



Governing Body

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ELEVENTH ITEM ON THE AGENDA

Reports of the Committee on Legal Issues and International Labour Standards

Second report: International labour standards and human rights

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III. Improvements in the standards-related activities of the ILO

(Third item on the agenda)

(a) ILO standards policy: An approach for a robust and effective international labour code

1. The Committee had before it a document ¹ containing proposals for the implementation of the ILO standards policy as one of the major components of the standards-related strategy, focusing on the establishment of a possible standards review mechanism (SRM).
2. A representative of the Director-General (Ms Cleopatra Doumbia-Henry, Director, International Labour Standards Department (NORMES)) recalled that, following the process of tripartite consultations, there had been broad agreement that the 2008 ILO Declaration on Social Justice for a Fair Globalization should provide the overarching framework for both a standards policy for the Organization and an SRM. She also referred to the consensus that had been reached on the core elements of the standards policy, the six principles that should guide the SRM, and the purpose and expected outcomes of the review process. She emphasized the importance of consensus and tripartite ownership in taking the process and implementation of the SRM forward.
3. She referred to the central integrating and coordinating role that the Committee, or any replacement mechanism decided upon by the Governing Body within the framework of Governing Body reform, would have with respect to the SRM. She briefly sketched out the operational aspects of the proposed SRM, including the principles that would guide the review, the various modalities for establishing working groups, the selection of standards to be reviewed, and possible time frames for the review process.
4. Concerning the standards to be selected for review, she explained the four options proposed. The first – and boldest – option, as outlined in paragraph 30 of the document, would consist of examining the entire body of standards with the exception of the instruments that were outdated, had been withdrawn or replaced, or had recently been consolidated. That option – option 1 – should be understood as including the fundamental and governance Conventions. Options 3 and 4, as outlined in paragraph 33 of the document, would be variations on option 1 and would not include the eight fundamental Conventions (option 3) or the eight fundamental and four governance Conventions (option 4) in the review. Option 2, as outlined in paragraph 30 of the document, would be the most conservative and would build on the work of the Cartier Working Party. It should be understood as including instruments adopted between 1985 and 2000 – with the exception of Convention No. 182, Recommendation No. 190, and the maritime Conventions and Recommendations that had been consolidated into the Maritime Labour Convention, 2006 (MLC, 2006) – those that were in need of revision or for which further information had been requested, and those that had an interim status. Option 2 would therefore cover 48 Conventions, one Protocol and 51 Recommendations.
5. The Worker Vice-Chairperson emphasized that the SRM should aim to strengthen support for ILO standards and supervisory bodies, increase the number of ratifications, and anchor the position of the fundamental and governance Conventions. Moreover, the outcome of the SRM should also lead to strengthened support for up-to-date Conventions that were not

¹ GB.310/LILS/3/1.

the subject of review. Referring to paragraph 2 of the document, she stressed that the ultimate goal of the review should be to ensure better protection of workers' rights.

6. With regard to the core elements of the standards policy, she considered that, although there was a correlation between standards policy and the effective supervision and implementation of standards, the implementation of standards was the responsibility of the ILO supervisory system and should therefore come within the relevant component of the standards strategy. Accordingly, the effective implementation of ILO standards should not be reflected in paragraph 11 of the document as a core element of the standards policy.
7. She expressed full support for the general guiding principles included in paragraph 14 of the document. It was particularly important to ensure that the review did not weaken or reduce the protection that workers already enjoyed under existing Conventions. The principle of good faith would require balance, with the aim of protecting and preserving the rights of workers, while allowing for growth and job creation. She emphasized the importance of obtaining the commitment of all constituents to effectively implement the conclusions adopted. She considered that the experience of the Cartier Working Party had not been entirely satisfactory in that regard.
8. Turning to the expected outcomes of the review, she agreed with the points enumerated in paragraph 17. However, she had reservations on the role assigned to the SRM to recommend specific actions for the effective promotion of up-to-date standards, including technical cooperation, which was the ongoing work of the Office and the Committee. She agreed with the approach proposed for the SRM and emphasized that the commitment to follow up the outcomes of the recommendations of a review should apply not only to governments, but also to the social partners.
9. Concerning the relationship between the Committee and the tripartite working groups, she expressed reservations about the Committee being able to reopen discussions already held in working groups. She expressed support for the creation of four tripartite working groups and requested that the Workers' proposal for other mechanisms that could help the review, such as meetings of experts, be taken into account in the proposal to be submitted in November 2011.
10. The speaker agreed with the methods of work outlined in paragraph 27 of the document and noted that current discussions on the reform of the Governing Body should also be taken into account. Arrangements would need to be made to ensure that meetings were scheduled to allow Governing Body members to fulfil their commitments in respect of other committees. In terms of substance, the terms of reference of the working groups should include the need to take into account the existing jurisprudence of the Committee of Experts on the Application of Conventions and Recommendations and other supervisory bodies in reviewing existing standards.
11. With regard to the selection of standards to be reviewed, she indicated that, as far as option 1 was concerned, there was no need to duplicate the work of the Cartier Working Party. There was a need to prioritize, as time and resources were limited and the review of fundamental, governance and up-to-date standards would not serve any purpose. The Workers' group was in favour of option 2. The SRM should cover the instruments not reviewed by the Cartier Working Party (i.e. those adopted between 1985 and 2000, including those reviewed in recent General Surveys), instruments for which the Cartier Working Party had requested more information, those considered to be in need of revision, and those classified by the Cartier Working Party as having interim status (a total of 48 Conventions, 51 Recommendations and one Protocol). She indicated that up-to-date standards, including fundamental and governance Conventions, should be taken into account as key points of reference to compare and contrast the instruments being reviewed,

in order to be able to fulfil two essential elements of the mandate as stated in paragraph 29, namely to remove duplication by amending or consolidating standards where appropriate and to suggest topics for new standards, i.e. identifying gaps. She agreed that the review should consider standards as an entire body and should follow the sequence of recurrent discussions by the Conference. Since the SRM was a new process, it would be important to learn from the experience and to ensure that the Committee could make the necessary adjustments.

12. Finally, she called on the Office to prepare a new document for consideration in November 2011 based on the present discussion. The point for decision should be reformulated to include specific proposals on the terms of reference of the tripartite working group to review standards under the strategic objective on employment.
13. The Employer Vice-Chairperson began by drawing attention to the term “international labour code” used in the document, which the Employers’ group considered inaccurate and misleading. It implied an obligation to comply with international labour standards and the possibility of enforcing compliance, which did not apply to ILO Conventions and Recommendations. It should be replaced by the term “body of international labour standards”.
14. The SRM would be a major step towards a more modern, balanced and therefore relevant body of standards. Such an exercise was necessary to respond to the current needs of the world of work, as requested in the Social Justice Declaration. It should therefore take into account the needs of sustainable enterprises and the modern world of work. In the present globalizing economic environment, international labour standards had a role to play in the sense that they could offer internationally recognized guidance to countries on how to deal with labour issues occurring in that context. As a negotiated tripartite text, they could also contribute to better acceptance of the changes occurring through globalization, the continuation of which was itself an accepted precondition for future economic and social progress. However, international labour standards could only have positive effects when, *inter alia*, they provided realistic and practicable orientation to countries lacking experience in labour standards, rather than seeking international harmonization at an ideal level; were flexible enough to accommodate changing needs in the world of work; and were based on a thorough assessment of their likely impact on the economy. Furthermore, to be beneficial, they must recognize the competitive needs of enterprises, as only competitive and productive enterprises were a source of employment. The Employers’ group considered that the SRM should take the above facts into account in its work and in its guiding principles to support that reality.
15. Certain messages in the document raised problems. Further discussions should be held in November 2011 on the SRM. It was not possible to accept any preconditions on the nature of the review process or its outcome if a significant contribution responding to the current and emerging needs of the labour market was to be achieved. In November 2010, the Employers’ group had basically supported the guiding principles included in paragraph 14 on the clear understanding that a genuine review needed to encompass the possibility of making international labour standards more relevant to today’s labour market. Further to discussions with the Office, it was understood that the guiding principles for review adopted and followed in practice during the Maritime Labour Convention process would be applied. The Employers’ group expected the needs of enterprises to be at the centre of the exercise. Paragraph 14 should therefore include the phrase “proposals should aim to achieve the right balance between the protection of workers and the needs of private enterprises”. The Employers’ group agreed with the idea of a central or coordinating role for the Committee in the SRM process and the establishment of working groups operating under its auspices, but it would be necessary to take the ongoing reform of the Governing Body into account. In addition, as indicated in paragraph 22, the Committee should agree

on a clear process for the SRM, which should provide for the necessary flexibility to respond to unforeseen issues and to make adaptations in line with lessons learned.

- 16.** Referring to the selection of standards to be reviewed, the Employers' group was inclined to favour option 1, i.e. reviewing all standards which had not been classified as outdated, withdrawn or replaced, or recently consolidated. The fundamental and priority Conventions should be included in order to present the full picture. The review should follow the classification by strategic objective or subgroups of strategic objectives, on the understanding that this would not preclude detailed examination of individual standards and provisions where it was considered urgent for specific reasons, even if they did not fall within the category currently under review. The proposed schedule for the review was acceptable in principle. Standards relating to specific categories of workers could be distributed in such a way as to balance the workload of working groups. Underlining the continuity necessary to the process, the speaker added that, at the end of one cycle, any outstanding standards could be examined in subsequent reviews.
- 17.** With regard to budgetary implications, the speaker stressed that spending priorities would need to be reviewed to ensure that funds were made available for such important work. In that regard, the substantive issue should prevail over budgetary considerations. For instance, it might also be possible to hold working group meetings during Governing Body sessions with the involvement of a number of external participants. Subject to his comments, he agreed with the point for decision.
- 18.** The representative of the Government of the Bolivarian Republic of Venezuela, speaking on behalf of the Group of Latin American and Caribbean countries (GRULAC), welcomed the document submitted and noted that proposals might need reviewing to take into account the reform of the Governing Body. It was important to have a transparent and efficient process to review the body of international labour standards periodically, in line with the Social Justice Declaration. The review mechanism should be of a consultative nature and should operate on the basis of tripartite consensus. The options contained in the document would need more careful examination and a degree of clarification, notably with regard to the reference to the establishment of one tripartite working group in paragraph 42(b), while paragraph 24 gave the options of creating either one or four tripartite working groups. The number of members should be a multiple of four, so as to ensure the representation of the four regions. He also asked whether the budgetary implications of establishing the SRM (paragraph 39) had been examined by the Programme, Financial and Administrative Committee. In view of the above, GRULAC was not yet in a position to support the point for decision in paragraph 42. The Office should therefore submit a revised document to the November 2011 session of the Governing Body, taking into account current discussions and responding to requests for clarification.
- 19.** The representative of the Government of Australia, speaking on behalf of the Asia and Pacific group (ASPAG), began by expressing discomfort with the amendment proposed by the Employers' group to paragraph 14 of the document. The use of the word "balance" would imply that the objectives of protecting workers' rights and responding to the needs of enterprises would be in competition. The ILO should avoid suggesting that those objectives were in conflict with each other.
- 20.** ASPAG welcomed the proposals for the SRM. Together with tripartism, the role of international labour standards was a key function of the ILO that set it apart from other international organizations. ASPAG agreed that, in order for the ILO to maintain the central role of international labour standards as an important means by which the ILO achieved its objectives, as reaffirmed in the Social Justice Declaration, there was a need for a review mechanism to ensure that the ILO had in place a robust body of international

labour standards. Globalization, along with economic, social and technological changes, had challenged the traditional notion of work in recent years. In the light of emerging trends, it was imperative that international labour standards were capable of responding to present-day needs and conditions to protect workers worldwide, as a robust international labour code was a core pillar of the Decent Work Agenda. ASPAG therefore supported the proposal for a rigorous and time-bound SRM. An efficient and transparent process for periodic review of the entire body of standards would ensure that the ILO's international labour code could respond to today's needs and was prepared for tomorrow's challenges.

- 21.** ASPAG agreed that the Social Justice Declaration should provide the overarching framework for the SRM and supported the approach articulated in paragraph 19. The legitimacy of the review mechanism would be greatly enhanced if the Committee played a central coordinating role with responsibility for the tripartite working groups (paragraphs 20–23). The establishment of a multiple, yet practical number of tripartite working groups should be proposed to the Governing Body so that each working group could examine the entire body of standards falling under a particular strategic objective (paragraph 24). The members of the working groups should be selected on the basis of regional representation and the expertise required for the strategic objective in question. Governments and social partners should be consulted on nominations. It was important for the tripartite working groups to have a mandate to make far-reaching and practical recommendations on how to revitalize and reform the international labour code, in accordance with the principles of the standards policy. ASPAG was of the view that all standards under a strategic objective should be reviewed, with the exception of those that had recently been consolidated. The speaker referred to paragraph 31 of the document and option 2. The reviews should take place after the recurrent discussion on a strategic objective, beginning with the strategic objective of employment. The Committee would need to set an appropriate time frame for each review, including follow-up action, to ensure the effectiveness and timeliness of the process. ASPAG called on the Office to be innovative in its approach to covering the increased budgetary expenditure in relation to the proposed SRM. Standards-related activities, including ensuring that standards protected the greatest number of workers possible, were an intrinsic element of the ILO's core mandate and the Decent Work Agenda. The momentum of the proposed SRM needed to be maintained to ensure that it served its purpose in a meaningful manner.
- 22.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, agreed with the need to have an efficient and transparent process for ensuring periodic review of the entire body of standards and assessing their effectiveness. The Africa group supported the setting up of an SRM for international labour standards, based on the proposals made in paragraphs 19 and 20 of the document. However, the group favoured the establishment of two tripartite working groups to operate in parallel, with differing dates and work programmes aligned to discussions by the Conference, which would ensure that the groups had the necessary expertise to review specific bodies of standards. It was of the utmost importance to reflect diverse regional perspectives in the composition of the working groups. The Africa group indicated a preference for the review of up-to-date Conventions only, rather than the entire body of standards, in view of financial implications and in order not to compromise other activities.
- 23.** The representative of the Government of Austria, speaking on behalf of the group of industrialized market economy countries (the IMEC group), expressed support for the establishment of an SRM, subject to the provision of more information, including on costs. During the previous session of the Governing Body, the IMEC group had favoured a review grouped by strategic objective, with a view to completing the work of the Cartier Working Party, looking at standards adopted between 1985 and 2000, identifying reasons for low ratification rates and addressing them. The IMEC group also recognized that a holistic approach, as proposed by the Office in the document, would have added value,

allowing for consideration of all instruments associated with a particular strategic objective in relation to one another and making allowance for the fact that some of the Cartier conclusions might be in need of review in the light of major changes in recent years. The IMEC group had always been in favour of an ongoing review of standards. The process of recurrent discussions by the Conference would envisage continual review within each strategic objective. The group therefore were open to an SRM that, over time, would encompass all ILO standards, following the rhythm of recurrent discussions. Rather than trying to accomplish everything at once, however, there was a need for priorities to be established for the review in the initial stage. Picking up where the Cartier Working Party had left off would be a good starting point for the SRM. Aware that a comprehensive approach by strategic objective would fit better with the spirit of the Social Justice Declaration, the IMEC group would be open to exploring the possibility of an overall review, as described in paragraphs 31 and 33, except for the core and governance Conventions. To that end, agreement was needed on a concrete and realistic step-by-step workplan, to be laid down in the terms of reference of any working group(s) established. The review within each group of instruments should start by building on the work of the Cartier Working Party, as reflected in footnote 21 of the document, and should prioritize the issues which it had left open and recommendations which it had made that had yet to be implemented. The terms of reference of any working group should ensure that the work of the Cartier Working Party would not be duplicated and should form the basis of the review. Furthermore, as noted in paragraph 22, the Committee would need to evaluate and possibly amend the SRM process on the basis of experience.

24. The IMEC group agreed with the purpose and expected outcomes of the review mechanism listed in paragraph 17. The speaker emphasized, however, that the outcomes should also include a clear follow-up mechanism, to ensure that instruments in need of revision or partial revision would be placed on the agenda of the Conference. Concerning the guiding parameters in paragraph 14, which the group could support in principle, she stressed that some flexibility and an open-minded approach were necessary, otherwise it would not be worth starting the process. The speaker also requested clarification as to who would be charged with the in-depth analysis and what would happen if no consensus could be reached.
25. The IMEC group was of the view that, given the need for different expertise depending on the instruments to be revised, more than one working group might be required. Measures should, however, be taken to preserve continuity, prevent inconsistencies and ensure a cost-effective process. In that regard, parallel working groups would entail a greater risk. If a decision to establish multiple working groups was to be taken, such groups should be convened in a timely sequence and should not overlap. The composition of the working groups should be: four, eight, four. As suggested in paragraph 25, non-members of the Governing Body should be eligible for appointment. The proposed grouping of Conventions by strategic objective would be a good starting point for work, subject to possible adjustments resulting from the working groups' discussions. The IMEC group also raised the question of whether, in relation to the partial cost indications given in paragraphs 27 and 39, working group meetings would really be needed outside Governing Body sessions. Further discussion was needed; it was too early to take a full decision on the SRM. She asked for a further proposal that took account of points discussed, with a clear view of the planned working group(s) and the mandate and terms of reference thereof, including a comprehensive assessment of expected costs.
26. The representative of the Government of India underlined the importance of an SRM to pave the way for a robust international labour code. He welcomed a central role for the Committee. The Committee should be responsive to emerging issues to ensure effective implementation of the SRM. He called for more representation of developing countries. Due consideration should also be given to the necessary expertise and diverse regional

perspectives. Concerning the standards to be reviewed, he supported option 2, with priority being given to standards that had been recently reviewed in General Surveys. A complete assessment of costs was needed. In view of the constant changes in the world of work, labour standards should have built-in mechanisms for adaptability to changing environments, in order to ensure that they remained relevant and capable of providing protection to the greatest number of people. He supported the point for decision contained in paragraph 42, based on the above observations.

- 27.** The representative of the Government of Australia supported the statements made on behalf of the IMEC group and ASPAG. She considered that it was imperative for the international labour code to remain capable of responding to present-day needs and conditions in order to provide strong protection for all workers in the workplace of today. The Social Justice Declaration provided the perfect overarching framework for guidance. She strongly supported the proposal for a rigorous and comprehensive SRM and expressed the following preferences. The Committee should have the responsibilities detailed in paragraph 21. Four or more separate tripartite working groups, each to review a body of standards falling under a specific strategic objective should be established (option 2 in paragraph 24), which would allow for appropriate regional representation and the required expertise. The working groups should have clear terms of reference and a mandate to make strong recommendations to the Committee. The entire body of standards should be subject to review in relation to the four strategic objectives, with the exception of recently consolidated instruments. Including the fundamental and governance Conventions would not cause their importance to be called into question, which could also be specified in the terms of reference of working groups, but would rather allow them to be duly taken into account in reviews of technical Conventions falling within the same strategic objective, with the aim of gaining a complete picture. Setting time frames to allow the review to be conducted in a timely manner and making recommendations that would remain current were both vital. The review should be initiated as soon as possible, preferably starting with Conventions falling under the strategic objective of employment in order to build on the momentum established following the recurrent discussion in 2010. In conclusion, the speaker stressed that a robust standards policy underpinned by a rigorous and comprehensive SRM would ensure that the adoption, ratification and effective implementation of international labour standards would continue to be a fundamental aspect of ensuring decent work for all workers.
- 28.** The representative of the Government of China emphasized the need for an SRM in the context of an evolving world, taking into account the conclusions of the Cartier Working Party. The process should be effective and transparent, and conducted within the framework of the Social Justice Declaration. Four working groups could be established, one for each of the four strategic objectives. Concerning the composition of the working groups, he emphasized that priority should be given to developing countries. With regard to the standards to be reviewed, he expressed a preference for option 4, set out in paragraph 31 of the document.
- 29.** The representative of the Government of South Africa supported the statement of the Africa group and welcomed the objective of ensuring that the body of international labour standards remained relevant to developments in the world of work. The consolidation of the maritime instruments had been a milestone in that regard. He supported both the establishment of an SRM, under the auspices of the Committee, and the point for decision, taking into account the considerations of the Africa group.
- 30.** The representative of the Government of Japan supported the statement made on behalf of the IMEC group. In order to maintain the effectiveness of international labour standards and protect the rights of workers, those standards should be applicable to the constantly changing environment. While emphasizing the crucial role of an SRM, he considered that

it was premature to decide on all the aspects of such a mechanism and sought further clarification on the possibility of members of the Governing Body who were not members of the working groups participating as observers. He asked how instruments cutting across strategic objectives would be dealt with.

- 31.** The representative of the Government of Canada supported the statement made on behalf of the IMEC group and suggested that the future mandate of the working group(s) should include identifying instruments that should be reviewed to ensure gender-inclusive language.
- 32.** The representative of the Director-General addressed the various questions raised during the course of the discussion. In relation to the questions of the Workers' group as to whether decisions taken by the working groups could be reopened, she referred to paragraph 21 of the document, which read: "The LILS Committee would be responsible for: ... receiving, considering and reporting to the Governing Body on the recommendations of the tripartite working groups and on its own recommendations where they differ from those of the working groups." Accordingly, the Committee would assume overall responsibility for the SRM and could take other decisions as a result. Although it would not be the intention for the Committee to change the recommendations made by the working groups extensively, on certain limited points there might be understandable reasons not to take a specific recommendation into account. She referred to examples from the Cartier Working Party, the High-level Tripartite Working Group on Maritime Labour Standards set up by the Governing Body to make recommendations to it, and the Subgroup of the High-level Tripartite Working Group on Maritime Labour Standards, which operated under the auspices of the High-level Tripartite Working Group. Regarding the lack of reference in the document to mechanisms other than working groups, for example meetings of experts, she explained that, as the Committee had responsibility for the SRM, it could decide to make any recommendations it deemed necessary. The establishment of working groups would not in any way prejudice other decisions the Committee might consider appropriate.
- 33.** Regarding the further clarification sought by GRULAC as to the number of working groups to be established, she explained that, although paragraph 42(b) referred to a single working group, a more complete cost estimate was envisaged by the document depending on the outcome of the discussions. Such a cost estimate would be submitted to the November 2011 session of the Governing Body. However, there seemed to be an emerging consensus for the establishment of a tripartite working group working sequentially through all the instruments, which could start with instruments on employment, the first strategic objective to be covered by a recurrent discussion. She recalled that, by November 2011, the Conference would also have reviewed the strategic objective on social protection (social security) and the Committee could have another view.
- 34.** Regarding the question raised by the IMEC group as to who would be in charge of the in-depth analysis, the speaker replied that the Office would always be at the service of the Committee to support any meeting and available to carry out background work, extra research or analysis for the constituents in order to have substantive and constructive discussions on any subject area, where needed. Regarding the consequences in the event that no consensus could be reached, she recalled that it would be for the Committee to decide how to deal with such a situation, for instance by calling for a tripartite meeting of experts. She recalled the responsibility of the constituents to work towards reaching tripartite consensus.
- 35.** She further indicated that the suggestion made by the representative of the Government of Canada to include the review of gender-sensitive issues in the terms of reference of the working group(s) would be taken into account.

36. The Worker Vice-Chairperson said, in response to the request for additional text in paragraph 14 of the document made by the Employers' group, that their concern was already met in the paragraph, as the term "the world of work" encompassed the needs of both workers and enterprises. Furthermore, the proposal to include the term "private enterprises" would not cover public entities, such as governments or public enterprises. It would give rise to a wide interpretation, which might even be contradictory to the provision of effective protection. In view of the relatively weak power of workers compared to that of enterprises, vigilance was needed in discussing the "right balance" between the needs of workers and enterprises. Turning to the use of the term "international labour code" in the document, while the Employers' group had mentioned the impossibility of the enforcement of international labour standards in a national context, she noted that some domestic courts made use of them in their rulings.
37. The Employer Vice-Chairperson replied that the proposal had not been to refer to workers and enterprises in confrontational terms, but rather to propose a compromise, taking into account the needs of both. He made a new suggestion to insert the words "interested parties in" between the words "needs of" and "the world of work" and, after that, the term "including sustainable enterprises" in the third bullet point in paragraph 14. Although the term "international labour code" had simply meant a compendium of international labour standards when first used in the 1951 publication, in the current context it might be open to other interpretations.
38. The representative of the Director-General indicated that the term "international labour code", as used in the Office document in paragraph 2, was intended to refer in a concise manner to "a robust body of international labour standards", and not to suggest one consolidated international labour instrument. The Preface to *The International Labour Code 1951* indicated that it was important to avoid any misunderstanding concerning the nature of *The International Labour Code*, which was simply an attempt to arrange in an orderly and convenient manner the provisions of Conventions and Recommendations. If the term was considered problematic, the Office would ensure that it was not used in future documents in order to avoid any misunderstanding. Summing up, she recalled that a follow-up paper had been requested for discussion by the Committee in November 2011, taking into account all the comments made. The new paper should provide concrete proposals on the mechanics of the SRM, such as the number of tripartite working groups, the selection of standards to be reviewed, and costs. Second, the preferred options for the selection of groups of standards to be reviewed were option 1 (99 Conventions, four Protocols and 107 Recommendations), option 2 (48 Conventions, one Protocol and 51 Recommendations), option 3 (option 1 excluding the fundamental Conventions) or option 4 (option 1 excluding the fundamental and governance Conventions). The Employers' group had expressed a preference for option 1, but would not object to option 2 in the event of an overall consensus. The Workers' group favoured option 2; the Africa group, option 2; ASPAG, option 2; and the IMEC group would be prepared to explore option 4 and could live with option 2. GRULAC wished to have another discussion in November 2011 with a new paper. The representative of the Director-General suggested that consultations should take place in the interval between the International Labour Conference in June and the session of the Governing Body in November. Moreover, the options could be reduced from four to perhaps two.
39. ***The Committee recommends that the Governing Body invite the Office to prepare a paper for submission to the 312th Session (November 2011) of the Governing Body, taking into account comments made during the discussion and containing concrete proposals for the establishment and the implementation of a standards review mechanism.***

(b) Streamlining of the sending and processing of information and reports

40. The Committee had before it a paper² containing proposals for the review of the article 22 report forms on occupational safety and health Conventions and the extension of the reporting cycle for the fundamental and governance Conventions from two to three years.
41. The Employer Vice-Chairperson indicated that, while he could in principle agree with the proposed change in the report forms concerning Conventions Nos 155 and 161, it might have been possible to replace the proposed editor's note by a footnote to the Appendix of Recommendation No. 164 stating simply: "An up-to-date list of instruments is annexed to Recommendation No. 197." With respect to the harmonization of the general parts of the report forms, the proposals would have to be approved by the LILS Committee. Subject to those comments, he agreed with the points for decision in paragraphs 10 and 14.
42. The Worker Vice-Chairperson agreed with the point for decision in paragraphs 10(a), (b) and (c) of the document. The Office's review of the common parts of report forms would help governments. Regarding the new reporting cycle for the fundamental and governance Conventions, to be introduced as of 2012, she expected that every effort would be made by governments to ensure that article 22 reports were complete and submitted on time. The Office should ensure that no files regarding key Conventions were deferred, and due attention should be given to comments by workers' organizations. Taking into consideration the concerns and difficulties expressed regarding the implementation of the grouping of Conventions by strategic objective for reporting purposes, she supported the continuing use of grouping by subject matter for reporting purposes. She therefore supported the point for decision in paragraph 14.
43. The representative of the Government of Austria, speaking on behalf of the IMEC group, supported the point for decision in paragraph 10(a) of the document. It would be useful to harmonize the general parts of the report forms, but that was not a matter of priority. She therefore supported the point for decision in paragraph 10(b), while stating that the process indicated therein should be carried out within available resources. In light of the foregoing, she supported the points for decision in paragraph 10. With regard to the point for decision in paragraph 14, the IMEC group welcomed the proposal to maintain the existing grouping of Conventions by subject and the extension of the reporting cycle for fundamental and governance Conventions from two to three years, beginning in 2012.
44. The representative of the Government of Nigeria, speaking on behalf of the Africa group, hoped that the review of the general part of report forms would result in report forms that were less complicated, thereby enhancing reporting. She also supported the extension of the reporting cycle for fundamental and governance Conventions as of 2012, with a view to reducing the reporting burden, while expressing a preference for the grouping of Conventions by strategic objective, as envisaged in the Social Justice Declaration.
45. The representative of the Government of Bangladesh stressed the importance of simplified and easily understandable report forms to ensure the timely submission of reports, with accurate information. He supported the review of report forms to make them more user-friendly and highlighted the importance of regular feedback from constituents in the review process. Office support would continue to be critical to help constituents comply with their reporting obligations, while technical assistance was integral to the improvement of ILO standards-related activities. He supported the points for decision in paragraphs 10 and 14.

² GB.310/LILS/3/2.

46. The representative of the Government of Mexico, with regard to the review of article 22 report forms, supported the proposal to promote the consistency and relevance of ILO standards and facilitate reporting by governments. The proposed changes to reporting cycles would allow governments to send more information, reflecting more accurately the progress made in the application of standards.
47. The representative of the Government of South Africa supported the statement made by the Africa group and agreed that the extension of the reporting cycle would ease the reporting burden. He added that capacity building on reporting remained a priority.
48. *The Committee recommends to the Governing Body that it:*
- (a) *decide to modify the Annex to the Occupational Safety and Health Recommendation, 1981 (No. 164), in the article 22 report form on the Occupational Safety and Health Convention, 1981 (No. 155), as set out in Appendix III to document GB.310/LILS/3/2;*
 - (b) *invite the Office to report on the ongoing review of the article 22 report forms concerning the Asbestos Convention, 1986 (No. 162), the Safety and Health in Construction Convention, 1988 (No. 167), the Chemicals Convention, 1990 (No. 170), the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Safety and Health in Mines Convention, 1995 (No. 176); and*
 - (c) *invite the Office to carry out a review of the general parts of the report forms of the up-to-date Conventions, in due time.*
49. *It further recommends to the Governing Body that it:*
- (a) *approve the three-year and five-year reporting cycles with the existing grouping of Conventions by subject matter, as set out in Appendix IV to document GB.310/LILS/3/2; and*
 - (b) *invite the Office to implement the three-year reporting cycle for the fundamental and governance Conventions as of 2012.*

IV. Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution in 2012 (Fourth item on the agenda)

50. The Committee had before it a document³ containing proposals on the instruments on which reports should be requested under article 19 of the Constitution in 2012, with a view to the preparation of a General Survey by the Committee of Experts on the Application of Conventions and Recommendations.
51. The Worker Vice-Chairperson indicated that, with respect to the first option, outlined in paragraph 12, freedom of association and the right to collective bargaining were of fundamental importance. The proposed General Survey would present a good opportunity

³ GB.310/LILS/4.

to review the various laws and practices in relation to the public sector. Concerning the second option, set out in paragraph 13, she recalled that the Committee of Experts had produced a General Survey on Convention No. 144 and Recommendation No. 152 in 2000, the contents of which remained valid. With regard to Convention No. 169, it would be inappropriate to cover only one aspect thereof in the General Survey. She added that she could not support the third option, as there had already been two General Surveys on employment in recent years. She therefore agreed with the point for decision.

- 52.** The Employer Vice-Chairperson emphasized that the contribution of General Surveys to in-depth discussion and assessment of the implementation and relevance of ILO standards was preserved by keeping the number of instruments covered as low as possible. He considered that the first option (Convention No. 151 with Recommendation No. 159 and Convention No. 154 with Recommendation No. 163) would be the most workable and appropriate. Although not currently classified as social dialogue instruments, labour relations and collective bargaining were clearly related to social dialogue. The Employers' group could also accept the second option, but it was not urgent to have a General Survey on instruments on tripartite consultations. On the other hand, it might have been interesting to have more information on law and practice relating to Recommendation No. 113. Convention No. 169, on indigenous peoples, was a very particular instrument that did not appear to fully fit the context of the other, more general standards. The option of skipping a General Survey on social dialogue instruments was not appropriate, as it would result in no General Survey on that subject until 2019. With regard to the plan to move to a cycle whereby the General Survey would be discussed one year before the corresponding recurrent discussion, the realignment could become effective in 2014 by skipping a General Survey on employment instruments. Finally, he suggested the deletion of the terms "policy support" and "policy advisory support" used in questions VII and VIII of the article 19 report form annexed to the document. He suggested the use of the term "technical cooperation" for all kinds of support provided by the Office to member States. With those observations, he supported the point for decision.
- 53.** The representative of the Government of Austria, speaking on behalf of the IMEC group, supported the realignment so that General Surveys would be discussed one year before the corresponding recurrent discussions were held. She called for the General Survey on social dialogue instruments to be discussed in 2013, as that issue would normally only be discussed once in the seven-year cycle of recurrent discussions. To implement the realignment, a General Survey on employment could be skipped in 2014. She also suggested that the scope of the next General Survey, as proposed in paragraph 17(i), could be enlarged to cover the instruments on tripartite consultation (Convention No. 144 and Recommendation No. 152), though the present proposal was also acceptable. Subject to those comments, she supported the point for decision.
- 54.** The representative of the Government of Mexico supported the first option, described in paragraph 12, and the point for decision in paragraph 17. He also supported the addition of questions on possible needs for standards-related action and technical cooperation.
- 55.** The representative of the Government of India echoed support for realignment, so that discussion of the General Survey would take place one year before the recurrent discussion, which would enable member States to undertake a comparative analysis and would help in setting the topics for the next cycle in response to current challenges. Further tripartite consultations would be required to arrive at a consensus regarding the classification of Conventions Nos 151 and 154. He recalled that the linking of article 19 reports to recurrent discussion items should not place any extra reporting burden on member States. He supported the point for decision.

56. The representative of the Government of Australia also reiterated support for the realignment of discussions of the General Surveys with recurrent discussions. While the second option was preferable, she acknowledged the time constraints and supported the first option and the point for decision on pragmatic grounds. She stressed that future General Surveys should cover the instruments most relevant to the strategic objective that would be discussed the following year.
57. The representative of the Director-General, referring to the change requested by the Employers' group in the report form, indicated that the language proposed was language which had been agreed in the report forms adopted most recently by the Governing Body. Turning to the need for the Governing Body to take a decision to allow for the realignment of discussions of General Surveys with recurrent items, she suggested that a recommendation in that regard should be added in the point for decision.
58. The Committee agreed to add such a recommendation.
59. *The Committee recommends to the Governing Body that:*
- (i) *subject to the decision of the Governing Body to place on the agenda of the 2013 session of the International Labour Conference a recurrent discussion item on the strategic objective of social dialogue, it request governments to submit reports for 2012, under article 19 of the Constitution, on the Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163), on the basis of the report form contained in the appendix; and*
 - (ii) *in order to realign the discussions of General Surveys with recurrent discussions, no new General Survey on instruments related to employment should be undertaken for the purposes of the next recurrent discussion on employment during the present cycle.*

V. Ratification and promotion of fundamental and governance ILO Conventions (Fifth item on the agenda)

60. The Committee had before it a paper⁴ on the ratification and promotion of fundamental and governance ILO Conventions.
61. The Employer Vice-Chairperson, observing that 144 ratifications were still needed to achieve the goal of universal ratification of all fundamental Conventions by 2015, questioned whether the objectives set in the paper were realistic and credible. He noted with concern that, while the fundamental Conventions were the ILO Conventions with the highest number of ratifications, significant problems persisted with their implementation. He considered that ratification of any Convention should be envisaged only once its implementation could be reasonably secured. Noting the comparatively low ratification rate of Convention No. 87, he called on the Office to examine and address the reasons for that situation. In that respect, he pointed out that in the previous three years (2009–11), the Committee of Experts on the Application of Conventions and Recommendations had

⁴ GB.310/LILS/5(&Add.).

issued observations on the application of Convention No. 87 by 109 member States. That showed that at least two-thirds of the ratifying States faced problems in implementing the Convention. He further pointed out that, among those 109 observations, 94 related wholly or in part to the right to strike, and he considered that a high percentage of States which had not ratified Convention No. 87 would face the same problems. He stressed that the Employers' group fully supported Convention No. 87 as the basis for tripartism and social dialogue, but considered that the Convention did not refer to the right to strike and had not been meant to regulate it. He considered that many States which had not ratified the Convention, while complying with its provisions, did not fulfil the Committee's detailed, strict requirements regarding the right to strike and therefore preferred not to ratify it. He inferred that the Committee's extensive interpretation regarding the right to strike appeared to make implementation of Convention No. 87 unnecessarily difficult and thereby deterred Members from ratifying it. He concluded by requesting the Office to provide more information about activities to promote standards by NORMES in collaboration with the Bureau for Employers' Activities (ACT/EMP) and the Bureau for Workers' Activities (ACTRAV). The Employers' group supported the points for decision.

- 62.** The Worker Vice-Chairperson expressed concern that Conventions Nos 87 and 98 remained the least ratified, including among countries with large populations, which meant that about half of the working population was currently not covered by those two fundamental instruments. She therefore considered that efforts should be strengthened and proper funds allocated to promote their ratification and implementation with a view to achieving universal ratification by 2015. She urged member States to pursue ratification and implementation of those instruments, which were at the core of the Decent Work Agenda. She welcomed the information that some Governments were ready to avail themselves of the technical assistance of the Office and trusted that the latter would be able to follow up on those requests. She expressed concern that a number of governments referred to an unfavourable economic situation as a reason for not ratifying ILO Conventions, and stressed that international labour standards should be adhered to regardless of the political situation or level of economic development; it was precisely when the economic situation was bad that workers needed the protection offered by those standards and employers benefited from their implementation, as that prevented unfair competition from employers who were not abiding by the rules. The speaker welcomed 12 new ratifications of the governance instruments and requested the Office and the governments to step up their efforts to promote the ratification and effective implementation of those Conventions. She considered that trade unions and employers' organizations should also be more proactive. She welcomed the ratification of Convention No. 144 by Singapore following tripartite consultations and the envisaged ratification of Convention No. 122. Referring to the information provided by China with regard to the labour inspection audit carried out with the assistance of the World Bank in January 2010, the speaker asked the Office why the ILO had not been the organization which had carried out that audit as that was a matter within its remit. Replying to the statement of the Employers' group on the right to strike, she stressed that there could be no freedom of association without the corollary right to strike. The Workers' group supported the points for decision.
- 63.** The representative of the Government of Canada was pleased to confirm that the review of Convention No. 144 had been completed and that that Convention had reached the final stage of the ratification process along with Convention No. 29 and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). Moreover, the federal, provincial and territorial Ministers of Labour had agreed to undertake a review of Convention No. 138 and technical discussions on that subject had begun recently with the participation of the Director of NORMES. The speaker thanked the Director for her participation, expert contribution and advice. With respect to Convention No. 98, the question of the extent to which the Canadian Charter of Rights and Freedoms protected

collective bargaining rights was currently being examined by the Supreme Court of Canada. A review of that Convention would be undertaken in 2013. A review of Convention No. 81 would take place in 2012.

- 64.** The representative of the Government of Australia observed that, despite the low number of ratifications recorded since November 2009, many Members had indicated that they were close to or actively considering ratification of the fundamental and governance Conventions. Noting that a number of Members had requested technical assistance in that regard, she strongly encouraged the Office to provide such assistance. Finally, noting that there was no mention in the document of progress made in the implementation of the Plan of Action (2010–16) to achieve widespread ratification and effective implementation of the occupational safety and health instruments adopted at the 307th Session of the Governing Body (March 2010), the speaker asked the Office to include in future reports information on the activities listed under Part V of the Plan in order to enable the Members to continually assess its effectiveness and identify where additional action might be required in order to meet the target of 2015.
- 65.** The representative of the Government of Nigeria, speaking on behalf of the Africa group, indicated that, even though the goal of universal ratification was a laudable one, it was important not to lose sight of the challenges involved in ratification and eventual implementation. Member States which had not yet ratified should be given technical assistance especially with the reviewing of existing legislation. That was likely to enhance the possibility of achieving the goal of universal ratification by 2015. She expressed support for the points for decision in paragraph 34(a) and (b) of the document.
- 66.** The representative of the Government of South Africa associated himself with the statement made by the representative of the Government of Nigeria and congratulated the Government of Namibia on the ratification of Convention No. 100. Noting that Conventions Nos 87 and 98 remained the least ratified among the fundamental Conventions, he stressed that those Conventions made a fundamental contribution to strengthening social dialogue and collective bargaining. He indicated that South Africa had requested technical assistance from the Office with regard to the ratification of Conventions Nos 81, 122 and 129 and thanked the Office for the mission which had visited the country in August 2010 and undertaken an evaluation of the country's readiness to ratify. The Government had initiated the process of ratifying Convention No. 81 which should be submitted to Parliament for ratification during the course of the year. The ratification of Conventions Nos 122 and 129 was under consideration. He supported the points for decision.
- 67.** The representative of the Government of the Republic of Korea indicated that the passing of the revised Bill of the Trade Union and Labour Relations Adjustment Act by the National Assembly on 1 January 2010 had removed major barriers to the ratification of Conventions Nos 87 and 98. The Korean Government was making continuous efforts for the full implementation of the principles enshrined in the fundamental and governance Conventions and for their early ratification. She expressed the full support of her Government for the Office's ongoing efforts to promote the ratification of those Conventions, and supported the points for decision.
- 68.** The representative of the Government of Ghana endorsed the statement made by the representative of the Government of Nigeria. She commended the efforts made by the ILO member States to ratify the fundamental and governance Conventions and the Office's efforts to provide assistance when needed to member States so as to achieve the goal of universal ratification by 2015. She reaffirmed the support of the Government of Ghana for the work of the Office and its determination to complete the process of ratification of Convention No. 138 soon. She supported the points for decision.

69. *The Committee recommends that the Governing Body:*

- (a) take note of the information contained in document GB.310/LILS/5(&Add.); and*
- (b) keep the subject on the agenda of the Committee on Legal Issues and International Labour Standards with a view to following the progress made.*

VI. Other questions
(Sixth item on the agenda)

- 70.** The Committee had before it a document ⁵ on the preparation for the entry into force of the MLC, 2006, submitted for information.
- 71.** The Worker Vice-Chairperson noted the paper provided by the Office and welcomed the process described therein.
- 72.** The Employer Vice-Chairperson asked the Office to provide updated information on the ratification status of the MLC, 2006. The Convention had been expected to enter into force by the end of 2010. However, the ratification process did not appear to have gone as smoothly as foreseen, since only 12 out of the 30 required ratifications had been registered so far.
- 73.** The representative of the Director-General indicated that tremendous progress had been made in the ratification and implementation process of the MLC, 2006. In fact, changes were occurring that already affected practice in the maritime sector – well ahead of the more formal, legal machinery of ratification. She added that the first condition for the entry into force of the MLC, 2006, had already been met, since the 12 countries that had ratified it represented 48 per cent of the world’s gross tonnage of ships, whereas coverage of at least 33 per cent was required under the Convention. In addition, the information received in response to the ratification campaign launched by the Director-General in December 2010 revealed that more than 20 countries were prepared to ratify the MLC, 2006, before the end of 2011. It therefore seemed that the objective of entry into force of the Convention in 2012 as set out in the five-year Action Plan would be met. The Office had provided technical assistance to more than 30 countries, including in respect of legislative gap analyses and legislative drafting. It had also launched a large-scale training and capacity-building programme. For instance, nine courses on “Training of trainers and maritime inspectors in the application of the MLC, 2006” had been held since 2009 at the ILO’s International Training Centre in Turin, Italy. The two-week courses had resulted in the training of more than 200 trainers and inspectors who, according to available information, had in turn trained more than 3,000 inspectors worldwide. She stated that member States that were lagging behind in the ratification process needed to speed up their efforts and that steps would be taken to ensure that developing countries were not left behind.
- 74.** The representative of the Government of Panama recalled that, with the ratification of the MLC, 2006, by his country in February 2009 – the fifth ratification of the Convention that had been registered – the first condition for its entry into force had been fulfilled. He expressed his Government’s interest in participating in the Special Tripartite Committee to be established under Article XIII of the MLC, 2006, after its entry into force, and hoped that fully transparent procedures would be followed in that respect.

⁵ GB.310/LILS/6.

75. The Committee noted the information in the document and the comments made.

Geneva, 22 March 2011

Points for decision: Paragraph 39
Paragraph 48
Paragraph 49
Paragraph 59
Paragraph 69

Appendix

Reports on unratified Conventions and Recommendations

Appl. 19, C. 151, C. 154, R. 159, R. 163
151. Labour Relations (Public Service) Convention, 1978
154. Collective Bargaining Convention, 1981
159. Labour Relations (Public Service) Recommendation, 1978
163. Collective Bargaining Recommendation, 1981

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

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

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (No. 151)

LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (No. 159)

COLLECTIVE BARGAINING CONVENTION, 1981 (No. 154) *

COLLECTIVE BARGAINING RECOMMENDATION, 1981 (No. 163) *

Geneva

2011

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

* The report concerns Convention No. 154 and Recommendation No. 163 only as far as they relate to collective bargaining in the public sector.

5. In the case of a Convention:

...

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

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

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

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

...

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

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

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

REPORT

to be made no later than 28 February 2012, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the following instruments:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (No. 151)

LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (No. 159)

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice:
- (a) Please indicate all categories of persons employed by the public authorities to whom the legislation, regulations, collective agreements or other measures which implement the provisions of the Convention and the Recommendation apply.
 - (b) Please indicate to what extent the guarantees provided for in this Convention and the Recommendation apply to high-level employees whose functions are normally considered as policy making or managerial or to employees whose duties are of a highly confidential nature, and to the armed forces and the police.
 - (c) Please indicate in particular any provisions of national legislation, regulations, collective agreements or other measures that provide for the protection of public employees against acts of anti-union discrimination in respect of their employment, and any provisions that provide for protective mechanisms and sanctions in this regard.
 - (d) Please describe to what extent and in what manner complete independence and adequate protection against acts of interference by a public authority in their establishment, functioning or administration is ensured to public employees' organizations. Please also indicate any protective mechanisms and sanctions set out in the legislation.
 - (e) Please indicate the categories of public employees, which enjoy the right to participate in the determination of their terms and conditions of employment.
 - (f) Please specify to what extent facilities are provided to representatives of recognized public employees' organizations with a view to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.
 - (g) Please indicate if, in your country, procedures for recognition of public employees' organizations apply with a view to determining the organizations to be granted the rights under the Convention and if so, indicate on which criteria the determination of such organizations is based.
 - (h) Please describe any procedures for the determination of terms and conditions of employment of public employees:
 - (i) Please indicate matters that are open to negotiation and matters that are excluded from negotiation.

- (ii) Also please indicate if there are particular duties the parties are supposed to respect during the negotiations.
 - (iii) In case of absence of collective bargaining mechanisms please specify whether other methods exist which allow public employees to participate in determining terms and conditions of employment.
 - (i) Please provide information on any measures in place to promote the development and use of mechanisms for negotiation between the public authorities and employees' organizations or other methods allowing public employees to participate in the determination of terms and conditions of employment. Please also provide statistical data about the number and the coverage of the collective agreements concluded in the public sector.
 - (j) Please describe any mechanisms created for the settlement of disputes arising in connection with the determination of terms and conditions of employment of public employees (negotiation or other procedures such as mediation, conciliation or arbitration) and indicate any judicial decision that has been rendered in this regard.
 - (k) Please indicate if organizations of workers which are not trade unions are allowed to participate in the negotiations and, in the affirmative, if these organizations of workers are allowed to do so even if there is a representative trade union.
 - (l) Please indicate also whether there are any restrictions of civil and political rights of public employees that are essential to the normal exercise of freedom of association.
 - (m) Are the rights of public employees covered by the same legislation as those of private sector workers, or are public employees covered by specific legislation? If so, please supply the text of this legislation.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please state any difficulties due to the Convention, to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention. Please indicate any measures taken or envisaged to overcome these obstacles.
- (d) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.
- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.

- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.
- V. In case your country is a federal State:
- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
 - (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
 - (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

Possible needs for standard-related action and for technical cooperation

VI. What suggestions would your country wish to make concerning possible standard-related action to be taken by the ILO? (For example, new standards, revision, etc.)

VII. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the instruments in question? If this is the case, what has been the effect of this support?

VIII. What are the future policy advisory support and technical cooperation needs of your country to give effect to the objectives of the instruments in question?

COLLECTIVE BARGAINING CONVENTION, 1981 (NO. 154)

COLLECTIVE BARGAINING RECOMMENDATION, 1981 (NO. 163)

In accordance with the decision taken by the Governing Body in November 2006, article 19 reports will be requested for Convention No. 154 and Recommendation No. 163 with regard to the public service only.

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice with regard to employees of the public service.
 - (a) Please describe any ways in which the application of the Convention and of the Recommendation reflects special modalities for employees of all or part of the public service; please indicate also the provisions of the legislation applicable to the armed forces and the police.

- (b) Please indicate to what extent the Convention and the Recommendation are applied to bargaining with workers' representatives, as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971 (No. 135), and in what ways workers' representatives can participate in the determination of terms and conditions of employment.
 - (c) Please describe in what ways voluntary collective bargaining is promoted in the public service in the broad sense of the term.
 - (i) Please specify the matters covered by collective bargaining.
 - (ii) Please indicate the level at which collective bargaining in the public service takes place and, if applicable, give information as to whether there are mechanisms providing for coordination between the different levels of collective bargaining.
 - (iii) Please indicate also if rules and procedures concerning collective bargaining in the public sector are agreed between workers' and employers' organizations.
 - (iv) Please indicate if, in your country, procedures for recognition of employers' and workers' organizations in the public service apply with a view to determining the organizations to be granted the right to collective bargaining and if so, indicate on which criteria the determination of such organizations is based.
 - (v) Please describe any training facilities available to negotiators of parties to collective bargaining and indicate if public authorities provide assistance to workers' and employers' organizations in this regard.
 - (vi) Please indicate also to what extent the collective bargaining parties have access to information about the overall economic situation of the country and the branch of activity within the public sector concerned by the negotiations.
 - (vii) Please supply statistical information on the number and the coverage of the collective agreements concluded.
 - (viii) Please describe the bodies and procedures for the settlement of labour disputes in the public service, both as regards disputes in the negotiation of agreements and disputes concerning the interpretation and application of agreements. Please also give statistical data of recourse to these bodies and procedures.
 - (d) Please indicate if, in your country, there is prior consultation between public authorities and employers' and workers' organizations in the public sector on measures to encourage and promote collective bargaining, and if these measures are the subject of agreements between the public authorities and the employers' and workers' organizations.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.

- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please describe any measure taken to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organizations in the public sector.
- (d) Please state any difficulties due to the Convention to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention. Please indicate any measures taken or envisaged to overcome these obstacles.
- (e) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.
- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.
- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.
- V. In case your country is a federal State:
- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
- (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
- (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

Possible needs for standard-related action and for technical cooperation

VI. What suggestions would your country wish to make concerning possible standard-related action to be taken by the ILO? (For example, new standards, revision, etc.)

VII. Has there been any request for policy support or technical cooperation support provided by the ILO to give effect to the instruments in question? If this is the case, what has been the effect of this support?

VIII. What are the future policy advisory support and technical cooperation needs of your country to give effect to the objectives of the instruments in question?