



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

Evaluation of the identification document for Employer and Worker members of the Governing Body (GB.329/LILS/1)

1. *The Worker spokesperson* agreed that the identification document served a useful purpose and could be retained. She expressed support for the issuance of a single card for Employer and Worker members of the Governing Body that confirmed their status as such and permitted them uninterrupted access to the ILO headquarters building.
2. *The Employer spokesperson* proposed that, as part of any future evaluation, the Office ask Employer and Worker members of the Governing Body for feedback on the identification document, such as the situations in which it had proven useful and how it might be improved. She endorsed the draft decision.
3. *Speaking on behalf of the Africa group*, a Government representative of Angola agreed that the identification document should be retained and supported the draft decision.
4. *Speaking on behalf of industrialized market economy countries (IMEC)*, a Government representative of Canada noted that the identification document had been in use during the last six sessions of the Governing Body and wondered whether the Office could provide additional information on how the identification document had been helpful for Workers and Employers in their official capacity as Governing Body members outside Geneva. He supported the draft decision.
5. *Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC)*, a Government representative of Panama noted with appreciation that the proposed single card would save costs, and endorsed the draft decision.

Decision

6. ***The Governing Body requested the Director-General to continue to issue an identification document for Employer and Worker members of the Governing Body in the form previously agreed upon and to ensure that such an identification document be integrated into the ILO headquarters' electronic badge entry system.***

(GB.329/LILS/1, paragraph 5.)

International Labour Standards and Human Rights Segment

Second item on the agenda

The Standards Initiative: Initial evaluation of the functioning of the Standards Review Mechanism Tripartite Working Group (GB.329/LILS/2)

7. *The Chairperson of the Standards Review Mechanism Tripartite Working Group (SRM TWG)* introduced the report of the Officers of the SRM TWG, and outlined the results of the Working Group's first two meetings in 2016, which were carried out in accordance with its terms of reference and resulted in consensual recommendations. At its third meeting in September 2017, the Working Group would examine 19 instruments concerning occupational safety and health (general provisions and specific risks), and continue the strategic and systematic follow-up to its recommendations to ensure their full and effective implementation.
8. *The Worker spokesperson* noted with satisfaction that decisions in the two meetings of the SRM TWG had resulted in consensual recommendations being transmitted to the ILO Governing Body for decision and follow-up action. The second meeting of the SRM TWG had shown that the ratification of technical Conventions was dangerously low, threatening the credibility of the ILO's standard-setting and governance functions. The ILO should carry out promotional campaigns for the up-to-date Conventions that had replaced outdated Conventions. Although achieving ratification by those member States still bound by the outdated instruments was a priority, the campaigns should target all member States. It was important to allow States time to ratify up-to-date Conventions before older Conventions were abrogated, to avoid gaps in coverage. It would be contrary to the SRM's overall objective to eliminate outdated standards, some of which had a significant number of ratifications, before new instruments were ratified. The SRM TWG had already identified gaps in relation to apprenticeship and shift work. At the same time, other mechanisms for identifying new standards should continue to be used, such as Office proposals further to suggestions by technical departments, recurrent discussions, General Surveys, meetings of experts and constituents' proposals. He recalled that all instruments remained legally valid until such time as they were reclassified by the Governing Body and/or withdrawn or abrogated by the Conference. He supported the draft decision.
9. *The Employer spokesperson* appreciated the constructive atmosphere of the discussions held by the SRM TWG. Although its progress had been slower than anticipated and its decisions rather conservative, the Working Group was fulfilling a fundamental role in the consolidation and modernization of the ILO standards system. Given the complexity and impact of the analysis of standards, the Employers would have liked the report of the October 2016 meeting of the SRM TWG to contain the main points of view presented by the members in the examination of the 63 outdated instruments. As the reports of the Group's meetings must serve not only governments and social partners but also academics, the judiciary and the legislature, they should detail the arguments that led to the adoption of consensual recommendations. He trusted that that issue could be resolved at the next meeting of the SRM TWG, and that the report of that meeting would include such detail. The minutes of future meetings, as was the case for the Cartier Working Party, should also summarize the discussions leading to the adoption of individual recommendations. He hoped that the SRM TWG would finally adopt a methodology and categories for the classification of standards

in its September 2017 meeting, as that was essential to the transparency and predictability of its work and would help to avoid tensions in the future. The Employers supported the draft decision.

10. *Speaking on behalf of GRULAC*, a Government representative of Panama expressed support for the draft decision. In relation to paragraph 2 of the appendix to document GB.329/LILS/2, he recalled that the Working Group's terms of reference allowed for the possibility of more than one meeting a year. Both the frequency and duration of its meetings were subject to the decisions of the Governing Body, which could also amend the terms of reference, if necessary, "in light of experience".
11. *Speaking on behalf of the Association of Southeast Asian Nations (ASEAN)*, a Government representative of Cambodia welcomed the fact that the SRM TWG operated in a tripartite manner, with decisions taken by consensus. He also recognized the participation of technical advisers at its second meeting to provide support to the Governments, enabling more informed participation and greater inclusion. His group agreed on the need for strategic and systematic follow-up, with the Office's support, to ensure the full and effective implementation of the SRM TWG's recommendations. It also welcomed the forthcoming review of the 19 instruments on occupational safety and health, which should be based on the reality of the implementation of those instruments by member States. He supported the draft decision.
12. *Speaking on behalf of the Africa group*, a Government representative of Burkina Faso said that he was pleased that the SRM TWG's two meetings had taken place in accordance with its terms of reference and that it had always been mindful of its mission to contribute to the implementation of ILO standards policy. He hoped that at its third meeting as well, the SRM TWG would be provided with all that was necessary to continue its programme of work. His group supported the draft decision.
13. *Speaking on behalf of IMEC*, a Government representative of Canada agreed that the SRM TWG's meetings had been carried out according to its terms of reference. It had contributed to the overall objective of the Standards Review Mechanism and had carried out its mandate in a constructive atmosphere of mutual trust and cooperation between the three constituent groups and the Office. He emphasized the importance of ensuring a fully tripartite approach. Taking into account the late publication of the report on the second meeting of the Working Group (GB.328/LILS/2/1, appendix) and the bracketed text in paragraph 4, the content of future reports should be decided by the Working Group as a whole and the reports published well in advance of the Governing Body. The presence of advisers at the second meeting had enabled more inclusive and informed participation; that practice should be followed in future when highly technical instruments were reviewed. In line with its terms of reference, the SRM TWG should consider inviting representatives of relevant international organizations and other ILO bodies to participate in its work. It was valuable that the work of the SRM TWG could lead to the promotion of ratification and assessment of the reasons for non-ratification of up-to-date instruments, denunciation of outdated instruments and the possibility of standard setting to address possible gaps in coverage. While its work was delicate and complex, possibilities for speeding up the review process should be explored. As the members of the SRM TWG were appointed for a period linked to the term of the Governing Body, he requested the Office to provide information on the necessary steps in relation to the decision concerning the composition of the SRM TWG that would be taken in June 2017 at the 330th Session of the Governing Body after the elections to the Governing Body. IMEC supported the draft decision.
14. *A Government representative of the Islamic Republic of Iran* said that he attached great importance to the mandate of the SRM TWG, which he believed would contribute to the advancement of the Centenary Standards Initiative. The task before the Working Group was

huge; it was crucial for its success to benefit from the experiences of the previous working groups. In addition, regular assessment of the mechanism and its work should be undertaken. He supported the draft decision.

15. *A representative of the Director-General (Director, International Labour Standards Department (NORMES)), responding to the request for information made on behalf of IMEC, recalled that the composition of the SRM TWG was addressed in paragraphs 4 and 5 of its terms of reference. The Chairperson was to be appointed by the Governing Body on the nomination of the Government group. A Vice-Chairperson was to be appointed each by the Employers' and Workers' groups from among their Working Group members. Members were not required to be members of the Governing Body. Members of the Working Group were to be appointed by their respective groups, taking due regard of geographical distribution and gender balance. The terms of reference indicated that the three groups would communicate to the Office the names of their representatives and that the Government group would transmit to the Governing Body its nomination for the Chairperson.*

Decision

16. *The Governing Body noted the information provided by the Officers of the SRM TWG and, in undertaking its initial evaluation of the functioning of the SRM TWG, noted that the SRM TWG had started its work. The Governing Body requested that it continue to be kept informed of the functioning of the SRM TWG so as to allow it to undertake a further evaluation no later than March 2020.*

(GB.329/LILS/2, paragraph 3.)

Third item on the agenda

Proposed amendments to the form for reports to be requested under article 22 of the ILO Constitution in relation to the Maritime Labour Convention, 2006, as amended (MLC, 2006) ([GB.329/LILS/3\(Rev.\)](#))

17. *The Employer spokesperson noted that the report form under article 22 closely reflected the content and structure of the Maritime Labour Convention, 2006 (MLC, 2006), as amended. While the Employers agreed in principle with the proposed amendments, they had submitted a number of suggestions for editorial changes to the secretariat. He supported the draft decision.*
18. *The Worker spokesperson said that her group appreciated the fact that the Special Tripartite Committee had been consulted on the proposed amendments. She asked the Employers to clarify whether they wanted to discuss their suggested editorial changes during that sitting, so that she could provide a response.*
19. *The Employer spokesperson said that there was no need to discuss the proposed changes during the sitting, as they served merely to improve the syntax of the document and make it more understandable and did not in any way affect its content.*
20. *The Worker spokesperson said that she would like to see the proposed changes to ascertain whether they affected only grammatical points or constituted amendments, in which case*

they could be discussed at the following sitting of the Legal Issues and International Labour Standards Section.

21. *The Employer spokesperson* said that the proposed changes to the syntax and wording had been transmitted to the Workers.
22. *Speaking on behalf of IMEC*, a Government representative of Canada acknowledged the importance of a coherent and effective implementation of the MLC, 2006, for achieving worldwide standards for decent working and living conditions for seafarers, thereby promoting the sustainable development of maritime expertise and the enhancement of quality shipping. He welcomed the key role performed by the ILO in keeping the Convention under continuous review through the Special Tripartite Committee. IMEC shared the ILO's commitment to guaranteeing fundamental principles and rights at work and, in particular, to ensuring the protection of seafarers and their families in the event of abandonment, death and long-term disability. The report form had been diligently elaborated through an inclusive, cross-cutting approach which aimed to encompass all the major challenges relating to implementation and facilitating the preparation and examination of subsequent reports. However, IMEC was concerned that the length and level of detail of added items – such as referencing national provisions within the framework of Article V, paragraph 6 in every Title – could create a more perplexing and repetitive process which could moderate the advantages offered by a comprehensive but simple and user-friendly questionnaire. The provisions of Part B of the Code should not be included for examination; relevant information should be provided by Members in accordance with the corresponding provisions and/or measures adopted. The categorization of questions for the implementation of each standard should follow a uniform approach throughout the questionnaire. He asked the Office to develop a more profound consultation process with the Special Tripartite Committee and to request feedback from users. In the light of the extensive legislative framework covered by the MLC, 2006, and the challenges some IMEC countries faced in gathering information from different ministries and agencies at different levels, a consolidation of efforts to avoid duplication and lessen the burden on Members, without leading to limitations in the observance of the MLC, 2006, was highly recommended. IMEC supported the draft decision.
23. *Speaking on behalf of GRULAC*, a Government representative of Panama praised the MLC, 2006, as a landmark achievement in labour rights. He expressed satisfaction with the Office's decision to use the entry into force of the 2014 amendments to the Convention as an opportunity to review the form, following three years of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) supervisory work. The results would improve and facilitate supervision, the goal of any report form. Several countries in Latin America and the Caribbean had ratified the Convention, and as the countries of the region recorded high numbers of ships registered under their flags, GRULAC supported initiatives aimed at improving supervisory mechanisms. Those mechanisms must be reviewed on an ongoing basis to ensure their suitability for the modern world and shifting conceptions of decent work. GRULAC supported the draft decision.
24. *Speaking on behalf of the Africa group*, a Government representative of Burkina Faso said that the amendments made to the report form had been rendered necessary by the amendments made to the MLC, 2006, and would ensure that the form was fit for purpose. As the form had been used for 42 reports and evaluated over a three-year period, the Africa group was satisfied that the correct areas for improvement had been identified. He supported the draft decision.
25. *The Chairperson* suggested that the Employers submit their proposed amendments to the draft report form for consideration.

26. The Governing Body decided to postpone the adoption of the draft decision until Monday, 20 March 2017.
27. On Monday, 20 March 2017, *the Chairperson* recalled that the report form had been revised in line with the comments made in the afternoon session on 16 March 2017, and noted that all parties had been given the opportunity to examine the amendments.

Decision

28. *The Governing Body approved the report form for the Maritime Labour Convention, 2006, as amended (MLC, 2006), which is appended to GB.329/LILS/3(Rev.), to be used as the basis for the preparation of reports due under article 22 of the ILO Constitution.*

(GB.329/LILS/3(Rev.), paragraph 8.)

Fourth item on the agenda

Proposed amendments to the form for reports to be requested under article 22 of the ILO Constitution in relation to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)) ([GB.329/LILS/4](#))

29. *The Worker spokesperson* said that seafarers had often impressed upon her the importance of the seafarers' identity document for enforcing the important rules and regulations adopted by ILO Members. Her group, having consulted seafarers on the matter, fully supported the proposed amendments. However, only the Russian Federation had so far submitted the material to be deemed in compliance with Article 5 of Convention No. 185. Other countries were encouraged to follow its lead.
30. *The Employer spokesperson* supported the draft decision.
31. *Speaking on behalf of the Africa group*, a Government representative of Botswana endorsed the proposed amendments to the form, which would improve the submission of information relating to the Convention. Member States in the Africa group should receive assistance for the revision of the national seafarers' identity document and the adaptation of their technology to the new requirements. He supported the draft decision.
32. *Speaking on behalf of GRULAC*, a Government representative of Panama recalled that Convention No. 185 had established a global legal framework for the identification of seafarers, thereby tightening security and boosting international confidence. He congratulated the Office for its efforts in aligning the technical requirements of the Convention with the more modern standards adopted by the International Civil Aviation Organization (ICAO). Countries in Latin America and the Caribbean had faced difficulties in ratifying the Convention, but they were now satisfied with the amendments proposed. Changing the biometric in the seafarers' identity document would reduce its cost and thus facilitate the ratification of the Convention. GRULAC supported the draft decision.

Decision

33. *The Governing Body noted the information provided and approved the report form for the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), as appended to GB.329/LILS/4, to be used as the basis for the preparation of reports due under article 22 of the ILO Constitution.*

(GB.329/LILS/4, paragraph 5.)

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