



## FIRST ITEM ON THE AGENDA

**Deferred examination of Conventions****(b) Holidays with Pay Convention (Revised),  
1970 (No. 132 – Short survey)****Introduction**

1. The Working Party undertook a first examination of the Holidays with Pay Convention (Revised), 1970 (No. 132) in March 1997.<sup>1</sup> This examination resulted in a decision to request information from member States on obstacles and difficulties encountered with regard to ratification and on the possible need for revision of Convention No. 132. In March 1998 the Working Party re-examined this Convention in the light of the results of consultations held with constituents on this issue. It did not reach a consensus on the future action to recommend, and in order further to explore the possibilities of arriving at a consensus, the Working Party decided that a “short survey” be carried out on the obstacles and difficulties encountered that might prevent or delay a ratification of this Convention or that might point to a need for its revision.
2. Such a short survey was initially commissioned from an external expert and was presented to the Working Party during the 277th Session (March 2000) of the Governing Body. Following a preliminary discussion on the method of carrying out a short survey, the Working Party decided to defer examination of this Convention until the present session, inter alia to enable the Office to complement the survey carried out.<sup>2</sup>
3. A new short survey (Appendix I) has accordingly been carried out by the Office since March 2000. This survey takes into account the previous discussions and consultations held, the short survey carried out in 1999, and additional information based on research

<sup>1</sup> For excerpts from the relevant Governing Body documents see Appendix II.

<sup>2</sup> GB.277/LILS/WP/PRS/3/1 and GB.277/11/2 and Appendix I (GB.277/LILS/4(Rev.1)).

and analyses of relevant legislation in 41 member States, including 13 from Africa, 8 from the Americas, 9 from Asia and 11 from Europe.<sup>3</sup>

4. This document is submitted for examination by the Working Party on Policy regarding the Revision of Standards at its 11th meeting, and the Working Party is invited to re-examine Convention No. 132 against the background of the information available, the new short survey and the proposals made.

## **Re-examination of the Holidays with Pay Convention (Revised), 1970 (No. 132)**

### **Recent developments**

5. Since the previous examination of Convention No. 132 in March 2000, no additional ratifications or denunciations have been registered. The total number of ratifications thus remains at 30.<sup>4</sup> In the context of the Committee of Experts on the Application of Conventions and Recommendations, comments are pending for 20 member States.

### **Summary of the short survey**

6. Following the decision by the Governing Body to carry out a short survey concerning this Convention, and the discussion in the Working Party in March 2000 on this issue,<sup>5</sup> the Office has carried out the requested short survey, which is appended. As noted above, this short survey builds on the discussions and examinations already carried out and expands the factual information available with a review of relevant legislation in 41 member States.
7. In a first part the short survey outlines the main provisions of Convention No. 132, provides a summary overview of its legal context and traces its origins. It notes that Convention No. 132 belongs to a series of ILO standards and other international and regional instruments of relevance to the question of working time and that the social and economic objectives of the adoption of this Convention were mainly to offer protection for the safety and health of workers, but also to provide a method for the redistribution of the gains from increases in productivity.
8. The second part focuses on an identification of obstacles and difficulties encountered with regard to ratification and on the possible need for revision of the Convention. It includes a further analysis of the consultations held in 1997 that included reports on obstacles to ratification as well as calls for revision of the Convention. This information is complemented by an examination of national legislation on annual leave adopted during the last ten years in 41 member States. This examination led to the conclusion that there seemed to be no or few obstacles to ratification of Convention No. 132 in almost half of

<sup>3</sup> For details, see para. 23 of Appendix I.

<sup>4</sup> *Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Croatia, Czech Republic, Finland, Germany, Guinea, Hungary, Iraq, Ireland, Italy, Kenya, Latvia, Luxembourg, The former Yugoslav Republic of Macedonia, Madagascar, Malta, Republic of Moldova, Norway, Portugal, Rwanda, Slovenia, Spain, Sweden, Switzerland, Uruguay, Yemen and Yugoslavia.*

<sup>5</sup> See Appendix II.

those member States.<sup>6</sup> Taken together, the information on obstacles to ratification of Convention No. 132 was tentatively interpreted to demonstrate that Convention No. 132 is related to the systems of work organization prevalent in the labour market. Based on the views expressed in the consultations, the question is raised of whether Convention No. 132 provides an appropriate and relevant solution to the question of annual leave in the context of the emerging practice of flexible working time arrangements. These findings are then further examined in the context of a brief outlook on the original purpose and context of Convention No. 132 and the current debate on flexible working time arrangements.

9. The survey concludes by noting that further research and analyses would seem to be called for in order to determine the nature and extent of these emerging flexible forms of work and their possible impact on the continued relevance of Convention No. 132. It is suggested to consider pursuing the discussion and research in the context of a general discussion on working time at the International Labour Conference with reference to the proposal to such effect submitted to the Governing Body.<sup>7</sup> Such a general discussion could be prepared and carried out in accordance with the proposed new integrated approach that will be examined by the Governing Body at the present session, provided the Governing Body approves this new approach.<sup>8</sup>

## Remarks

10. Against this background, and pending the holding of the proposed general discussion, the maintenance of the status quo is proposed with respect to Convention No. 132.

## Proposal

11. The Working Party may wish to recommend the maintenance of the status quo regarding the Holidays with Pay Convention (Revised), 1970 (No. 132).
12. *The Working Party is invited to re-examine the Holidays with Pay Convention (Revised), 1970 (No. 132) against the background of the appended short survey and on the basis of the proposal set out above, and to make recommendations to the Committee on Legal Issues and International Labour Standards of the Governing Body.*

Geneva, 9 October 2000.

*Point for decision:* Paragraph 12.

<sup>6</sup> See Appendix I, para. 42.

<sup>7</sup> GB.276/2, paras. 213-241.

<sup>8</sup> GB.279/4 and GB.279/5/2.



## Appendix I

### Short survey concerning the Holidays with Pay Convention (Revised), 1970 (No. 132)

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## Introduction

1. The present study is submitted to the Working Party with a view to providing it with additional information on the obstacles and difficulties encountered that might prevent or delay ratification of the Holidays with Pay Convention (Revised), 1970 (No. 132) or that might point to a need for a revision of this Convention, in order to assist the Working Party in arriving at a consensus on the proposed future action to recommend with respect to this Convention.

## Content, origin and context of Convention No. 132

### Main provisions

#### *Benefits*

2. Convention No. 132 applies to all employed persons with the exception of seafarers and establishes the right to annual leave with pay of a minimum length of three weeks for one year of service (Article 3). For a length of service of less than 12 months, the Convention establishes a right to a proportionate length of holiday (Article 4.1). A minimum period of service *may* be required for the entitlement to arise in the first place but this period may not extend beyond six months (Article 5).

#### *Calculation of benefits*

3. In the calculation of the benefits due, absences from work due to illness, injury, maternity, or other reasons beyond the control of the employed person should be counted as part of the qualifying period of service (Article 5.4). Public and customary holidays as well as periods of incapacity for work resulting from sickness or injury should not be included in the minimum annual holiday (Article 6).

#### *Modalities for exercising the benefits*

4. The division of the annual holiday into parts may be authorized at the national level provided one part consists of at least two uninterrupted working weeks in order to ensure the effective exercise of the leave entitlement (Article 8). This uninterrupted part must be granted within one year from the end of the year of service during which the holiday entitlement arose. The remainder must be taken no later than 18 months from the same date (Article 9). Workers must receive their remuneration before their departure on holiday (Article 7).

#### *Safeguards*

5. In the absence of other rules, collective agreements or arbitral awards, the employer may schedule the annual leave in consultation with the worker, taking into account work requirements and the opportunities for rest and relaxation available to the employee (Article 10). Subject to the rules of minimum service, a person terminating employment is entitled to holidays with pay proportionate to the time worked or payment in lieu thereof (Article 11). Finally, any agreement to relinquish the right to the minimum annual holiday or forgo such holiday for compensation shall be null and void (Article 12).

#### *Other provisions*

6. The Convention further specifies a wide range of means for its implementation (Article 1) and requires the adoption of measures for its enforcement (Article 14). It allows the exclusion of limited categories of persons under certain conditions (Article 2). Ratifying States can accept the

obligations of the Convention separately for persons employed in agriculture and for persons employed in economic sectors other than agriculture (Article 15).

## Related ILO instruments

7. Convention No. 132 is part of a series of ILO instruments dealing with the *daily, weekly and annual duration* of working time. These include the Hours of Work (Industry) Convention, 1919 (No. 1), the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), the Forty-Hour Week Convention, 1935 (No. 47), the Reduction of Hours of Work Recommendation, 1962 (No. 116), the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153),<sup>1</sup> the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91) and the Seafarers' Annual Leave with Pay Convention, 1976 (No. 146). Convention No. 132 specifies that the annual duration of working time shall comprise three weeks of paid holidays or, in other words, that the working year should last for a maximum of 11 months and one week.
8. The entitlement to annual leave in Convention No. 132 is also related to the question of the *scheduling of working time* including the Weekly Rest (Industry) Convention, 1921 (No. 14), the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), and the Night Work Convention, 1990 (No. 171). Convention No. 132 contains a provision on the scheduling of annual leave.
9. Moreover, the subject-matter of Conventions governing the working time of *certain groups of employees*, such as the Maternity Protection Convention, 1919 (No. 3), the Maternity Protection Convention (Revised), 1952 (No. 103), and the Maternity Protection Convention, 2000 (No. 183),<sup>2</sup> is reflected in Convention No. 132 which provides that maternity leave will be counted as regular time of service for the purpose of acquiring entitlement to annual leave.
10. Finally, the subject-matter of annual leave is also related to ILO instruments that focus on *new forms of working-time organization* like the Part-Time Work Convention, 1994 (No. 175) and its related Recommendation (No. 182). Article 7 of this Convention establishes by analogy to Convention No. 132 that part-time workers should receive equivalent working conditions to those of comparable full-time workers in the field of annual leave and Paragraph 14 of the related Recommendation adds that the same rules should apply to part-time workers as to comparable full-time workers with respect to the scheduling of annual leave.

## Other relevant international and regional instruments

11. The protection offered by Convention No. 132 belongs to a well-established legal framework, which has been entrenched in international and regional instruments. The most wide-ranging among these is the Universal Declaration of Human Rights, which specifies in Article 24 that everyone shall have the right to periodical holidays with pay.<sup>3</sup> The 1966 UN Covenant on Economic, Social and

<sup>1</sup> The Governing Body has decided that this Convention should be revised. See GB.271/LILS/WP/PRS/2 and GB.271/LILS/5, para. 74 and GB.276/2, paras. 294-301. Mention should also be made of five Conventions on working time which never entered into force: the Hours of Work (Coal Mines) Convention, 1931 (No. 31), the Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46), the Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51) and the Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61). These Conventions were withdrawn by the International Labour Conference at its 88th Session in June 2000.

<sup>2</sup> Convention No. 183 which was adopted at the 88th ILC in June 2000 and which has not yet entered into force, revises Convention No. 103.

<sup>3</sup> *Universal Declaration of Human Rights*, 3rd ed., United Nations Information Department, New York, 1995.



Cultural Rights<sup>4</sup> refers in Article 7(d) to “rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”.

12. At the regional level, the American Convention on Human Rights in its Protocol of San Salvador<sup>5</sup> refers in Article 7(h) to “rest, leisure and paid vacations as well as remuneration for national holidays”.
13. Furthermore, a number of European instruments also establish this entitlement. The European Social Charter of the Council of Europe stipulates in article 2, paragraph 3, that States undertake to provide a minimum of two weeks’ annual holiday with pay.<sup>6</sup> The European Committee on Social Rights has developed a considerable body of case law on this question, which parallels in many respects the provisions of Convention No. 132.<sup>7</sup>
14. In the framework of the European Union, point 8 of the Community Charter of the Fundamental Social Rights of Workers (1989) stipulates that every worker in the European Community shall have the right to paid annual leave.<sup>8</sup> Finally, Article 7 of the EU Working Time Directive (93/104/EC)<sup>9</sup> establishes a right to four weeks of annual leave and prohibits its replacement by an allowance except where the employment relationship is terminated.

## Origin

15. The holidays with pay Convention No. 132 was adopted in 1970 as a result of the revision of Convention No. 52 on holidays with pay, 1936. The latter provided for an entitlement to annual leave of six working days.
16. The question of revising Convention No. 52 was brought up in 1961. A resolution adopted at the 45th Session (1961) of the International Labour Conference called for an extension of annual leave entitlements “for reasons of protecting the health of workers, and as a result of improvements in technology and increases of productivity”.<sup>10</sup> At the time, there was a great measure of support for the general aims of the resolution that were reported as follows: “the greater nervous tension caused by the increased speed of work, mechanization and automation, required that workers should be granted sufficient annual rest to recuperate”.<sup>11</sup> In addition to this, “increased productivity and profits made annual holidays feasible”.<sup>12</sup>

<sup>4</sup> UN General Assembly Resolution 2200A (XXI) of 16 December 1966.

<sup>5</sup> OAS. *Treaty Series*, No. 69 (1988).

<sup>6</sup> *The European Social Charter and its Protocol*, Council of Europe Information Department, Strasbourg, 1998.

<sup>7</sup> The Committee has found that the Charter does not permit the waiver of annual leave in return for pay, that vacation may not be deferred beyond the current year and that accident or illness occurring during holidays will not count as part of the annual leave. *Conditions of employment in the European Social Charter*, Council of Europe Publishing, Strasbourg, 1999, pp. 23-25

<sup>8</sup> *Community Charter of the Fundamental Social Rights of Workers*, Commission of the European Communities, EC publications, Luxembourg, 1990.

<sup>9</sup> *Official Journal* L307, 13 Dec. 1993, pp. 18-24.

<sup>10</sup> *Record of Proceedings*, ILC, 45th Session (1961), Appendix XVI, p. 892.

<sup>11</sup> *Record of Proceedings*, ILC, 45th Session (1961), Appendix IV, p. 687.

<sup>12</sup> *ibid.*

17. A General Survey carried out in 1964 on Convention No. 52<sup>13</sup> reported several obstacles to the implementation of Convention No. 52. Several governments noted that the scope of Convention No. 52 was too general as it included part-time workers and profit sharers. Others said that the subject-matter of the Convention was appropriate for voluntary collective bargaining, not government intervention. Some governments noted that the Convention was too detailed and that there would be practical difficulties in giving effect to its provisions. Problems were reported regarding the requirement that customary holidays and interruptions of work due to sickness could not be deducted from the annual leave. Obstacles were also reported with regard to the requirement that any agreement to waive the right to holidays would be null and void or that, in cases where holidays could be divided into parts, one part should consist of at least six working days. The absence of any provision permitting the postponement of leave also created difficulties.<sup>14</sup> This General Survey as well as the resolution of 1961 triggered the revision of Convention No. 52 and the adoption of Convention No. 132.
18. The preparatory Conference discussion that preceded the adoption of Convention No. 132 revealed divided views on the purposes the Convention should and could fulfil.<sup>15</sup> One set of arguments focused on the question of the level of ambition that international labour standards should represent. In this vein, one line of argument was that these standards should be proactive instruments and the purpose of international labour standards was not merely to confirm existing practices in order to facilitate ratification but to set a target for the promotion of social progress in the future. Stated otherwise, international labour standards should not be confined to setting the least common denominator but be a goal for countries to achieve better working conditions.<sup>16</sup> More specifically, the goal of Convention No. 132 would be to protect the safety and health of workers and to provide a means for the redistribution of gains flowing from productivity increases.
19. Another group of arguments focused on the view that the proposed Convention No. 132 was setting (too) ambitious standards, and that it had an excessively wide scope. Standards should take into account the conditions prevailing in developing countries. The ILO should aim at Conventions that could be ratified by a substantial number of member States and that also could be an attainable goal for other countries.<sup>17</sup> Moreover, it was questioned whether annual leave was an appropriate type of benefit for the improvement of working conditions, particularly in developing countries. It was held that other means should be selected for an amelioration of working conditions, as developing countries needed more work. It was also held that this type of benefit should not be given priority among the benefits that were available for the redistribution of productivity gains.<sup>18</sup>
20. Another General Survey conducted in 1984 also noted difficulties reported by governments with regard to Convention No. 132: the minimum length of holidays was shorter than the standard set by Convention No. 132 in more than half of the ILO member States. The minimum period of service was another obstacle to ratification, together with the exclusion of the official and customary public holidays from the holiday period and the inclusion of interruptions due to sickness, accident or maternity in the calculation of the service period. Other obstacles were reported with regard to restrictions imposed on the division of holiday into parts or the accumulation of holidays, the nullity

<sup>13</sup> *Annual Holidays with Pay*, Part three of the Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 48th Session, 1964.

<sup>14</sup> *ibid.*, pp. 284-286.

<sup>15</sup> *Record of Proceedings*, ILC, 54th Session (1970), *Provisional Record* No. 36, p. 611 et seq.

<sup>16</sup> *ibid.*, pp. 613, 626, 632.

<sup>17</sup> *ibid.*, pp. 613, 626.

<sup>18</sup> *ibid.*, pp. 614, 628.

of agreements on the forfeiture of holiday rights and the granting of holiday rights upon termination of employment.<sup>19</sup>

21. In the following section available information on obstacles and difficulties that might prevent a ratification of Convention No. 132 is examined.

## Obstacles and difficulties encountered

### The 1997 consultations

#### *Introduction*

22. Following a first examination of this Convention in March 1997,<sup>20</sup> the Governing Body decided that member States be invited to contemplate ratifying Convention No. 132 and to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay ratification or that might point to the need for a full or partial revision of this Convention. In the consultation held by the Office replies were received from 53 member States.<sup>21</sup>
23. The present analysis examines the replies received during the 1997 consultation by building on and expanding the previous analysis, which was submitted to the Working Party in the context of its re-examination of this Convention in March 1998.<sup>22</sup>

#### *Invitation to ratify*

24. At the time of the consultations (1997), two of the countries responding had already ratified Convention No. 132.<sup>23</sup> Two additional ratifications have been registered since the consultations were held.<sup>24</sup> As noted above, 30 ratifications are at present registered for this Convention.

<sup>19</sup> *Working time: Reduction of hours of work, weekly rest and holidays with pay*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 70th Session, 1984.

<sup>20</sup> See Appendix II.

<sup>21</sup> *Angola, Argentina, Australia, Austria, Belarus, Belgium, Brazil* (ratified in 1998), *Canada, Chile, China, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Czech Republic, Denmark, Dominican Republic, Egypt, El Salvador, Estonia, Finland, France, Ghana, Greece, Guinea-Bissau, Hungary* (ratified in 1998), *India, Japan, Jordan, Republic of Korea, Lebanon, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Panama, Philippines, Poland, Qatar, Romania, Seychelles, Singapore, South Africa, Sri Lanka, Suriname, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Kingdom and United States*.

<sup>22</sup> See Appendix II.

<sup>23</sup> *Czech Republic and Finland*

<sup>24</sup> *Brazil and Hungary* [1998].

**Obstacles and difficulties encountered**

25. *No obstacles:* In eight countries there seemed to be no or few obstacles to ratification.<sup>25</sup> Two of these countries said that they were planning to ratify the Convention in the near future.<sup>26</sup> Another two countries declared that their national legislation complied with the requirements of the Convention and that there were no obstacles to ratification.<sup>27</sup> Finally, two other countries added that despite their intention to ratify, material and political obstacles or different priorities were likely to delay such action.<sup>28</sup>
26. *General obstacles:* Five countries considered that their national legislation complied with the essential requirements of the Convention even though they were unable to ratify because their legislation did not reflect the technical requirements of the Convention.<sup>29</sup> In addition, 14 countries stated that they did not have the intention to ratify.<sup>30</sup> One of them<sup>31</sup> considered that ratification would require a complete restructuring of national legislation without offering additional protection, while four others noted that the protection afforded in the Convention was too favourable or of a very high level<sup>32</sup> or that it would introduce rigidities in the economy.<sup>33</sup>
27. *Specific obstacles:* Twelve countries reported problems in relation to the provisions setting the minimum duration of annual leave at three weeks (Article 3.3) because national legislation provided for a shorter duration.<sup>34</sup> Two federal countries had no relevant provisions at all at the federal level.<sup>35</sup> Ten countries reported problems regarding the maximum length of the qualifying period (Article 5).<sup>36</sup> Most of these countries had a qualifying period of one year. Five countries reported problems with the provision establishing that public and customary holidays should not be counted

<sup>25</sup> *Belgium, Brazil, China, Colombia, Comoros, Estonia, Finland and Romania.*

<sup>26</sup> *Belgium and Romania* (ratifications not yet registered). The Employer representatives in the “Conseil National du Travail” were, however, of the opinion that there existed a sufficient number of laws, regulations and collective agreements governing the matter, and they therefore opposed the ratification of Convention No. 132 by *Belgium*.

<sup>27</sup> *Brazil and Colombia.*

<sup>28</sup> *Comoros and China.*

<sup>29</sup> *Austria, Cuba, Netherlands, New Zealand and United Kingdom.*

<sup>30</sup> *Angola, Côte d’Ivoire, France, Greece, Jordan, Netherlands, New Zealand, Panama, Qatar, Singapore, South Africa, Sri Lanka, Syrian Arab Republic and Ukraine.*

<sup>31</sup> *Netherlands.*

<sup>32</sup> *Greece, South Africa and Syrian Arab Republic.*

<sup>33</sup> *Singapore.*

<sup>34</sup> *Argentina, Japan, Lebanon, Mauritius, Mexico, Philippines, Qatar, Suriname, Sri Lanka and Thailand.*

<sup>35</sup> *Canada and United States.*

<sup>36</sup> *Canada (Alberta, Manitoba, New Brunswick, Newfoundland, North-west Territories, Ontario, Saskatchewan), Chile (a Chilean workers’ organization was, however, in favour of the ratification of Convention No. 132), Colombia, India, Republic of Korea, Lebanon, Mauritius, Sri Lanka, Thailand and Turkey.*

as part of the minimum annual holiday (Article 6).<sup>37</sup> Eight countries reported problems with the requirement that remuneration should be paid before the beginning of annual leave (Article 7).<sup>38</sup> One country<sup>39</sup> expressed the view that this provision is not justified because leave pay was not a bonus payment destined to increase the financial ability of the worker during vacation. It should be mentioned in this respect that, even though this is not a requirement in Convention No. 132, legislative provisions in some countries provide for such bonus payments.<sup>40</sup> Eight countries reported problems with the requirement that the uninterrupted part of annual holidays should consist of two weeks (Article 8).<sup>41</sup> In most of these cases the entire duration of the annual leave was two weeks or less and further interruption was authorized. Eight countries reported problems with the prohibition to postpone the annual holiday beyond certain time limits (Article 9.1).<sup>42</sup> Two countries mentioned that recent tendencies to provide the possibility to postpone vacation were not reflected in the Convention. One of these countries noted that a forthcoming legislative revision would envisage, in conformity with the views of the employers' and workers' organizations, offering more flexibility for saving holidays for purposes such as early retirement and educational leave.<sup>43</sup> The other country noted that its national legislation had set up a system of individual vacation savings accounts which allowed up to ten days to be postponed from the period of annual leave every year so that an accumulated period of leave could be taken later on.<sup>44</sup> Three countries reported problems with the provision that the timing of the vacation would be decided by the employer in consultation with the employee (Article 10).<sup>45</sup> Two countries reported problems with Article 12 according to which any agreement to forgo annual leave for remuneration shall be null and void.<sup>46</sup>

28. *Further consideration*: Ten countries reported that they were going to consider ratification after tripartite consultations and that further studies would take place at the national level.<sup>47</sup> In one case, work was under way on a full revision of national holiday legislation and in this connection, consideration would also be given to whether it would be possible to ratify Convention No. 132.<sup>48</sup> In another country the question of submitting Convention No. 132 to Parliament for approval was being examined.<sup>49</sup> Another country was going to consider ratification of Convention No. 132 after

<sup>37</sup> *Argentina, Austria, India, Poland and Turkey.*

<sup>38</sup> *Argentina, Austria, France, Japan, Lebanon, Poland, Sri Lanka and Turkey.*

<sup>39</sup> *France.*

<sup>40</sup> This is, for instance, the case in *Brazil*.

<sup>41</sup> *Argentina, Canada (Alberta, New Brunswick, Newfoundland, Ontario, Saskatchewan), Egypt, Japan, Republic of Korea, Lebanon, Morocco and Sri Lanka.*

<sup>42</sup> *Argentina, Austria, France, Japan, Netherlands, New Zealand, Poland and Qatar.*

<sup>43</sup> *Netherlands.*

<sup>44</sup> *France.*

<sup>45</sup> *Japan, Lebanon and Canada (Newfoundland).*

<sup>46</sup> *Poland and Turkey.*

<sup>47</sup> *Belarus, Denmark, Dominican Republic, El Salvador, Ghana, Guinea-Bissau, Lebanon, Mauritius, Seychelles and United Kingdom.*

<sup>48</sup> *Denmark.*

<sup>49</sup> *El Salvador.*

adoption of its new Labour Code.<sup>50</sup> In four other countries the issue of ratification would be examined in the future.<sup>51</sup> Another country stated that this issue would have to be examined at a later stage in light of the implementation in that country of the EU Working Time Directive.<sup>52</sup> One member State reported that tripartite consultations were taking place on this issue.<sup>53</sup> One additional country was going to consider ratification but was concerned that an extended entitlement to holidays with pay might be a source of disincentive to investment by foreign investors.<sup>54</sup>

## Revision

29. *In favour of revision: Seven countries* were in favour of a revision.<sup>55</sup> It is notable that two of these countries were also in favour of ratification. One of these countries<sup>56</sup> stated that it had already ratified Convention No. 132 and that the Convention “continues to serve its purpose, providing workers with at least reasonable basic security. It also allows for flexible application in different member States. The impacts of the Convention on the provisions contained in Finnish legislation, for instance, are quite clearly to be seen”. Nevertheless, this country favoured the revision of the Convention in order to allow sufficient freedom to workers and employers to negotiate flexible agreements on holiday arrangements and to take into consideration atypical employment contracts. The other country<sup>57</sup> saw no obstacles to ratification but also suggested that the Convention might be revised in order to harmonize its provisions with the European Social Charter.<sup>58</sup> In addition to this, another country<sup>59</sup> considered that its national legislation complied with the essential requirements of the Convention but would support its revision so that the Convention would become less prescriptively detailed and more flexible. Of the remaining countries in favour of revision, two countries<sup>60</sup> felt that revision was appropriate because the Convention set inflexible and overly high standards which ran contrary to the current economic trend of trade liberalization and globalization. Another country<sup>61</sup> noted that the Convention reflected practices of industrialized countries and suggested that the annual paid holiday be reduced to ten working days and that the qualifying period

<sup>50</sup> *Belarus*. The new Labour Code was adopted on 26 July 1999: Text No. 432, *Vedomosti Verkhovnoho Soveta*, 1999-09-15, No. 26-27, pp. 2-203. Text available in DOC.NORMES in Russian.

<sup>51</sup> *Guinea-Bissau, Lebanon, Mauritius and Seychelles*.

<sup>52</sup> *United Kingdom*.

<sup>53</sup> *Dominican Republic*.

<sup>54</sup> *Ghana*.

<sup>55</sup> *Egypt, Estonia, Finland, Republic of Korea, New Zealand, Thailand and Qatar*.

<sup>56</sup> *Finland*. A Finnish workers’ organization suggested an extension of the examples mentioned in Article 5, para. 4, of the Convention.

<sup>57</sup> *Estonia*.

<sup>58</sup> It should be mentioned in this regard that, as already seen, the European Social Charter and the case law of the European Committee largely parallel the provisions of Convention No. 132. See *supra* No. 7.

<sup>59</sup> *New Zealand*.

<sup>60</sup> *Egypt and Republic of Korea* (an employers’ organization from the Republic of Korea considered that there were no specific obstacles or difficulties which might delay or prevent the ratification of this Convention).

<sup>61</sup> *Thailand*.

of service be extended to one year. Finally, one country<sup>62</sup> suggested that a revision of Article 9 on the postponement of annual leave might facilitate ratification.

30. *Against revision: Three countries* reported that they were against revision.<sup>63</sup> Out of these, two countries considered that the Convention ensured sufficient support and protection to employees.<sup>64</sup> One country<sup>65</sup> stated that although it was unable to ratify for the moment, it was against full or partial revision because the Convention constituted a good guide for member State action.

## Conclusions

31. The detailed analysis of the consultations did not seem to provide clear indications as to the prospects for ratification, the obstacles to ratification or the need for revision of Convention No. 132. The outcome of these consultations is examined below in the light of the additional information obtained in the survey of national legislation.

## Recent developments in national legislation

### Introduction

32. In order to provide the Working Party with additional information on obstacles and difficulties encountered with regard to ratification, the actual situation with respect to annual leave in selected countries has been further examined on the basis of publicly available information in NATLEX, the ILO database on national legislation.<sup>66</sup> The Office has chosen to focus its attention on annual leave legislation, enacted or amended in the last ten years in ILO member States, which have not ratified Convention No. 132. Such legislation was found in 41 member States.<sup>67</sup> The regional representation

<sup>62</sup> *Qatar.*

<sup>63</sup> *Czech Republic, Hungary and Mexico.*

<sup>64</sup> *Czech Republic and Hungary.*

<sup>65</sup> *Mexico.*

<sup>66</sup> This information is thus not the result of direct consultations with the member States and complemented with information on the actual manner of implementation of the provisions in question. The conclusions that can be drawn from the analysis carried out are therefore general trends in legislation as they appear in the principal acts. Furthermore, account has been taken exclusively of the minimum level of annual leave entitlements in each country. In addition, it has only been possible to take into account provisions relevant to formal employment, that is, long-term employment in the framework of a five- or six-day working week and an eight-hour working day. Provisions that relate to specific categories of employees or contracts have not been taken into account.

It should be noted in this respect that large groups of workers, for example, in agriculture and in the informal sector of industry, commerce and services especially in developing countries, do not benefit from these provisions either because they are formally excluded from coverage or because enforcement is inadequate. Clerc, J.-M.: *Introduction to working conditions and environment*, ILO Geneva, 1985, p. 139; *Conditions of work and the working environment*, Report III, Sixth African Regional Conference, Tunis, October 1983, pp. 12-13.

<sup>67</sup> *Albania, Algeria, Austria, Azerbaijan, Benin, Bulgaria, Burundi, Chad, Chile, China, Côte d'Ivoire, Denmark, Dominican Republic, El Salvador, Estonia, Ethiopia, Gabon, Islamic Republic of Iran, Japan, Jordan, Kazakhstan, Republic of Korea, Lao People's Democratic Republic, Lesotho, Lithuania, Mali, Mexico, Namibia, Nicaragua, Nepal, Panama, Paraguay, Poland, Russian Federation, Senegal, Seychelles, Slovakia, Sudan, United Kingdom, Venezuela and Viet Nam.*

was as follows: Africa: 13;<sup>68</sup> Americas: 8;<sup>69</sup> Asia: 9;<sup>70</sup> and Europe: 11.<sup>71</sup> The results of this examination are presented below and the factual information collected is summarized in tabular form in Annex I.

## Benefits

33. Regarding the absolute minimum duration of annual leave (Article 3), legislation in 25 of the 41 countries examined provides for a minimum of three to five weeks of annual leave.<sup>72</sup> Of these, 17 countries prescribe *a longer* annual leave entitlement than the minimum established in the Convention, ranging from one month to five weeks.<sup>73</sup> In 15 countries the minimum duration *falls below* the standards set in the Convention and ranges between seven and 20 calendar days.<sup>74</sup> In the vast majority of countries the law extends this minimum for reasons of seniority, age, safety and health, the economic importance of an industry and the raising of children. Moreover, the minimum duration is usually extended through collective agreements.<sup>75</sup> In the African and European countries examined the annual leave entitlement tends to be higher than the minimum duration established in the Convention while in the Asian countries examined and, to a lesser extent, in the South American countries reviewed, the legislation tends to fall below this threshold.<sup>76</sup>
34. Legislation in 24 countries grants proportional leave when the effective service period is less than a year (Article 2.1).<sup>77</sup> In another four countries the entire leave can be granted at any time of the year regardless of the corresponding effective service period.<sup>78</sup> In this case, even if proportional leave in the strict sense is not available, the national provisions actually surpass the standards set in the

<sup>68</sup> *Algeria, Benin, Burundi, Chad, Côte d'Ivoire, Ethiopia, Gabon, Lesotho, Mali, Namibia, Senegal, Sudan and Seychelles.*

<sup>69</sup> *Chile, Dominican Republic, El Salvador, Mexico, Nicaragua, Panama, Paraguay and Venezuela.*

<sup>70</sup> *China, Islamic Republic of Iran, Japan, Jordan, Kazakhstan, Republic of Korea, Lao People's Democratic Republic, Nepal and Viet Nam.*

<sup>71</sup> *Albania, Austria, Azerbaijan, Bulgaria, Denmark, Estonia, Lithuania, Poland, Russian Federation, Slovakia and United Kingdom.*

<sup>72</sup> *Albania, Algeria, Austria, Azerbaijan, Benin, Burundi, Chad, Chile, Côte d'Ivoire, Denmark, Estonia, Gabon, Islamic Republic of Iran, Republic of Korea, Lithuania, Mali, Namibia, Nicaragua, Panama, Poland, Russian Federation, Senegal, Seychelles, Slovakia and United Kingdom.*

<sup>73</sup> *Algeria, Austria, Benin, Chad, Côte d'Ivoire, Denmark, Estonia, Gabon, Islamic Republic of Iran, Lithuania, Mali, Namibia, Nicaragua, Panama, Russian Federation, Senegal and United Kingdom.*

<sup>74</sup> *Bulgaria, Dominican Republic, El Salvador, Ethiopia, Japan, Jordan, Kazakhstan, Lao People's Democratic Republic, Lesotho, Mexico, Nepal, Paraguay, Sudan, Venezuela and Viet Nam.*

<sup>75</sup> It should also be mentioned that in one case (*China*) the general law does not specify any minimum duration.

<sup>76</sup> An element to be taken into account in the African case is the method of calculation of the annual leave, which is estimated as a certain number of days per working month, the latter being defined as a certain number of working days and hours.

<sup>77</sup> *Albania, Algeria, Benin, Chad, Côte d'Ivoire, Denmark, Dominican Republic, Estonia, Ethiopia, Gabon, Islamic Republic of Iran, Jordan, Republic of Korea, Lesotho, Mali, Mexico, Nepal, Poland, Senegal, Seychelles, Slovakia, United Kingdom, Venezuela and Viet Nam.* Nicaragua is a special case as the entitlement arises every six months.

<sup>78</sup> *Austria, Azerbaijan, Lithuania and Russian Federation.*



Convention. Five countries do not provide for proportional leave.<sup>79</sup> In these cases, the entitlement arises every time a reference period of work, usually 12 months, is completed.

35. A majority of 23 countries set standards that require a minimum service period (Article 5) ranging from eight months to one year.<sup>80</sup> Eighteen countries have adopted standards comparable to the Convention by either not requiring a minimum service period or setting its duration between three and six months.<sup>81</sup>

### **Calculation of benefits**

36. Laws and regulations in 23 countries provide that absences due to illness, injury, maternity or reasons beyond the control of the employee are to be considered as part of the service period in full or in part (Article 5.4).<sup>82</sup> In four countries such periods of absence are specifically excluded from the effective service period.<sup>83</sup> In 14 cases relevant provisions did not seem to be included in the specific law under examination.<sup>84</sup>
37. In 22 countries periods of incapacity for work seem to interrupt the minimum annual holiday<sup>85</sup> while in 23 countries public or customary holidays are not counted in the minimum holiday period<sup>86</sup> (Article 6).

### **Modalities for exercising the benefits**

38. Twenty countries explicitly provide for advance remuneration of workers before their departure on holiday (Article 7).<sup>87</sup> A regional difference is noticeable in that such provisions are most common in Africa, South America and, to a lesser extent, Europe. Most available texts from Asia do not specify

<sup>79</sup> *Burundi, El Salvador, Lao People's Democratic Republic, Namibia and Paraguay.*

<sup>80</sup> *Benin, Bulgaria, Burundi, Chad, Chile, China, Côte d'Ivoire, El Salvador, Ethiopia, Gabon, Kazakhstan, Republic of Korea, Lao People's Democratic Republic, Mali, Mexico, Namibia, Panama, Paraguay, Russian Federation, Senegal, Sudan, Venezuela and Viet Nam.*

<sup>81</sup> *Albania, Algeria, Austria, Azerbaijan, Denmark, Dominican Republic, Estonia, Islamic Republic of Iran, Japan, Jordan, Lesotho, Lithuania, Nicaragua, Nepal, Poland, Seychelles, Slovakia and United Kingdom*

<sup>82</sup> *Albania, Algeria, Austria, Benin, Chad, Denmark, Estonia, Islamic Republic of Iran, Japan, Kazakhstan, Republic of Korea, Lesotho, Lithuania, Mali, Namibia, Nicaragua, Nepal, Panama, Poland, Russian Federation, Senegal, Slovakia and Venezuela.*

<sup>83</sup> *Burundi, Côte d'Ivoire, El Salvador and Gabon.*

<sup>84</sup> *Azerbaijan, Bulgaria, Chile, China, Dominican Republic, Ethiopia, Jordan, Lao People's Democratic Republic, Mexico, Paraguay, Seychelles, Sudan, United Kingdom and Viet Nam.*

<sup>85</sup> *Albania, Algeria, Austria, Benin, Bulgaria, Burundi, Côte d'Ivoire, Denmark, Dominican Republic, Estonia, Ethiopia, Gabon, Jordan, Kazakhstan, Lesotho, Lithuania, Namibia, Panama, Poland, Russian Federation, Slovakia and Venezuela.*

<sup>86</sup> *Algeria, Benin, Bulgaria, Burundi, Chad, Côte d'Ivoire, Denmark, Dominican Republic, Estonia, Gabon, Islamic Republic of Iran, Kazakhstan, Lao People's Democratic Republic, Lesotho, Lithuania, Namibia, Panama, Poland, Russian Federation, Senegal, Slovakia, Venezuela and Viet Nam.*

<sup>87</sup> *Albania, Austria, Benin, Burundi, Chad, Côte d'Ivoire, Denmark, Dominican Republic, El Salvador, Estonia, Gabon, Kazakhstan, Lithuania, Mali, Namibia, Panama, Paraguay, Senegal, Venezuela and Viet Nam.*

anything on this issue. As regards fractioning of annual leave and minimum duration (Article 8) as well as the question of timing of annual leave (Article 9) it is difficult to distinguish any general pattern from the examination of the national legislation due especially to the existence of exceptions to the general provisions contained in national laws.

## **Safeguards**

39. Regarding scheduling of annual leave (Article 10), three types of systems can be identified. In 14 countries, scheduling seems to be carried out in accordance with specific legal provisions or in consultation with the representative trade union or the relevant workers' organizations, or by mutual agreement with the workers. These cases are indicated in the table with the expression "agreement".<sup>88</sup> In 12 countries the employer can schedule the leave while maintaining a balance between the wishes of the worker and the need not to disturb the normal course of work.<sup>89</sup> These cases are indicated in the table with the expression "balance of interests". In nine countries the law confers upon the employer discretion to schedule the leave without further significant requirements.<sup>90</sup> These cases are indicated with the expression "employer's discretion".
40. The legislation in 35 countries provides that in case of termination of employment, the worker is entitled to a holiday with pay proportionate to the length of service or compensation in lieu thereof (Article 11).<sup>91</sup> In five countries the particular law examined did not seem to contain relevant provisions.<sup>92</sup>
41. National legislation in 32 countries prohibits the relinquishing of the right to annual leave in full or in part (Article 12).<sup>93</sup>

## **Conclusion**

42. This analysis leads to the tentative conclusion that approximately one-fourth of the national laws examined seem to fully reflect the requirements of Convention No. 132.<sup>94</sup> In addition, if national legislation in certain cases could be adjusted to accommodate the provisions in Articles 5 (minimum

<sup>88</sup> *Azerbaijan, Burundi, Islamic Republic of Iran, Kazakhstan, Lesotho, Lithuania, Mexico, Poland, Russian Federation, Seychelles, Slovakia, United Kingdom, Venezuela and Viet Nam.*

<sup>89</sup> *Albania, Austria, Chad, Côte d'Ivoire, Denmark, Estonia, Ethiopia, Japan, Jordan, Republic of Korea, Panama and Paraguay.*

<sup>90</sup> *Algeria, Benin, Bulgaria, Dominican Republic, El Salvador, Gabon, Namibia, Nicaragua and Nepal.*

<sup>91</sup> *Albania, Austria, Benin, Bulgaria, Burundi, Chad, Chile, Côte d'Ivoire, Denmark, Dominican Republic, El Salvador, Estonia, Ethiopia, Gabon, Islamic Republic of Iran, Jordan, Kazakhstan, Lesotho, Lithuania, Mali, Mexico, Namibia, Nicaragua, Nepal, Panama, Paraguay, Poland, Russian Federation, Senegal, Seychelles, Slovakia, Sudan, United Kingdom, Venezuela and Viet Nam.*

<sup>92</sup> *Algeria, Azerbaijan, China, Japan and Lao People's Democratic Republic.*

<sup>93</sup> *Algeria, Austria, Azerbaijan, Benin, Bulgaria, Burundi, Chad, Chile, Côte d'Ivoire, Denmark, Dominican Republic, El Salvador, Estonia, Ethiopia, Gabon, Jordan, Kazakhstan, Republic of Korea, Lesotho, Lithuania, Mali, Mexico, Namibia, Panama, Paraguay, Poland, Russian Federation, Senegal, Seychelles, Slovakia, United Kingdom and Venezuela.*

<sup>94</sup> *Algeria, Austria, Azerbaijan, Denmark, Estonia, Islamic Republic of Iran, Lithuania, Nicaragua, Poland, Slovakia and United Kingdom.*

service period) and 8 (division of annual leave), the legislation in approximately half of the countries examined would be in conformity with the Convention.<sup>95</sup>

43. Another finding is that a significant number of countries, both industrialized and developing, have legislation that provides for higher levels of protection as regards minimum annual leave<sup>96</sup> (Article 3) and time limits within which leave may be granted<sup>97</sup> (Article 9).
44. The regional differences that merit attention include the fact that national legislation in Europe tends to fully comply or provide for higher levels of entitlements than Convention No. 132.<sup>98</sup> In the African countries examined the main obstacle to ratification seems to concern the question of the minimum length of service. In the Latin American countries at issue the main obstacles to ratification seem to relate to the minimum length of annual leave and the duration of the minimum service period. In the Asian countries concerned the legislation examined revealed no general pattern and in certain cases an extensive review of national legislation would seem necessary for compliance with Convention No. 132.

## Conclusions concerning obstacles and difficulties encountered

45. Since its examination in 1997, Convention No. 132 has received four new ratifications. This fact in itself is a positive trend. Furthermore, the analysis of national legislation and the consultations in 1997 provide grounds to believe that there were no or few obstacles preventing ratification in approximately half of the countries examined and eight countries which responded to the consultations.<sup>99</sup> In addition, the question of ratification was under consideration in an additional ten countries.<sup>100</sup> These countries therefore could potentially ratify Convention No. 132.
46. However, the reports received in the consultations also revealed that there were obstacles to ratification in approximately half of the countries examined and 30 of the countries responding to the consultations.<sup>101</sup> The obstacles reported preventing ratification covered almost every aspect of the Convention. Most of the comments reported related to difficulties concerning Article 3 on the minimum length of annual leave.
47. As regards the calls for a revision of Convention No. 132, the views expressed in the consultation in favour of revision were not homogeneous. Fundamental differences seemed to prevail between the opinions of industrialized and developing countries on the justification, content and goal of such revision.
48. Among the industrialized countries in favour of revision, the majority were European countries that declared that they had either ratified the Convention or applied its main provisions in practice. This

<sup>95</sup> On the basis of the available information, this seems to be the case for *Albania, Benin, Chad, Chile, Côte d'Ivoire, Gabon, Republic of Korea, Namibia, Russian Federation* and *Sudan*.

<sup>96</sup> *Algeria, Austria, Benin, Chad, Côte d'Ivoire, Denmark, Estonia, Gabon, Islamic Republic of Iran, Lithuania, Mali, Namibia, Nicaragua, Panama, Russian Federation, Senegal* and *United Kingdom*.

<sup>97</sup> *Azerbaijan, Dominican Republic, El Salvador, Islamic Republic of Iran, Kazakhstan, Lithuania, Mexico, Namibia, Nicaragua, Panama, Paraguay* and *Poland*.

<sup>98</sup> *Austria, Azerbaijan, Denmark, Estonia, Lithuania, Poland, Slovakia* and *United Kingdom*.

<sup>99</sup> *supra*, paras. 25 and 42.

<sup>100</sup> *supra*, para 28.

<sup>101</sup> *supra*, paras. 26-27 and 42.

is confirmed by the survey of national legislation, which indicates that European countries, including countries in transition, are in the process of implementing and surpassing the levels of protection established in Convention No. 132. The arguments of these countries in favour of revision seem to be based on the need to address the emergence of a new labour market relying on atypical forms of work. The relationship between Convention No. 132 and atypical forms of work will be further examined later on in the survey. As will be seen, many questions remain unanswered regarding the nature of this market and its relationship to international labour standards, including Convention No. 132. Thus, at this stage, the question arises whether it would not be most appropriate to address these needs in the context of a preliminary examination of future ILO action in relation to emerging practices in the field of flexible work conditions rather than in the context of a revision of Convention No. 132.

49. The available information presented in this report seems to indicate that Convention No. 132 primarily relates to and exerts influence upon work arrangements prevailing outside Europe, to countries aspiring to improved levels of social and economic development. In the 1997 consultations many of these countries seemed to consider that their level of economic development did not allow them to implement the requirements of the Convention for the time being. Some of them also referred to the need to attract investment and to avoid economic rigidities in light of globalization and trade liberalization. Nevertheless, most of the developing countries expressing their views in the 1997 consultations did not call for a revision of Convention No. 132. One among them stated that economic development could not be used as an independent argument to justify a revision of the Convention which could serve as a guide for future social development.
50. The complexity of the issues raised during the 1997 consultations seems to require further examination of the social and economic objectives of Convention No. 132, in the context of the emerging flexible labour market.

## **The social and economic objectives of Convention No. 132**

### **Annual leave as a means to protect safety and health**

51. The main and traditional goal of the entitlement to holidays with pay is to protect workers' health and to enable them to regain the physical and mental strength which they invested in work during the year. Annual leave compensates the physiological, neurological and psychological risks that workers encounter in the modern world of work by placing limits on long, uninterrupted periods of work, shortening the period of exposure to the sources of risk and giving workers an opportunity to relax and eliminate any harmful substances and influences from their system.<sup>102</sup>
52. In the present world of work it would seem that the considerations that gave rise to Convention No. 132 are as current as ever.
53. There is little disagreement that the physiological and psychological effects of the long duration of work on performance are such that there is an absolute ceiling to the energy which an individual can convert to the tasks of production, after which the counter-productive effects of fatigue set in.<sup>103</sup> There is clear evidence that fatigue is an important factor in occupational accidents and diseases.<sup>104</sup>

<sup>102</sup> *supra*, paras. 15-17.

<sup>103</sup> "Working time around the world", in *Conditions of Work Digest*, Vol. 14 (1995), Geneva, ILO, p. 19.

<sup>104</sup> Desoille, H.; Scherrer, J.; Truhaut, R.: *Précis de médecine du travail*, 6th édition, Paris, Masson, 1992, pp. 234-235.

In the conditions prevailing in the industrial world the causes of fatigue comprise muscular, sensorial, neurological, endocrinological, psychological and psycho-sociological aspects.<sup>105</sup>

54. Besides muscular fatigue, which is relatively straightforward and easy to observe, the modern working world has witnessed the emergence of other types of fatigue, due to neurological and psychological strain.<sup>106</sup> As workers are increasingly induced to accommodate the rhythm of machines, investing continuous concentration, attention and precision for long hours, working life is rendered frenetic and traumatizing for the neurological system. The result can be the exhaustion of energy, stress and, depending on the type and conditions of work, lack of interest due to monotony. Moreover, long working hours increase the risk of negative health behaviours such as smoking, alcohol abuse, lack of physical activity, sleeplessness, poor eating habits, fewer chances for medical examination, obesity, as well as anxiety, strain and irritability.<sup>107</sup> The urgent character of this problem has been underlined by the Director-General in his report *Decent work* which noted with alarm the increase of a number of new work-related health issues such as burn-out as a result of work-related stress, “workaholism” and overwork, especially among highly paid white-collar workers.<sup>108</sup>
55. In addition, at the family level, the attempt to balance work and family life appears to produce inevitable conflict and stress. Concerns about care of children and other dependants, and marital and family problems could interfere with concentration at work and increase absenteeism, stress, fatigue and, as already mentioned, the likelihood of accidents.<sup>109</sup> Annual leave is a traditional feature of family life that can make a crucial difference in how well a worker can cope with care-giving responsibilities.
56. Convention No. 132 is thus clearly related to the larger issue concerning “Work and family in the 21st century” that is the subject of a proposal to be examined in the context of possible items to be placed on the agenda of the International Labour Conference for a general discussion. In that context it is stated that “the length of working time, but also most importantly the arrangement of working time, are important factors for workers in balancing work and family responsibilities. [...] Developments in flexible working time arrangements and leave arrangements, including in

<sup>105</sup> *ibid.*, p. 232.

<sup>106</sup> *ibid.*, p. 233.

<sup>107</sup> Shields, Margot: “Long working hours and health”, in *Perspectives on Labour and Income*, Vol. 12, No. 1 (Spring 2000), p. 49.

<sup>108</sup> Report of the Director-General to the 87th Session of the International Labour Conference, Geneva, 1999, pp. 37-38.

<sup>109</sup> As observed in 1992 by a member of the Australian Council for Equal Opportunity in Employment (established by the Business Council of Australia and the Confederation of Australian Industry), “while more is expected of generally fewer people in the workplace, these same people – men and women – want to be responsible and involved family and community members. The challenge, then, is to develop practices and policies which are responsive to employee needs, which also meet the organization’s business goals, including cost containment.” Carmody, H.: “Work, family and productivity: Business responses”, in *Business Council Bulletin*, Aug. 1992, pp. 32-33. Hoskins, Irene: “Combining work and care for the elderly: An overview of the issues”, in *International Labour Review*, Vol. 132, No. 3 (1993), pp. 347, 358; *Famille et organisation des temps* – Report No. 13, Economic and Social Council, Geneva, Nov. 1999, p. 28; De Lavergne, Philippe; Covo-Dahan, Patricia; De Lavergne, François: *Etude comparative de l’intégration du fait familial dans les modes de gestion des ressources humaines des grandes entreprises en France, Belgique, Allemagne et Italie – Recherche pour la caisse nationale d’allocations familiales*, Fere Consultants, Paris, 1995, p. 25; Strachan, Glenda; Burgess, John: “The ‘family-friendly’ workplace: Origins, meaning and application at Australian workplaces”, in *International Journal of Manpower*, Vol. 19, No. 4 (1998), p. 250.

particular the extent to which there is flexibility in schedules at the initiative of the workers, are crucial in this regard".<sup>110</sup>

57. The social aspect of annual leave is equally important. As a widespread and longstanding institution, annual leave has become embedded in community life and represents a reference point around which revolves a collective rhythm of leisure and social activities.
58. In the light of the above, it is clear that the synchronization of work with periodical intervals of leave has been and remains essential for the welfare and the occupational safety and health of workers.

## Annual leave as a redistributive instrument

59. The second rationale of Convention No. 132 and the entitlement to annual leave more generally is that it represents a method to redistribute gains derived from increases in productivity in the form of more leisure available to workers. As incomes rise, basic needs are met, time becomes relatively scarcer and there is growing interest in distributing productivity gains in the form of shorter working time.<sup>111</sup> Since the turn of the century technological developments, changes in work organization and the institutionalization of collective bargaining in industrialized countries have given rise to a combined trend of shorter working hours, increasing hourly productivity and rising gross national product per capita.<sup>112</sup> The gains flowing from increases in productivity have been redistributed to workers, on the one hand, by rising real incomes and a gradual improvement of living standards and, on the other hand, the reduction of full-time workers' standard working hours, through means such as shorter working weeks or more days of paid leave.
60. Thus the redistributive function of annual leave has been put to practice in correlation with a trend of decreasing working time and increasing productivity. Annual working time of full-time employees has decreased over the last 100 years in all industrialized countries and a generalized and constant trend of granting longer annual holidays and providing more favourable conditions for the exercise of this entitlement has been observed since 1936 when the first ILO instruments on the matter were adopted.<sup>113</sup>
61. A relevant question to examine is whether these trends towards shorter working time and more annual leave will continue in the future. This can be an indicator of the further ratification prospects for Convention No. 132.
62. Two important trends that have emerged over the past 20 years are relevant in this context. The first is that the pattern of diminishing working time, which has appeared in the process of development of the presently industrialized part of the world, does not seem to correspond to trends observed today in developing countries. Average annual working hours in developing countries are still significantly in excess of 2,000 hours in the formal sector. Overtime may push these hours beyond 3,000 hours. These numbers are almost twice as high as those prevailing in industrialized countries and are comparable to annual hours in Europe in the early twentieth century.<sup>114</sup> In addition, it has

<sup>110</sup> GB.279/5/1.

<sup>111</sup> Bosch, Gerhard: "Working time: Tendencies and emerging issues", in *International Labour Review*, Vol. 138 (1999), pp. 131, 138; White, Michael: *Working Hours: Assessing the potential for reduction*, ILO, Geneva, 1987, pp. 2-3

<sup>112</sup> Bosch, *ibid.*, p. 134.

<sup>113</sup> See the two general surveys on annual leave, *supra* Nos. 12 and 18. See also *Conditions of Work Digest*, *supra* No. 103.

<sup>114</sup> Bosch, *supra* No. 111, pp. 135-136.

been observed that in certain developing countries working time has tended to increase from an already high level.<sup>115</sup>

63. Second, working time appears to be on the rise in certain industrialized countries, particularly countries where labour markets have been deregulated.<sup>116</sup> In other industrialized countries working time continues to decrease.<sup>117</sup> But even in these cases, account has to be taken of the fact that atypical forms of employment have introduced an increased diversification of working time with the potential of replacing the previous more clear-cut and uniform patterns.<sup>118</sup> These trends indicate that a growing gap in annual working hours appears between countries where working time is increasing and countries where it remains at the same level or is decreasing.<sup>119</sup>
64. According to an ILO study, one of the principal factors that contribute to this growing gap in annual working hours is a difference in entitlements to annual leave in various regions of the world.<sup>120</sup> This difference in the time that workers take off for vacation could be attributed to disparities in basic social security structures, income inequality levels and uncertainty due to job precariousness prevailing in different parts of the world.
65. For instance, it has been suggested that in countries where income inequality has increased, labour markets have been deregulated and average and lower incomes have stagnated or fallen, workers at the lower end of the income scale are trying to compensate for precarious employment and the decline in their earnings by increasing the supply of labour.<sup>121</sup> At the same time, workers at higher income levels try to preserve their status by working longer hours. In general, there is evidence that high rewards to success in combination with lack of job security and low social safety nets may explain the cross-country differences in hours worked, including differences with regard to holiday time.<sup>122</sup>

<sup>115</sup> *ibid.*

<sup>116</sup> *United States, United Kingdom and New Zealand.* Bosch, *supra* No. 111, p. 135; Rosenberg, Sam: "More work for some, less work for others: Working hours in the USA", in *Futures*, Special Issue: Working Time, Vol. 25, No. 5 (June 1993), p. 551; for an analysis of the labour market situation in these countries, see also: GB.279/LILS/WP/PRS/1/3, Deferred examination of the Termination of Employment Convention, 1970 (No. 158) including the short survey on this Convention.

<sup>117</sup> *France and Germany.* Bosch, *supra* No. 111, p. 136; Bosch, Gerhard: "The evolution of working time in Germany", in *Futures*, Special Issue: Working Time, Vol. 25, No. 5 (June 1993), p. 521; Boulin, Jean-Yves: "French policies on working time", in *Futures*, p. 578.

<sup>118</sup> Boulin, Jean-Yves; Cette, Gilbert; Taddéi, Dominique: "A major change in working time", in *Futures*, Special Issue: Working Time, Vol. 25, No. 5 (June 1993), p. 494.

<sup>119</sup> Marchand, Olivier: "An international comparison of working times", in *Futures*, Special Issue: Working Time, Vol. 25, No. 5 (June 1993), p. 502.

<sup>120</sup> *Conditions of Work Digest*, *supra* No. 103, pp. 31-32.

<sup>121</sup> Bosch, *supra* No. 111, pp. 138-139.

<sup>122</sup> Bell, L.; Freeman, R.: *Why do Americans and Germans work different hours?* Working Paper No. 4808, National Bureau of Economic Research, Cambridge, MA, 1994. These trends could be related to the surge of new forms of work-related health hazards noted in the previous section. This raises the question whether Convention No. 132 merely creates or should create individual entitlements binding only on the employer or whether it touches upon matters of public policy, imposable on all, including the employee in the higher interest of public health. This raises further

66. These observations serve to underline, first, that the entitlement to annual holidays is an integral part of a more general framework of social protection and reflects fundamental social policy issues such as the existence of strong collective bargaining structures, stable income distribution and strong social safety nets. In reply to the argument that the dismantling of annual leave could lead to faster economic development, it should be underlined that such a development would impair the channels available for the redistribution of the gains deriving from such economic progress and that the costs of such action could offset any benefits. There is a widespread belief that in the absence of fundamental institutions for ensuring social justice and distributional equity economic development is not likely to be sustainable.<sup>123</sup> This is the rationale of the ILO's call for decent work.
67. The second observation to draw from this analysis is that work patterns reflecting widening income inequalities and a lack of social safety nets appear to have the potential of mitigating the redistributive function of annual leave. The divergent working time patterns noted in this section could create obstacles to ratification of Convention No. 132. Thus, it would seem that further research and discussion would be required in order to have a clearer view of the current trends regarding working time and how international labour standards on working time such as Convention No. 132 may be affected by these trends, particularly in the light of recent developments towards greater flexibility.

## Recent developments towards greater flexibility and their implications

68. An important question arising with regard to annual leave is whether this entitlement, as prescribed in Convention No. 132, remains relevant and realistic in light of a current development in the labour market towards what seems to be an increase in flexible forms of work. The forces of economic globalization and technological innovation tend to influence the traditional organizational framework of work and give rise to calls in favour of the promotion of competitiveness and (possibly) employment by making the labour market more flexible.
69. Although frequent reference is made to the notion of flexibility, there is a certain amount of uncertainty as to the proper meaning of this notion. A recent ILO study defines flexibility as “the ability of an enterprise (i) to adjust the level and timing of labour inputs to changes in demand, (ii) to vary the level of wages according to productivity and ability to pay, and (iii) to deploy workers between tasks to meet changes in demand”.<sup>124</sup>
70. The word “ability” does not refer to any competence conferred by law upon enterprises. On the contrary, this “ability” is sometimes equated with the result of the absence of regulation.<sup>125</sup> According to this view, the legislator's abstention from interfering in the labour market is supposed to enhance the freedom of private actors to introduce variable, tailor-made solutions to contracts of employment, working time conditions, pay systems and work organization, with a view to increasing efficiency by closely aligning production patterns and labour demand.

questions regarding the applicability of Convention No. 132 in the context of practices to hold several parallel employments.

<sup>123</sup> Anand, S.; Sen, A.: *Sustainable human development: Concepts and priorities*, UNDP Human Development Report Office, Occasional Paper No. 8, New York, 1994; Sen, A.: *Development thinking at the beginning of the 21st century*, discussion paper presented at a Conference on “Development Thinking and Practice” of the Inter-American Bank for Development, Washington, DC, 3-5 Sep. 1996.

<sup>124</sup> Ozaki, Muneto (gen. ed.): *Negotiating flexibility: The role of the social partners and the State*, ILO, Geneva, 1999, p. 2.

<sup>125</sup> See also short survey on Convention No. 158, GB.279/LILS/WP/PRS/1/3.



71. This view of flexibility is countered by alternative theories on the relationship between economic efficiency and the law. Those who underline the importance of legal safeguards as a means to avoid market imperfections and structural deficiencies in the labour market accord a fundamental and essential role to legal institutions in the pursuit of economic efficiency.<sup>126</sup> According to this view, flexibility does not reside in the absence of regulation but in the existence of a sufficiently general legislative framework to accommodate variable needs and tailor-made solutions while safeguarding certain fundamental values.
72. Finally, a third type of approach gives fundamental importance to the issue of distribution of the costs (or risks) and benefits which derive from flexibility among different stakeholders in the labour market.<sup>127</sup> According to this approach, flexibility is a mechanism for the redistribution of the costs of uncertain economic prospects, from the level of the enterprise to that of the individual worker. An appropriate balance between regulation and economic freedom can be achieved through a case-by-case analysis and comparison of the costs and benefits arising as a result of the flexibilization of work for the enterprise, the individual worker and society at large. Such an analysis can serve to identify the aspects which deserve to be promoted and protected.<sup>128</sup>
73. Several types of labour flexibility can be distinguished. The first is *time flexibility*. It refers to arrangements that attempt to ensure that hours of work reflect seasonal fluctuations in labour demand. The most widespread and longstanding method to achieve such flexibility is the use of overtime. Nowadays, however, flexible arrangements move beyond the traditional organization of working time (that is, the five- or six-day week and the eight-hour day complemented with eventual overtime) on the basis of new solutions comprising part-time work, staggered working times, variable daily shift lengths and annualized working hours.
74. Another type of flexibility is *contractual flexibility*. This refers to a range of practices, which attempt to replace the traditional scheme of work (which can be described as long-term, full-time employment within the same enterprise in which career development takes place<sup>129</sup>) with new arrangements ranging from temporary contracts, short-term contracts, training contracts and casual employment to contractual forms which avoid the creation of an employment relationship altogether (franchising, subcontracting, use of agencies and consultants, etc.).
75. Another form of flexibility is *pay flexibility* and it is an attempt to replace a predictable and stable wage with fluctuating payments reflecting changes in individual and collective productivity and to competitive cost pressures exerted by markets.
76. A further form of flexibility relates to *workplace organization* and it seeks to establish work practices that readily deploy and switch workers among different tasks as the demand for labour changes. These new forms of work organization include training workers to perform multiple tasks and promoting greater cooperation and teamwork. A related type of flexibility concerns the place of work and refers to arrangements such as home-working and “tele-working” according to which the productive process may take place at home.
77. The impact of such new forms of work on annual leave is a complex issue and no comprehensive study on the matter has been made until now. There are two questions that appear particularly relevant in this context: (1) how widespread such practices might be; and (2) whether these practices are compatible with Convention No. 132.

<sup>126</sup> *ibid.*

<sup>127</sup> Cranfield University School of Management: *Working time and contract flexibility in the EU*, Report to the European Commission, Bedford, 1997.

<sup>128</sup> *ibid.*

<sup>129</sup> Supiot, Alain (General reporter): *Au delà de l'emploi: transformations du travail et devenir du droit du travail en Europe*, Report for the European Community, Paris, Flammarion, 1999, p. 98.

78. With regard to the first question, a recent survey prepared for the European Commission by a British university analyses the extent to which flexible work practices prevail in Europe. The survey finds that despite a significant increase in the range, extent and use of flexible forms of work, most people across Europe continue to work on the basis of the old patterns.<sup>130</sup> Thus, even in Europe where such flexible arrangements are widespread, they seem to be significantly less common than traditional patterns of work organization.<sup>131</sup> Overtime remains the most commonly used form of flexibility.<sup>132</sup> The question of determining whether these findings are universally applicable and what constitutes the practice outside the European context should be further examined. More research should be undertaken to determine whether flexible forms of work are limited to industrialized countries and whether typical forms of employment continue to apply to the vast majority of workers in the world.
79. Moreover, consideration should be given to the context in which the issue of flexibility appears in most countries outside Europe. In the developing world one needs to take into account the existence of wage differentiation, the availability in the labour market of a large pool of low- or semi-skilled workers and the lack of a fully developed social protection framework.<sup>133</sup> In this context the main policy goal would seem to be the improvement of working conditions and social protection institutions whereas the policy goal in industrialized countries would be to lower unemployment rates. The impact that flexibility can have on such policy goals needs to be determined through a case-by-case analysis of the relevant practice. Moreover, it should be underscored that, as already mentioned, Convention No. 132 is an integral aspect of fundamental social policy structures and its contribution to an amelioration of working conditions in the framework of traditional work patterns seems to be evident.
80. With regard to the second question, the compatibility of flexible work arrangements with the provisions of Convention No. 132 is a vast issue with wide-ranging implications. One possible avenue for discussing this issue would be to examine whether Convention No. 132 has a sufficient degree of flexibility built into its provisions and if it can accommodate new and innovative forms of work which depart from the traditional model of the long-term employment in the framework of a regular working week and an eight-hour working day.
81. Another avenue would be to argue that the issue is not so much the accommodation of new forms of work to the provisions of Convention No. 132 as the accommodation of a whole new paradigm of work to a Convention which was drafted with a different paradigm in mind. At first sight, it appears realistic to observe that flexible forms of work challenge the most basic premises on which Convention No. 132 rests. For instance, contractual flexibility tends to question the universality of annual leave entitlements, as most atypical contracts are excluded from the standard forms of social protection which apply to traditional full-time contracts.<sup>134</sup> Also, working time flexibility tends to challenge the organizational basis of annual leave, i.e., the regular working week and the eight-hour working day. Moreover, pay flexibility could affect the redistributive function of annual leave and the collective framework within which it developed. Finally, working place flexibility raises the issue of human resources development based on continuous training and education and the relationship of educational leave to annual leave. Although, theoretically speaking, some types of labour flexibility might indeed have an influence on the issue of annual leave, the Office considers that it does not have adequate and complete information in this respect at its disposal. Additional research would be needed in order to evaluate the different ways and the extent to which various forms of labour flexibility might affect the issue of annual leave.

<sup>130</sup> Cranfield report, *supra* No. 127 p. 203.

<sup>131</sup> *ibid.*, pp. 121-202.

<sup>132</sup> *ibid.*, p. 155.

<sup>133</sup> Bosch, *supra* No. 111, p. 144.

<sup>134</sup> Ozaki, *supra* No. 124, p. 11.

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## Conclusion

82. As a result of the brief analysis undertaken in the previous section, Convention No. 132 seems to continue to be a valid guide in the majority of cases where the typical model of work relations is likely to prevail. At the same time, however, flexible forms of work should be examined more closely. As seen in this brief analysis, many questions remain unanswered regarding this recent and largely unexplored phenomenon. Such questions include identifying the practices which comprise “flexible” forms of work; determining how widespread these practices might be; specifying the context in which they appear; estimating their impact upon different kinds of stakeholders; clarifying their relationship to international labour standards, including Convention No. 132 as part of a wider set of standards on working time organization; and finally, finding appropriate means to encourage the positive aspects of flexible forms of work while discouraging any negative implications.
83. Such questions could be examined in the context of a general discussion. It should be recalled that a proposal to hold a general discussion on the question of working time in general has been included among the proposed items for a general discussion at the International Labour Conference.<sup>135</sup> The need to hold such a general discussion was most recently underscored at the 88th Session of the ILC, on the occasion of the withdrawal of five obsolete Conventions, including four Conventions concerning hours of work.<sup>136</sup> Furthermore, a proposal to discuss “Work and family” has been developed for consideration by the Governing Body at its present session.<sup>137</sup>
84. In conclusion, one should note that Convention No. 132 is an instrument of importance for upholding safe and productive work. Although there seem to be few obstacles to an eventual ratification of this Convention in approximately half the countries examined in the survey, questions have been raised regarding the relevance of Convention No. 132 in the current world of work in relation to emerging practices of flexible working time arrangements. It seems that, on balance, the status quo should be maintained regarding this Convention until a more in-depth examination of such flexible forms of work has taken place, possibly in the framework of a general discussion at the International Labour Conference.

<sup>135</sup> *Proposals for the agenda of the 90th Session (2002) of the International Labour Conference*, GB.276/2 (November 1999), paras. 198-212.

<sup>136</sup> ILC, 88th Session (2000), *Provisional Record* No. 6/2.

<sup>137</sup> GB.279/5/1.

## Annex I. Regulation on annual leave in 41 member States

1. The following table summarizes national laws on annual leave adopted or amended within the last ten years by 41 ILO member States which have not ratified Convention No. 132.
2. The table is based on information available in the legislative database of the ILO, NATLEX, and has been complemented in a few cases,<sup>1</sup> with information from other sources.
3. This legislative information has not been verified through direct consultations with member States or complemented by information on the actual manner of implementation of the legal provisions in question. Thus, the conclusions that can be drawn from the analysis carried out are only indicative.
4. The table focuses exclusively on the minimum level of annual leave entitlements in each country. Thus, only the absolute minimum benefits are depicted in the table. Moreover, provisions that relate to specific categories of contracts or employees have not been taken into account. It has only been possible to focus on provisions relevant to formal employment, that is, long-term employment in the framework of a five- or six-day working week and an eight-hour working day. Finally, the information is derived from laws of general application, such as labour codes, and it has not been possible to analyse the status of specific categories of employees.
5. The indication n.s. is used for “not specified” whenever explicit provisions were not found in the particular law that was the object of examination.
6. A list of the legislation examined is attached.

<sup>1</sup> The NATLEX database is mainly based on laws reviewed and summarized from official journals transmitted to the ILO from its member States. This transmission is occasionally interrupted for different reasons, which may affect a timely introduction of references to new legislation.

## Comparative table

	Calculation of benefits				Modalities for exercising the benefits			Safeguards			
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art. 12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Albania</b>	3 calendar weeks	No	Yes	Yes	Yes for sickness, n.s. for public holidays	Yes	Authorized, min. 6 consecutive days	6-day min. granted within 3 months after service year (leave benefit extinct if not claimed in 3 years)	Balance of interests	n.s.	Yes
<b>Algeria</b>	30 days – 6-day working week	No	Yes, 2.5 working days per month	Yes	Yes	n.s.	Authorized, min. n.s.	n.s.	Employer's discretion	Yes	n.s.
<b>Austria</b>	30 working days	6 months	Full leave granted any time in year of service (after the second year of work)	Yes if interruption is up to 3 months <sup>1</sup>	Yes for sickness (if it lasts more than 3 days), yes for public holidays	Yes	Authorized, 2 parts, one of which must be min. 6 working days	Leave granted during service year (benefit extinct if not claimed in 2 years)	Balance of interests	Yes	Yes

n.s. = not specified

<sup>1</sup> The applicability of this provision in the case of maternity is not very clear. See *Working time: Reduction of hours of work, weekly rest and holidays with pay*, General Survey by the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 4B), ILC, 70th Session (1984), p. 111.

	Benefits			Calculation of benefits		Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art. 12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Azerbaijan</b>	21 calendar days	No	Full leave granted any time in year of service	n.s.	n.s.	n.s.	Authorized, min. n.s.	Leave granted during service year	Agreement	Yes	n.s.
<b>Benin</b>	2 working days per month up to 30 days per year	1 year	Yes	Yes	Yes	Yes	Authorized, min. 14 consecutive days	Leave granted within 12 months after service year	Employer's discretion	Yes	Yes
<b>Bulgaria</b>	14 working days	8 months	n.s.	n.s.	Yes	n.s.	Authorized, 2 parts, min. n.s.	Leave granted within 1 year after service year	Employer's discretion	Yes	Yes
<b>Burundi</b>	1.6 working days per month	12 months	No (leave granted every 12 months)	No	Yes	Yes	Authorized, min. 6 consecutive working days between 2 days of weekly rest	6-day min. granted within 3 months after service year. Remaining leave granted within max. 2 years	Agreement	Yes	Yes
<b>Chad</b>	2 working days per month (6-day working week)	1 year	Yes	Yes	Yes for public holidays, n.s. for sickness	Yes	Authorized, min. 14 consecutive days	Leave granted within 12 months after service year	Balance of interests	Yes	Yes
<b>Chile</b>	15 working days (5-day working week)	1 year	n.s.	n.s.	n.s.	n.s.	Authorized on the basis of accord, min. 10 working days	Leave granted within one year after service year	n.s.	Yes	Yes

	Benefits			Calculation of benefits			Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art. 12): Yes	Entitlement in case of termination of employment (Art. 11): Yes	
<b>China</b>	n.s.	1 year	n.s.	n.s.	n.s.	n.s.	n.s.	n.s.	n.s.	n.s.	n.s.	
<b>Côte d'Ivoire</b>	2 working days per month	1 year	Yes	No	Yes	Yes	Authorized, min. 14 consecutive days	Leave granted within 12 months after service year	Balance of interests	Yes	Yes	
<b>Denmark</b>	2.5 days per month	No	Yes	Yes	Yes	Yes	Authorized, min. 18 consecutive days (12 for agriculture)	Leave granted within one year after service year	Balance of interests	Yes	Yes	
<b>Dominican Republic</b>	2 weeks	5 months	Yes	n.s.	Yes	Yes	Authorized, min. 1 week	Leave granted during service year	Employer's discretion	Yes	Yes	
<b>El Salvador</b>	15 days	1 year (200 working days)	No (leave granted every 12 months)	No	No	Yes	Authorized under conditions, min. 7 days	Leave granted 4-6 months after service year	Employer's discretion	Yes	Yes	
<b>Estonia</b>	28 calendar days	6 months (not required in certain cases)	Yes	Yes	Yes	Yes	Authorized, min. 14 calendar days	Leave granted within one year after service year	Balance of interests	Yes	Yes	
<b>Ethiopia</b>	14 working days (6.5-day working week)	1 year	Yes	n.s.	Yes for sickness, n.s. for public holidays	n.s.	Authorized, 2 parts, min. n.s.	Leave granted during service year (under conditions, leave deferred for max. 2 years)	Balance of interests	Yes	Yes	

	Benefits			Calculation of benefits		Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art.12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Gabon</b>	2 working days per month (6-day working week)	1 year	Yes	No	Yes	Yes	n.s.	n.s.	Employer's discretion	Yes	Yes
<b>Iran, Islamic Republic of</b>	1 month (including 4 Fridays)	No	Yes	Yes	Yes for public holidays, n.s. for sickness	n.s.	Authorized, min. 3 weeks	Leave granted annually (9 days may be deferred, max. n.s.)	Agreement	n.s.	Yes
<b>Japan</b>	10 working days	6 months and 80% attendance	n.s.	Yes	n.s.	n.s.	Authorized, min. n.s.	n.s.	Balance of interests	n.s.	n.s.
<b>Jordan</b>	14 days	No	Yes	n.s.	Yes for sickness no for public holidays	n.s.	Authorized, min. 6 days	Minimum granted during service year and remaining within 1 year (benefit extinct thereafter)	Balance of interests	Yes	Yes
<b>Kazakhstan</b>	18 calendar days	12 months	n.s.	Yes	Yes	Yes	Authorized at the will of the worker, min. n.s.	Leave granted at the expiration of service year (or, in exceptional cases, during the following year)	Agreement	Yes	Yes
<b>Korea, Republic of</b>	22 days	1 year without absence	Yes	Yes	n.s.	n.s.	Authorized, min. n.s.	Leave granted within one year after service year (forfeited thereafter)	Balance of interests	Yes	n.s.



	Benefits			Calculation of benefits		Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art. 12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Lao, People's Dem. Rep.</b>	15 working days	1 year and contract for indefinite period or for more than one year	No	n.s.	Yes for public holidays, n.s. for sickness	n.s.	n.s.	n.s.	n.s.	n.s.	n.s.
<b>Lesotho</b>	12 working days	No	Yes, 1 working day/month of employment	Yes	Yes	n.s.	Authorized, min. 6 consecutive working days	Minimum granted during the service year and the remaining within the following year	Agreement	Yes for 6-day min.	Yes
<b>Lithuania</b>	28 calendar days	6 months (not required in some cases)	Full leave granted any time in year of service	Yes	Yes	Yes	Authorized, min. 14 calendar days	Leave granted during the service year or, in special cases, within the following year	Agreement	Yes	Yes
<b>Mali</b>	2.5 days per month (30 days per year – 6-day working week)	12 months	Yes	Yes	n.s.	Yes	Authorized, min. 15 days (at the worker's request, min. 8 days)	Minimum granted during the service year and the remaining within 3 months (or 2 years at worker's request)	n.s.	Yes	Yes
<b>Mexico</b>	6 continuous working days per year	1 year	Yes	n.s.	n.s.	n.s.	Not authorized	Leave granted within 6 months after service year	Agreement	Yes	Yes
<b>Namibia</b>	24 consecutive days	12 consecutive months	No (leave granted every 12 months)	Yes for sickness, not for maternity	Yes	Yes	Not authorized	Leave granted within 6 months after service year	Employer's discretion	Yes	Yes

	Benefits			Calculation of benefits		Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art.12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Nicaragua</b>	15 consecutive days every six months (30 days per year)	6 consecutive months	Entitlement arises every six months	Yes	n.s.	n.s.	Authorized, 2 parts, min. 15 days	Leave granted during the service year (may be deferred in certain cases, max. n.s.)	Employer's discretion	n.s.	Yes
<b>Nepal</b>	1 day's leave for 20 working days	No	Yes	Yes	n.s.	n.s.	Yes, min. n.s.	Leave may be deferred up to accumulation of 60 days of holiday	Employer's discretion	No	Yes
<b>Panama</b>	30 days (1 day for 11 worked)	11 months	n.s.	Yes (limits for non-occupational sickness or accident)	Yes with limits	Yes	Not authorized (under conditions authorized, min. 15 days)	Leave granted within 3 months after the service year (under conditions, within 1 year)	Balance of interests	Yes	Yes
<b>Paraguay</b>	12 consecutive days	1 year	No (leave granted every 12 months)	n.s.	n.s.	Yes	Not authorized	Leave granted within 6 months (or, at worker's request, 1 year) after the service year	Balance of interests	Yes	Yes
<b>Poland</b>	18 working days (6-day working week)	6 months	Yes	Yes	Yes	n.s.	Authorized at the request of the worker, min. 14 cons. days	Minimum granted during service year and remaining within 3 months	Agreement	Yes	Yes

	Benefits			Calculation of benefits		Modalities for exercising the benefits			Safeguards		
	Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art. 12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Russian Federation</b>	24 working days (6-day working week)	11 months (not required in certain cases)	Full leave granted any time in year of service	Yes	Yes	n.s.	Not authorized (under conditions, min. 6 working days)	Leave granted during service year (in special cases, 6-day min. granted within 12 months and remaining within 2 years from service period)	Agreement	Yes	Yes
<b>Senegal</b>	2 working days per month	12 months	Yes	Yes	Yes for public holidays, n.s. for sickness	Yes	Authorized, min. 6 consecutive days	Minimum granted annually. Remaining leave granted within 2 years after the service year	n.s.	Yes	Yes
<b>Seychelles</b>	21 days	No	Yes, 1.75 days per month	n.s.	No for public holidays, n.s. for sickness	n.s.	Authorized, min. 14 consecutive days per year (unless agreed otherwise)	Minimum granted annually. Remaining leave of, at worker's request, full leave, deferred up to accumulation of 42 days of holiday	Agreement	One-third of leave may be converted into cash	Yes in certain cases
<b>Slovakia</b>	3 working weeks (7 working days)	60 days without interruption per year	Yes	Yes	Yes	n.s.	Authorized, min. 2 weeks	Minimum granted during service year. Remaining granted within 1 year after the service year	Agreement	Yes with exceptions	Yes

Benefits		Calculation of benefits			Modalities for exercising the benefits			Safeguards		
Minimum length of annual leave (Art. 3): 3 weeks	Qualifying service period (Art. 5): Optional requirement max. 6 months	Proportional leave (Art. 4.1): Yes	Inclusion of maternity, illness, etc., in service period (Art. 5.4): Yes	Exclusion of sickness, public holidays, etc., from vacation (Art. 6): Yes	Advance remuneration (Art. 7): Yes	Division of vacation authorized? Min. duration (Art. 8): Division optional – undivided min. 2 weeks	Timing of vacation (Art. 9): Undivided minimum granted within one year and remaining granted within 18 months from end of year of service	Scheduling (Art. 10): Balance of interests	Inalienable right (Art.12): Yes	Entitlement in case of termination of employment (Art. 11): Yes
<b>Sudan</b>	1 year	n.s.	n.s.	No for public holidays, n.s. for sickness	n.s.	Authorized, min. n.s.	Leave granted within one year after the service year	n.s.	n.s.	Yes
<b>United Kingdom</b>	13 weeks	Yes	n.s.	n.s.	n.s.	n.s.	Leave granted during service year	Agreement	Yes	Yes
<b>Venezuela</b>	1 year	Yes	Yes (service period may be extended to compensate for days of absence)	Yes	Yes	Authorized, if convenient to the worker, 2 parts, min. n.s.	Full leave granted within 6 months after the service year (at worker's request, leave deferred, max. 2 years)	Agreement	Yes	Yes
<b>Viet Nam</b>	12 months	Yes	n.s.	n.s.	Yes	Authorized, min. n.s.	Leave granted annually (under conditions, deferred for max. 2 years)	Agreement	No	Yes

## Legislative sources

### **Albania:**

Loi no. 7961 du 12 juillet 1995 portant Code du travail de la République d'Albanie  
(*Fletorja Zyrtare, 1995-09-00, no. 16, pp. 660-705*)

### **Algeria:**

Loi no. 90-11 du 21 avril 1990 relative aux relations de travail, modifiée et complétée au 11 janvier 1997  
(*Journal officiel, 1990-04-25, no. 17, pp. 488-501*)

### **Austria:**

Federal Act of 7 July 1976 to standardize the legislation concerning holidays and the introduction of paid leave to look after persons in need of care, Text No. 52b, UrlG BGBl. 1976/390 as amended up to 1999  
(*Arbeitsrecht, Dittrich, Veit, Tades, Manz Verlag, Vienna, Austria, 1995-10-00*)

### **Azerbaijan:**

Labour Code of the Republic of Azerbaijan of 1 February 1999  
(*Unofficial English translation; available in NATLEX*)

### **Benin:**

Loi no. 98-004 du 27 janvier 1998 portant Code du travail  
(*Tiré a part, 61 pp.*)

### **Bulgaria:**

Labour Code as amended by Decree No. 4 of 11 January 1994 and Decree No. 31 of 11 February 1994  
(*Labour Code, Sofia Inter, Bulgarie, 1996, 104 pp.*)

### **Burundi:**

Décret - Loi no. 1/037 du 7 juillet 1993 portant révision du Code du travail du Burundi  
(*Code du Travail, ministère du travail et de la sécurité sociale, Bujumbura, Burundi, 1993-07-00, 101 pp.*)

### **Chad:**

Loi no. 38/PR/96 du 11 décembre 1996 portant Code du travail  
(*Tiré à part, 105 pp.*)

### **Chile:**

Decreto con fuerza de ley núm. 1, de fecha 1 de enero de 1994.  
(*Unofficial translation; available in NATLEX*)

Código del Trabajo  
(*Diario oficial, 1994-01-24, núm. 34772, pág. 3*)

**China:**

Labour Act dated 5 July 1994  
(*printed separately, 16 pp., available in DOC.NORMES*)

**Côte d'Ivoire:**

Loi no. 95-15 du 12 janvier portant Code du travail  
(*Journal officiel, 1995-02-23, no. 8, pp. 153-177*)

**Denmark:**

Notification (No. 498 of 29 June 1998) of the Annual Leave Act  
(*Lovtidende A, 1998-07-10, Vol. 102, No. 498, pp. 2951-2956*)

**Dominican Republic:**

Ley núm. 16-92 del 29 de marzo de 1992, que aprueba el Código de Trabajo  
(*Gaceta Oficial, 1992-05-31, núm. 9836, págs. 3-153*)

**El Salvador:**

Código de Trabajo, Decreto núm. 15 del 23 de junio de 1972 (D.O. No. 142, Tomo No. 236 del 31 de julio de 1972), modificado por el D.L. núm. 859 del 21 de abril de 1994 ( D.O. No. 87-BIS, Tomo No. 323, del 12 de mayo de 1994)  
(*Código de Trabajo con reformas incorporadas, República de El Salvador, 1997; disponible al DOC.NORMES*)

**Estonia:**

Holidays Act of 7 July 1992, as amended to 27 October 1997  
(*Estonian legislation in translation, 1997-11-00, pp. 99-119*)

**Ethiopia:**

Labour Proclamation No. 42 of 1993  
(*Negarit Gazeta, 1993-01-20, No. 27, pp. 268-328*)

**Gabon:**

Loi no. 3/94 du 21 novembre 1994 portant Code du travail  
(*Journal officiel, 1995-01-00, no. 1 Spécial, pp. 3-39*)

**Iran, Islamic Republic of:**

Labour Code of 20 November 1994  
(*Official Gazette, 1991-02-00, No. 13387, pp. 1-14*)

**Japan:**

Labour Standards Law No. 49 of 7 April 1947, as amended through Law No. 107 of 9 June 1995  
(*Labour Laws of Japan, Ministry of labour, Institute of Labour Administration, Tokyo, Japan, 7th ed., 1995, pp. 71-110*)

**Jordan:**

Act No. 8 of 1996 to promulgate the Labour Code  
(*Al-Jarida Al-Rasmiya, No. 4113, 1996-04-16, pp. 1173-1219*)

**Kazakhstan:**

Labour Law of the Republic of Kazakhstan of 1999  
(Unofficial translation, 24 pp; available in NATLEX)

**Korea, Republic of:**

Labour Standards Act No. 5309 of 13 March 1997  
(New labour-related laws , Ministry of Labour, Republic of Korea, 1997-03-00, pp. 59-85)

**Lao, People's Democratic Republic:**

Act No. 002/NA of 14 March 1994 concerning labour  
(Printed separately, 30 pp., available in DOC.NORMES)

**Lesotho:**

Labour Code Order No. 24 of 1992  
(Lesotho Government Gazette, Extraordinary, 1992-11-12, Vol. XXXVI, No. 118, pp. 1195-1441)

**Lithuania:**

Act No. I-2113 of 17 December 1991 on holidays  
(Parliamentary record of the Supreme Council of the Republic of Lithuania, 1992-12-00, No. 12, pp. 22-28)

**Mali:**

Loi no. 92-020 du 23 septembre 1992 portant Code du travail en république du Mali  
(Journal officiel, 1992-11-30, Spécial no. 8, pp. 2-32)

**Mexico:**

Ley federal del trabajo (Texto vigente el 1º de octubre de 1995)  
(Diario Oficial de la Federación, 1 de abril de 1970)

**Namibia:**

Labour Act, No. 6 of 13 March 1992  
(Government Gazette of the Republic of Namibia, 1992-04-08, No. 388, 151 pp.)

**Nepal:**

Labour rules of 8 November 1993  
(Nepal Recorder, 1993-12-23, pp. 414-442)

**Nicaragua:**

Ley núm. 185 del 30 de octubre de 1996 por la que se dicta el código del Trabajo  
(La Gaceta, 1996-10-30, núm. 205, págs. 6109-6155)

**Panama:**

Código del Trabajo: Decreto de Gabinete núm. 252 del 30 de diciembre de 1971, Serie legislativa, 1971-Pan. 1; texto actualizado hasta agosto de 1995  
(disponible al DOC.NORMES)

**Paraguay:**

Ley núm. 213 de 1993 que establece el Código del Trabajo  
(*Gaceta Oficial*, 1993-10-29, núm. 105bis, págs. 1-30)

**Poland:**

Labour Code of 26 June 1974 (as amended to 2 February 1996)  
(*The Polish Labour Code*, *Tepis Publishing House*, Warsaw, Poland, 1996, pp. 5-105)

**Russian Federation:**

Labour Code, as amended to 1 March 1993  
(*Kodekszakonov o trude Rossijskoj Federacii*, *Ministerstvo Justicii Rossijskoj Federacii*, Moskva, *Rossijskaya Federaciya*, 1993-00-00, pp. 1-96)

**Senegal:**

Loi no. 97-17 du 1er décembre 1997 portant Code du travail  
(*Journal officiel*, 1997-12-13, no. 5776, pp. 504-537)

**Seychelles:**

Employment Act, No. 9 of 1990  
(*Supplement to Official Gazette*, 1990-10-15, pp. 71-137)

**Slovak Republic:**

Act No. 451 of 1992 providing for the Labour Code (Consolidated version of 1992)  
(*Sbirka Zakonu*, 1992-09-28, No. 89, pp. 2550-2606)

**Sudan:**

Labour Code of 1997  
(*Unofficial translation*, available in *DOC.NORMES*)

**United Kingdom:**

Working Time Regulations 1998, Statutory Instrument No. 1833 of 1998  
(*Available on the internet*: <http://www.hmso.gov.uk>)

**Venezuela:**

Ley Orgánica del trabajo con las modificaciones del decreto no. 3.235 del 20 de enero de 1999  
(*Gaceta oficial*, 1999-01-25, núm. 5292)

**Viet Nam:**

Labour Code of the Socialist Republic of Viet Nam, 23 June of 1994  
(*Unofficial translation*; available in *NATLEX*)



### III. 277th Session (March 2000) of the Governing Body<sup>1</sup>

#### I. Report of the Working Party on Policy regarding the Revision of Standards

1. The Committee had before it the report of the Working Party on Policy regarding the Revision of Standards.<sup>2</sup>
2. The representative of the Government of France, Chairperson of the Working Party, recalled the five items on the agenda of the meeting, namely the follow-up on the recommendations of the Working Party;<sup>3</sup> the follow-up on consultations concerning Conventions regarding seafarers;<sup>4</sup> the deferred examination of the need for revision of Conventions and Recommendations concerning fishermen;<sup>5</sup> the deferred examination of Convention No. 132 (short survey);<sup>6</sup> and the examination of Recommendations (third stage).<sup>7</sup> He mentioned that the document on the follow-up on the recommendations of the Working Party included an appendix containing the updated information note. The note was communicated to regional offices and multidisciplinary teams and would once again be distributed to the members of the Conference Committee on the Application of Standards the following June. The information note indicated that by 31 December 1999, 50 member States had ratified the constitutional amendment on the abrogation of obsolete Conventions. The ratification procedure was under way in other countries, including France. Three summary tables had been attached to the information note and were also appended to the document on possible improvements in the standard-setting activities of the ILO.<sup>8</sup> These tables clearly presented the decisions taken by the Governing Body. Taking into account the recommendations formulated by the Working Party at its most recent meeting, and subject to their approval by the LILS Committee and the Governing Body, the Conventions already examined included 68 Conventions that were up to date, 23 Conventions to be revised, 54 Conventions that were outdated and 35 requests for information. As regards the follow-up on consultations concerning Conventions regarding seafarers, the speaker stated that the Working Party had made recommendations concerning eight Conventions and had taken note of information provided by governments relating to the promotion of the revised Conventions.
3. Furthermore, the Working Party had deferred the examination of the revision of Conventions and Recommendations concerning fishermen, owing to the holding of a tripartite meeting on safety and health in the fishing industry in December 1999. On the basis of the results achieved during that meeting, it had formulated recommendations concerning four Conventions and two Recommendations. The examination of the Minimum Age (Fishermen) Convention, 1959 (No. 112)

<sup>1</sup> GB.277/11/2, Second report of the Committee on Legal Issues and International Labour Standards, pp. 1-3.

<sup>2</sup> Doc. GB.277/LILS/4.

<sup>3</sup> Doc. GB.277/LILS/WP/PRS/1/1.

<sup>4</sup> Doc. GB.277/LILS/WP/PRS/1/2.

<sup>5</sup> Doc. GB/277/LILS/WP/PRS/2.

<sup>6</sup> Doc. GB/LILS/WP/PRS/3/1.

<sup>7</sup> Doc. GB.277/LILS/WP/PRS/4.

<sup>8</sup> Doc. GB.277/LILS/2(Add.1).

was postponed until its following meeting. On the basis of the short survey on the Holidays with Pay Convention (Revised), 1970 (No. 132), the Working Party had examined that delicate Convention for the third time. The Working Party had tried a new approach by entrusting the survey to an outside expert. It had nevertheless still been unable to reach consensus during its meeting and would examine the question once again in November 2000. It would also discuss the other two short surveys relating to the Paid Educational Leave Convention, 1974 (No. 140), and the Termination of Employment Convention, 1982 (No. 158), respectively. Lastly, the Working Party had examined a third group of recommendations – concerning occupational safety and health, social security and migrant workers – and had formulated recommendations on each of them.

4. The speaker welcomed the very constructive atmosphere that had reigned within the Working Party, as had also been the case during its previous meetings. He thanked the spokespersons for the two groups for their considerable contribution in that regard. It was an example of good will and constructive discussions being used to achieve results. He hoped that a similar climate would prevail during discussions on the possible improvements to ILO standard-setting activities. He also thanked the Office for the excellent technical preparation of discussions within the Working Party.
5. The Worker members supported the statement by the Chairperson of the Working Party and congratulated him on his work. They drew the Committee's attention to the tables appended to the document on possible improvements to ILO standard-setting activities which presented the results already obtained. They invited governments to ratify the up-to-date Conventions and denounce the corresponding obsolete Conventions, to ratify the constitutional amendment on the abrogation of obsolete Conventions and to conduct national tripartite consultations on these matters. They supported the point for decision.
6. The Employer members supported the report submitted by the Chairperson of the Working Party. Even when differences arose within the Working Party, they did not stand in the way of agreement on fundamental issues and the climate remained constructive. The survey on Convention No. 132, conducted by an external expert, had met with the satisfaction of only some members of the Working Party, and it had not been possible to reach consensus. It would appear that the differences of opinion related not only to methodology, but also to the results of the survey. An examination of policy regarding the revision of standards did not preclude a discussion on standard-setting policy in general. The Employer members insisted on the rapid implementation of decisions taken by the Governing Body following recommendations by the Working Party. It was important to consider the overall picture and also to examine questions raised in the document on possible improvements to ILO standard-setting activities. The Employer members declared themselves to be satisfied with the work done by the Working Party. Some of their concerns remained but they felt that the work done so far had been constructive. The Working Party had studied the multiple facets, including the technical aspects, of standard-setting activities. It was important to go on working with the support of the Office, which clearly indicates the existing problems. The Employer members also insisted on the question of the methodology to be used in standard setting. The Working Party had conducted its discussions in a positive atmosphere, even if consensus had not been reached on all issues, which was in fact to be expected. Other questions on standard-setting activities which remained pending should be examined by the Governing Body itself.
7. ***The Committee recommends that the Governing Body:***
  - (a) ***Take note of the report of the Working Party on Policy regarding the Revision of Standards (Appendix I), and also of the opinions expressed by the Committee during its meeting.***
  - (b) ***Approve the recommendations contained in the corresponding paragraphs of the report on which there was consensus within the Working Party and the Committee.***