application of Standards; and*
- (b) invited the Committee of Experts to continue to examine its methods of work with a view to further enhancing its effectiveness and efficiency. As in the past, the experts may wish to communicate any progress made in their annual report and through its dialogue with the Committee on the Application of Standards.*

50. The Governing Body further:

- (a) recommended to the Conference Committee on the Application of Standards that it consider convening its Working Party on Working Methods to take stock of current arrangements and develop further recommendations on the Committee's working methods; and*
- (b) called on all parties concerned to contribute to the successful conclusion of the work of the Conference Committee on the Application of Standards at the 103rd Session of the International Labour Conference.*

(GB.320/LILS/4, paragraphs 40–43.)

Fifth item on the agenda

International cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) (GB.320/LILS/5)

- 51.** *A representative of the Director-General (Director, International Labour Standards Department (NORMES)) introduced the document, recalling that the objective of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), was to enhance maritime security while facilitating shore leave and the professional movement of seafarers, as well as commercial shipping. She stated that the document sought to address*

ways in which the Convention's objective could be achieved with a view to making it more effective, and addressing the issue of incompatible technologies.

52. *The Worker spokesperson* recalled that securing shore leave in the many ports visited by seafarers was essential for their well-being and for decent work in the industry. It would be very difficult to obtain visas for each country that a vessel would visit during the seafarer's period of service. Convention No. 185 had sought to balance the seafarers' right to shore leave, the shipowners' concerns regarding transit and transfer, and port States' concerns. The Convention provided for a seafarers' identity document (SID) that provided assurance that the individual was a bona fide seafarer and not a security risk. It contained significant security features, including a biometric digital fingerprint of the seafarer, which sought to prevent the use of falsified documents. The proposals in the document would mean that the digital data in a SID could be read using the standard equipment used to read electronic passports. Convention No. 185 had been adopted in exceptional circumstances and its implementation required significant investment by labour-supplying States. Such an investment could only be justified if it would meet the objectives of the Convention. The operation of the shipping industry, and the delivery of decent work for seafarers, required a high level of international cooperation. The document prepared by the Office sought to achieve that, and the Workers' group strongly supported the objective sought in the document. The Workers' group could support the amendment made to the draft decision by the EU, which had earlier been circulated.⁴ The group proposed inserting in the draft decision a specific reference to the document prepared by the Office, in relation to the various options to be examined by the meeting of experts, because a discussion of all of the options set forth in the document was very important. It also proposed adding, in addition to the reference to ratifying and non-ratifying States in the proposed amendment, a specific reference to flag States, port States and seafarer-supplying States.
53. *The Employer coordinator* indicated that the document had been difficult to read, due to its technical nature. It would have been helpful if the issues examined in the document had first been considered by a technical working group, followed by the approval of the Governing Body. The determination on subparagraph (a) of the draft decision in paragraph 22 would have an impact on the discussion on the agenda of the International Labour Conference. The group wished to hear the views of the Government members on subparagraph (b) of the draft decision, due to its technical nature.
54. *Speaking on behalf of the EU and its Member States*, a Government representative of Italy said that the following countries aligned themselves with the statement: Turkey, the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Serbia, Albania, Bosnia and Herzegovina, Norway, Republic of Moldova and Georgia. The solutions contained in Convention No. 185 were intended to contribute to the improvement of security in the shipping sector and to promote decent living and working conditions of seafarers, as well as their rights as mobile workers. The implementation of Convention No. 185 involved complex technical aspects of compatibility with other norms and equipment. Prior technical work involving both maritime and visa experts was needed to provide options, including international cooperation. They proposed that the matter be put to a meeting of experts, at the earliest possible convenience, in order to explore the various technical solutions available, including a cost-benefit analysis and the issue of the technical assistance provided by the ILO. On the basis of the results of an analysis of the costs and benefits and the available technical solutions, the Governing Body could best decide on the appropriate steps forward. They therefore proposed to amend the draft decision contained in paragraph 22 in the following manner:

⁴ See para. 54, below.

“The Governing Body decides to hold a meeting involving both maritime and visa experts, within existing resources, to:

- ***examine the feasibility, and carry out a cost-benefit analysis, of the various options to address the issues involved in the implementation of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), for ratifying and non-ratifying States, as well as for shipowners and seafarers.”***

And to delete the rest of the existing text (points (a) and (b)).

55. *Speaking on behalf of the Africa group*, a representative of the Government of Angola expressed his support for Convention No. 185, which combined and balanced security interests with the welfare of seafarers and the facilitation of world shipping. The identification system for which provision was made in the Convention was already in force and the nationals of countries that had not ratified it should benefit from the advantages of that system. The Africa group supported the draft decision.
56. *A Government representative of France* said that in view of the objectives sought, namely securing ship safety and working conditions for seafarers, it was impossible to return to a document as unsafe as the card issued in conformity with the Seafarers’ Identity Documents Convention, 1958 (No. 108). The costs associated with the necessary investments in equipment for the verification of identity documents must be viewed in the broader context of guaranteeing effective security.
57. *Speaking on behalf of IMEC*, a Government representative of Canada said that IMEC fully shared the concerns regarding seafarers’ rights and security-related issues that Convention No. 185 was intended to address. As the implementation of the Convention implied highly technical issues, there was a need for an in-depth analysis by maritime and visa experts to determine suitable steps forward. IMEC therefore supported the proposal by the EU to modify the draft decision.
58. *A Government representative of India* endorsed the proposals made in the draft decision in paragraph 22, as those proposals would be beneficial to seafarers and would result in more secure SIDs.
59. *A Government representative of Panama* said that, although his Government had not ratified Convention No. 185, it appreciated the Office’s proposal based on its evaluation of the progress achieved in respect of the Convention, which made provision for an identity document offering a number of advantages. However, despite its unopposed adoption by the constituents, several reasons explained the low level of ratification of the Convention, including the costs involved in its implementation. With regard to the suggestions contained in paragraph 9, the document described four of them as being more far reaching, and it would be interesting to have more details as to why that was the case and as to what the Office intended to do to ensure a positive outcome. Technical and international cooperation in respect of biometrics and information technology must be increased with other specialized agencies in order to seek solutions in respect of the technical improvements to be made to seafarers’ identity documents. The Office must also continue to promote tripartite consultations with shipowners, seafarers and governments. Lastly, with a view to promoting a tool to improve the national and international security of seafarers and to facilitate the safety, protection and flexibility of maritime industries, he supported the amendment to the draft decision in paragraph 22 proposed by the EU and its Member States.

60. A Government representative of Switzerland said that while his Government supported the general thrust of the Convention, it would not ratify it. In the absence of any maritime ports and in view of the very low number of Swiss seafarers, the administrative and logistical costs of issuing a small number of identity documents were disproportionate to the benefits to be derived from the application of the Convention. His Government was not in favour of the draft decision but would not oppose a possible consensus.
61. *Speaking on behalf of the EU and its Member States*, a Government representative of Italy said that the matter was of great concern and had already been the subject of inter-ministerial consideration. Further clarification on the motivation behind the subamendments proposed by the Workers' group would be useful. A State could be at once a flag State, a port State and a seafarer-supplying State, while the concepts of ratifying and non-ratifying States were broader. Moreover, it was not clear what would be added by specifying that the options to be considered were those set out in the document.
62. *The representative of the Director-General* indicated, in response, that in the maritime sector, it was usual terminology to refer to flag States, port States and labour-supplying States, which reflected the different responsibilities of those States. One of the key problems was the importance of cooperation between non-ratifying port States and ratifying labour-supplying States. It was necessary under the Standing Orders of the Governing Body to obtain approval of funding for the proposed meeting of experts prior to taking a decision. She therefore suggested postponing a decision until later in the present session.
63. *A representative of the Government of Brazil* indicated that the issues required further development at a technical level prior to being submitted to the Conference. Therefore, he supported the amendment and subamendment to the draft decision. The proposal to include a reference to the document in the draft decision would make it clear that the meeting of experts should consider all of the options raised in the document. Clarification was needed on the format of the meeting, including whether it would take the form of a sectoral meeting. His country would be interested in participating in the meeting.
64. *The Worker spokesperson* indicated that the reason for including a reference to the document was that several options had been raised and it was important that the meeting of experts consider all of the options proposed in the document. The subamendment of the Workers' group read as follows:

“The Governing Body decides to hold a meeting involving both maritime and visa experts, within existing resources, to:

- examine the feasibility, and carry out a cost-benefit analysis, of the various options, including those set out in GB.320/LILS/5, to address the issues involved in the implementation of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), for ratifying and non-ratifying flag States, port States and seafarer supplying States, as well as for shipowners and seafarers.”***

The rest of the existing text (points (a) and (b)) was deleted.

65. The Governing Body suspended its discussions until a later sitting to allow for further consultations on the amendment and subamendment to the draft decision. At that sitting, the Office returned to the Governing Body with a new amended draft decision, based on the earlier proposals from the EU and the Workers' group, which included the estimated cost for a meeting of experts as well as a statement, proposed by the EU, that the outcome of the meeting should be considered by the Governing Body at a later session.

66. *Speaking on behalf of the EU and its Member States*, a Government representative of Italy expressed support for the adoption of the draft decision, as amended. It was understood that the nominations of government members for the meeting of experts would be channelled through the regional coordinators, that observers from governments would be able to participate and that Government representatives would be able to contribute and participate in the meeting as a group.
67. In reply, *a representative of the Director-General* (Director, NORMES) confirmed that the standard procedure would be followed with regard to the composition of the meeting. A document on the arrangements for the meeting could be presented to the June 2014 session of the Governing Body, taking into account the request concerning the participation of observers.

Decision

68. The Governing Body decided:

- (a) to hold a meeting involving both maritime and visa experts, within existing resources, to examine the feasibility and to carry out a cost-benefit analysis of the various options, including those set out in GB.320/LILS/5, to address the issues involved in the implementation of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), for ratifying and non-ratifying flag States, port States and seafarer supplying States, as well as for shipowners and seafarers;*
- (b) to consider the outcome of the meeting at a future session of the Governing Body;*
- (c) that the cost of the meeting, estimated at US\$356,100 for a 16-16-16 composition, be financed in the first instance from savings in Part I of the budget or, failing that, through Part II, on the understanding that, should this subsequently prove impossible, the Director-General would propose alternative methods of financing at a later stage in the biennium.*

(GB.320/LILS/5, paragraph 22, as amended.)

Sixth item on the agenda

Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution in 2015 (GB.320/LILS/6)

69. *A representative of the Director-General* (Director, NORMES) recalled the information set out in the introduction of the document concerning the decisions taken by the Governing Body following the adoption of the 2008 ILO Declaration on Social Justice for a Fair Globalization. It had been decided to align the subject matter of the General Surveys undertaken by the CEACR, and therefore the choice of instruments on which reports should be requested under article 19 of the Constitution, with the strategic objective examined in the framework of recurrent discussions provided for under the Social Justice Declaration. A decision had also been made to enable consideration of General Surveys by

the Committee on the Application of Standards one year prior to the recurrent discussion. At the present session, the Governing Body was invited to consider the subject matter of the General Survey to be prepared by the CEACR in 2015 and discussed by the Committee on the Application of Standards in 2016. However, the current cycle of recurrent discussions would be completed in 2016 and the new cycle, including the strategic objective to be discussed in 2017, had not yet been determined. That determination was linked to the broader question of the evaluation of the impact of the Social Justice Declaration by the International Labour Conference, which was to be examined by the Governing Body at the present session in the context of the agenda of the Conference.⁵ The document therefore proposed that consideration could be given to Conventions and Recommendations that were not necessarily linked to a specific strategic objective but were cross-cutting.

70. *The Employer coordinator* said that the overwhelming majority of members in the Employers' group were in favour of selecting the Indigenous and Tribal Peoples Convention, 1989 (No. 169). That choice could be explained as the Convention: (i) was relevant to a broad cross section of employers' organizations and their members and a General Survey thereon would strengthen their engagement with the ILO's work; (ii) was highly relevant to multinational enterprises (MNEs), to local small and medium-sized enterprises (SMEs), and to a broad selection of actors interested in supply chains; (iii) had become increasingly relevant in recent years, not only for indigenous peoples but also for enterprises, trade unions and non-governmental organizations, especially with regard to the implications and consequences of its application on local employment opportunities and sustainable and responsible investment; (iv) had never been the subject of a General Survey; (v) had its relevance substantiated by the United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007, which was gaining increasing momentum in various countries of the world; (vi) was highly relevant to the development of various business and human rights frameworks, debates and protocols concerning ethical business and responsible supply chains; and (vii) could be seen as an instrument to encourage social dialogue, if it was intended to protect indigenous peoples' rights, as well as having a positive impact on the creation of an economic and social environment that fostered responsible investment, national infrastructure development and employment creation. In addition, a general tripartite discussion on the matter in the framework of the Committee on the Application of Standards could allow for a better understanding of the challenges related to the application of the Convention, especially in respect of consultation procedures.
71. *The Worker spokesperson* said that his group supported a General Survey on the Private Employment Agencies Convention, 1997 (No. 181), the Private Employment Agencies Recommendation, 1997 (No. 188), and the Employment Relationship Recommendation, 2006 (No. 198). As indicated in paragraph 23 of the document, the group saw value in examining the provisions of Convention No. 181, which had not been fully covered by the 2010 General Survey concerning employment instruments. Further to the 2011 Global Dialogue Forum on the Role of Private Employment Agencies in Promoting Decent Work and Improving the Functioning of Labour Markets in Private Services Sectors, a General Survey would contribute to a better understanding of the role of private employment agencies in the observance of fundamental principles and rights at work, as well as in triangular employment relationships. Recommendation No. 198 had never been the subject of a General Survey and thus it would be desirable to examine it. Referring to paragraphs 27 and 28 of the document, the group concurred that there were synergies to be made between Recommendation No. 198, Convention No. 181 and Recommendation No. 188. However, rather than focusing on certain provisions of Recommendation No. 198, a comprehensive approach covering all of its provisions was preferable. The Vocational

⁵ GB.320/INS/2 and GB.320/INS/15/2.

Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Labour Statistics Convention, 1985 (No. 160), and the Labour Statistics Recommendation, 1985 (No. 170), did not constitute priorities for the General Survey of 2015. In particular, Convention No. 160 and Recommendation No. 170 might be in need of revision. Taking into account the specificities of labour statistics and the degree of expertise required, the Workers' group considered that a meeting of experts would be the most appropriate forum to address those two instruments. Lastly, with respect to Convention No. 169, the Office should give priority to its ratification and implementation.

72. *Speaking on behalf of IMEC*, a Government representative of Canada recalled that the subject matter of General Surveys was linked to the strategic objectives examined under the recurrent discussions. The Conference should undertake the evaluation of the Social Justice Declaration in 2017. Such an evaluation should encompass the operation of recurrent discussions, including their seven-year cycle. The evaluation in 2017 should take place in lieu of a discussion of one of the strategic objectives, thus leaving more flexibility as to the subject matter for the General Survey to be prepared by the CEACR in 2015. In that respect, with regard to the proposed choice of instruments, Convention No. 181 and Recommendation No. 188 had been part of the 2010 General Survey and should therefore not be selected. Convention No. 159 and Recommendation No. 168 could be studied in the framework of the strategic objective of employment. Thus, it would be wiser to select one of the three remaining options, namely Convention No. 160 and Recommendation No. 170, Convention No. 169, or Recommendation No. 198. Finally, as the new cycle of recurrent discussions could only be determined once the evaluation of the Social Justice Declaration had taken place in 2017, the Governing Body could take an ad hoc decision at its November 2014 session concerning the strategic objective to be examined in the context of the recurrent discussion in 2018, without however confirming the whole cycle. That would enable the Governing Body to decide in March 2015 on the subject matter of the General Survey to be prepared by the CEACR in 2016 and discussed by the Committee on the Application of Standards in 2017.
73. *Speaking on behalf of the Africa group*, a Government representative of Botswana proposed the following selection of instruments in order of priority. Recommendation No. 198 should first be considered by reason of the current dynamics in the labour market and the organization of work in a more globalized labour market with various challenges. Having regard to paragraphs 27–29 of the document, a combination of Recommendation No. 198 and Conventions Nos. 181 or 160 could add more value because of possible linkages. Convention No. 181 and the corresponding Recommendation No. 188, which were important instruments, particularly at a time of very high youth unemployment, would be the second choice. The relationship between public and private employment agencies should be promoted to support job placements in the labour market. Convention No. 159 and the corresponding Recommendation No. 168 were proposed as a third choice because of the central importance of affirmative action for persons with disabilities, a vulnerable group that needed to be protected. As a fourth choice, Convention No. 160 and the corresponding Recommendation No. 170 were proposed, as a first General Survey on those instruments would provide timely guidance to the Office and the constituents. Lastly, reference was made to a General Survey on Convention No. 169.
74. In view of the absence of a consensus on the subject matter for the General Survey, *the representative of the Director-General* suggested that the decision be postponed to a later date during the present session to allow for further informal consultations.
75. The Governing Body suspended its discussion until a later sitting to allow for further consultations.

76. At that sitting, *the representative of the Director-General* said that, in light of the decision that the Governing Body had just taken concerning the review of the impact of the Social Justice Declaration for 2016, and the deferral of the recurrent discussion on fundamental principles and rights at work until 2017,⁶ the Office proposed engaging in consultations with the Employers' group, the Workers' group and the regional coordinators with a view to finding an appropriate set of instruments that could be the subject for the General Survey to be prepared by the CEACR in 2015, for a discussion by the Committee on the Application of Standards at the June 2016 session of the Conference. The Office proposed to defer the item to the June 2014 session of the Governing Body.

Decision

77. ***The Governing Body decided to defer further consideration of this item until its 321st Session (June 2014).***

(GB.320/LILS/6.)

⁶ dec-GB.320/INS/15/2.