



FIFTH ITEM ON THE AGENDA

Choice of instruments on which reports should be requested in 2006 and 2007 under article 19 of the Constitution

1. The Committee is called upon to make proposals to the Governing Body regarding the choice of Conventions and Recommendations on which governments might be requested to submit reports in 2006 and 2007 under article 19, paragraphs 5(e), 6(d) and 7(b), of the Constitution. These provisions require member States to report “at appropriate intervals, as requested by the Governing Body” on non-ratified Conventions and Recommendations; the reports cover in particular the status of legislation and practice concerning the matters dealt with in these instruments, and should indicate the extent to which effect has been given or is proposed to be given to those instruments.
2. These reports, as well as those submitted under articles 22 and 35 of the Constitution by the States parties to the Conventions concerned, allow the Committee of Experts on the Application of Conventions and Recommendations to establish General Surveys on the effect given to the instruments considered. The General Surveys (Report III (Part 1B)) are examined by the Committee on the Application of Standards of the International Labour Conference in the framework of its general discussion.
3. Since the November 2000 session, the Governing Body has varied its practice and the instruments have been chosen for either one year or two consecutive years. The Committee may therefore recommend that the Governing Body request governments to submit reports under article 19 either for 2006 only or for 2006 and 2007. The practice of carrying out a General Survey every year has, however, been consistent up until now. Nevertheless, the increase in the number of ratifications of Conventions, on the one hand, and the expected decrease in the available resources of the International Labour Standards Department, on the other hand, may today raise the issue of how to maintain this pattern without contributing to a delay in examining the reports submitted under article 22 of the Constitution. In so far as the Committee would like to restrict its recommendation that the Governing Body choose instruments for a General Survey for 2006, this would allow time for discussion and, where appropriate, consultations to be held with regard to the most appropriate solution for 2007 and the intervals at which General Surveys will be carried out in the future.
4. Certain criteria were established in 1951 as to the demand for these reports. The Governing Body decided that they should be grouped by subject matter as far as possible, and should

be of current interest. It was also thought that not too many should be requested so as not to create excessive work for national administrations and the Committee of Experts.¹

5. General Surveys are recognized as useful reference instruments to assess the status of legislation and national practice in any given area, and to guard against obstacles to the implementation of the Organization's instruments and identifying the ratification prospects for Conventions. In this way, General Surveys can contribute both to promoting and to evaluating instruments.
6. The work carried out in the area of policies concerning standards-related activities in recent years has led to the identification of a number of instruments that call for particular efforts to promote them (see appendix). On the basis of this list, three subjects in particular have been highlighted as being of current interest, for various reasons. These are forced labour, labour clauses in public contracts and gender equality.
7. *Forced labour.* The last General Survey on forced labour was undertaken in 1979. While the approach taken by the ILO supervisory bodies has remained consistent with the approach described in that General Survey on most points, a new survey would allow the Committee of Experts to bring out developments in national law and practice in these respects. In the first place, the ratification levels of the Conventions have increased from 119 to 163 for the Forced Labour Convention, 1930 (No. 29), and from 103 to 161 for the Abolition of Forced Labour Convention, 1957 (No. 105). There have also been a certain number of new developments that should be explored from the point of view of the application of the Conventions, such as the great increase in trafficking in persons. Other changes that should be examined thoroughly in the light of Conventions Nos. 29 and 105, and that have occasioned comments by the Committee of Experts, relate to prison labour in various forms, including new models of administration of justice such as the phenomenon of privatized prisons; obligatory participation in community work or service; compulsory overtime beyond normal working hours; and obligations to work in relation to the receipt of unemployment benefits. General Surveys have been carried out more recently on all the other fundamental Conventions, and it would appear to be worthwhile to have a more recent survey on this subject as well. It would also supplement the more general approach taken in the Global Reports under the Declaration on Fundamental Principles and Rights at work, which have examined the general trends but have not examined in detail their relation with the requirements under these Conventions.
8. *Labour clauses in public contracts.* The purpose of the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), which is supplemented by the Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84), is to ensure the observance of socially acceptable minimum standards in work done for the public account. In other words, the Convention attempts to restrict the possibility to use "social dumping" as a tool to compete in the area of public procurement. Even though more than half-a-century old, the Convention has been instrumental in the formulation of other international instruments, such as the recent EU directives on public procurement. The Convention, which has an average level of ratification, does not seem to be always well understood or scrupulously applied in practice. In its persistent comments throughout the years, the Committee of Experts has revealed a number of widespread misconceptions about the Convention's normative content. The protections provided in the Convention assume all the greater significance as the volume and value of public contracts – whether for construction works, procurement of equipment or supply of services – increase unceasingly in the context of a globalized economy. It is indicative that the United Nations Commission on International

¹ Minutes of the 114th Session of the Governing Body (March 1951), report of the Committee on the Application of Conventions and Recommendations.

Trade Law (UNCITRAL) has just begun preparatory work on the possible revision of its model law on procurement in the light of recent developments in this field. It might therefore be both timely and advisable for the Committee of Experts to undertake an in-depth analysis of the implementation of Convention No. 94 and Recommendation No. 84 so far and to identify any remaining obstacles to ratification to the Convention.

9. *Gender equality.* One of the indicators for the ‘mainstreamed’ objective on advancing gender equality in practice for the proposed 2006-07 budget would be that member States ratify and apply Conventions with specific relevance to gender equality, and in particular all four of the key Conventions for gender equality: the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183). Conventions Nos. 100 and 111 are among the ILO’s fundamental Conventions, and have been widely ratified.² They are also among the Conventions underlying the Declaration on Fundamental Principles and Rights at Work. By contrast, although they have been identified as being key Conventions for the attainment of gender equality, Convention No. 156 has received 36 ratifications, and Convention No. 183 has received ten. Further work therefore needs to be done to stimulate the ratification of both the latter Conventions in line with this mainstreamed strategy. A General Survey was carried out in 1986 on Convention No. 100 and in 1988 on Convention No. 111, and a briefer “Special Survey” was also done in 1996 on the latter Convention. A General Survey was carried out in 1993 on Convention No. 156. The proposed General Survey would review the ratification prospects for all four Conventions – and the effect given to their accompanying Recommendations – including any obstacles to ratification that have been identified in particular for the two later instruments. Unlike a General Survey on a more restricted set of instruments, it would concentrate on the synergies to be achieved in developing the objectives represented by these instruments in forging a unified strategy for achieving gender equality, both at the national and international levels. It would in particular identify “best practices” in member States for achieving the objectives of the individual instruments, as well as for the common objective they represent as a group, with a view to providing guidance both to the Office and to the constituents in this regard. Among other things, this would respond to the call on the Office for greater work on gender equality in the resolution adopted in the International Labour Conference in 2004.
10. However, it should be noted that the Global Report to be submitted at the 96th Session (2007) of the Conference under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (1998) will be on the elimination of discrimination in respect of employment and occupation. In these circumstances, it would not be appropriate to have two committees at the Conference discussing, in the same year, issues covered by the Conventions relating to this subject (Conventions Nos. 100 and 111). Instruments relating to gender equality, therefore could not be chosen for a request to submit reports under article 19 in 2006 for discussion of the General Survey at the Conference in 2007. They could, however, be chosen for a request to submit reports in 2007 for a discussion of the General Survey in 2008.
11. Therefore, and as a result of paragraph 3, the Committee would be able either to choose one of the first two subjects mentioned for 2006 (forced labour or labour clauses in public contracts) and another for 2007 (including gender equality), or to choose only one of the first two subjects mentioned for 2006, while recommending that the Governing Body request the Office to hold discussions and, where appropriate, consultations with regard to

² As of 26 August, they had received 161 and 160 ratifications respectively. See GB.291/LILS/x for an evaluation of the ratification prospects at present for the two instruments.

the most appropriate solution for 2007 and the intervals at which General Surveys will be carried out in the future.

12. *In the light of the foregoing and of the information to be found in the appendix, and taking into account the exchange of views that will take place, the Committee may wish to recommend that the Governing Body request governments to submit reports under article 19 of the Constitution on the following instruments:*

(a) in 2006: the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105);

or

the Labour Clauses (Public Contracts) Convention, 1949 (No. 94), and the Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84);

(b) in 2007: the Equal Remuneration Convention, 1951 (No. 100), the Equal Remuneration Recommendation, 1951 (No. 90), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Workers with Family Responsibilities Recommendation, 1981 (No. 165), the Maternity Protection Convention, 2000 (No. 183), and Maternity Protection Recommendation, 2000 (No. 191);

or

one of the two other subjects that has not been chosen for 2006;

or

request the Office to hold discussions and, where appropriate, consultations with regard to the most appropriate solution for 2007 and the intervals at which General Surveys will be carried out in the future.

Geneva, 27 September 2004.

Point for decision: Paragraph 12.

Appendix

List of instruments to promote ¹

Instrument	Ratifications ²	Year of General Survey ³
<i>Freedom of association, collective bargaining and labour relations</i>		
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	142	1994
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	154	1994
Collective Agreements Recommendation, 1951 (No. 91)	n.a.	1959
Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)	n.a.	1976
Workers' Representatives Convention, 1971 (No. 135)	76	–
Workers' Representatives Recommendation, 1971 (No. 143)	n.a.	–
Rural Workers' Organisations Convention, 1975 (No. 141)	40	1983
Rural Workers' Organisations Recommendation, 1975 (No. 149)	n.a.	1983
Labour Relations (Public Service) Convention, 1978 (No. 151)	42	–
Labour Relations (Public Service) Recommendation, 1978 (No. 159)	n.a.	–
Collective Bargaining Convention, 1981 (No. 154)	35	–
Collective Bargaining Recommendation, 1981 (No. 163)	n.a.	–
<i>Forced labour</i>		
Forced Labour Convention, 1930 (No. 29)	163	1979
Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35)	n.a.	1962
Abolition of Forced Labour Convention, 1957 (No. 105)	161	1979
<i>Abolition of child labour and protection of children and young persons</i>		
Minimum Age Convention, 1973 (No. 138)	135	1981
Minimum Age Recommendation, 1973 (No. 146)	n.a.	1981
Worst Forms of Child Labour Convention, 1999 (No. 182)	150	–
Worst Forms of Child Labour Recommendation, 1999 (No. 190)	n.a.	–
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)	43	1960
Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)	39	1955
Medical Examination of Young Persons Recommendation, 1946 (No. 79)	41	1955
Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)	41	–
Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125)	n.a.	–

Instrument	Ratifications ²	Year of General Survey ³
<i>Equality of opportunity and treatment</i>		
Equal Remuneration Convention, 1951 (No. 100)	161	1986
Equal Remuneration Recommendation, 1951 (No. 90)	n.a.	1986
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	160	1996 (Special Survey)
Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111)	n.a.	1988
Workers with Family Responsibilities Convention, 1981 (No. 156)	36	1993
Workers with Family Responsibilities Recommendation, 1981 (No. 165)	n.a.	1993
<i>Tripartite consultation</i>		
Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	110	2000
Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)	n.a.	2000
<i>Labour administration and inspection</i>		
Labour Inspection Convention, 1947 (No. 81)	131	2006
Labour Inspection Recommendation, 1947 (No. 81)	n.a.	2006
Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)	10	2006
Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)	n.a.	2006
Labour Inspection (Agriculture) Convention, 1969 (No. 129)	41	2006
Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)	n.a.	2006
Labour Administration Convention, 1978 (No. 150)	61	1997
Labour Administration Recommendation, 1978 (No. 158)	n.a.	1997
Labour Statistics Convention, 1985 (No. 160)	45	–
Labour Statistics Recommendation, 1985 (No. 170)	n.a.	–
<i>Employment policy and promotion</i>		
Employment Policy Convention, 1964 (No. 122)	95	2004
Employment Policy Recommendation, 1964 (No. 122)	n.a.	1972
Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)	n.a.	2004
Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99)	n.a.	–
Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)	76	1998
Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168)	n.a.	1998
Private Employment Agencies Convention, 1997 (No. 181)	16	–
Private Employment Agencies Recommendation, 1997 (No. 188)	n.a.	–
Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)	n.a.	2004
Promotion of Cooperatives Recommendation, 2002 (No. 193)	n.a.	–

Instrument	Ratifications ²	Year of General Survey ³
<i>Vocational guidance and training</i>		
Paid Educational Leave Convention, 1974 (No. 140)	33	1991
Human Resources Development Convention, 1975 (No. 142)	62	2004
Human Resources Development Recommendation, 2004 (No. 195)	n.a.	–
<i>Wages</i>		
Labour Clauses (Public Contracts) Convention, 1949 (No. 94)	59	1954
Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84)	n.a.	1954
Protection of Wages Convention, 1949 (No. 95)	95	2003
Protection of Wages Recommendation, 1949 (No. 85)	n.a.	2003
Minimum Wage Fixing Convention, 1970 (No. 131)	46	1992
Minimum Wage Fixing Recommendation, 1970 (No. 135)	n.a.	1992
Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)	15	–
Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180)	n.a.	–
<i>Working time</i>		
Weekly Rest (Industry) Convention, 1921 (No. 14)	117	1984
Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)	62	1984
Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103)	n.a.	1984
Reduction of Hours of Work Recommendation, 1962 (No. 116)	n.a.	1984
Night Work Convention, 1990 (No. 171)	9	–
Night Work Recommendation, 1990 (No. 178)	n.a.	–
Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 (No. 89)	4	–
Part-Time Work Convention, 1994 (No. 175)	10	–
Part-Time Work Recommendation, 1994 (No. 182)	n.a.	–
<i>Occupational safety and health</i>		
Radiation Protection Convention, 1960 (No. 115)	47	–
Radiation Protection Recommendation, 1960 (No. 114)	n.a.	–
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)	49	–
Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)	n.a.	–
Occupational Cancer Convention, 1974 (No. 139)	35	–
Occupational Cancer Recommendation, 1974 (No. 147)	n.a.	–
Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)	41	1987
Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)	n.a.	1987
Occupational Safety and Health Convention, 1981 (No. 155)	42	–
Occupational Safety and Health Recommendation, 1981 (No. 164)	n.a.	–

Instrument	Ratifications ²	Year of General Survey ³
Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)	3	–
Occupational Health Services Convention, 1985 (No. 161)	22	–
Occupational Health Services Recommendation, 1985 (No. 171)	n.a.	–
Protection of Workers' Health Recommendation, 1953 (No. 97)	n.a.	1970
Welfare Facilities Recommendation, 1956 (No. 102)	n.a.	1970
Asbestos Convention, 1986 (No. 162)	27	–
Asbestos Recommendation, 1986 (No. 172)	n.a.	–
Safety and Health in Construction Convention, 1988 (No. 167)	17	–
Safety and Health in Construction Recommendation, 1988 (No. 175)	n.a.	–
Chemicals Convention, 1990 (No. 170)	11	–
Chemicals Recommendation, 1990 (No. 177)	n.a.	–
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)	10	–
Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)	n.a.	–
Safety and Health in Mines Convention, 1995 (No. 176)	20	–
Safety and Health in Mines Recommendation, 1995 (No. 183)	n.a.	–
Safety and Health in Agriculture Convention, 2001 (No. 184)	5	–
Safety and Health in Agriculture Recommendation, 2001 (No. 192)	n.a.	–
List of Occupational Diseases Recommendation, 2002 (No. 194)	n.a.	–
<i>Social security</i>		
Social Security (Minimum Standards) Convention, 1952 (No. 102)	41	1989
Equality of Treatment (Social Security) Convention, 1962 (No. 118)	38	1977
Income Security Recommendation, 1944 (No. 67)	n.a.	1950
Employment Injury Benefits Convention, 1964 (No. 121)	23	–
Employment Injury Benefits Recommendation, 1964 (No. 121)	n.a.	–
Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)	16	1989
Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131)	n.a.	1989
Medical Care and Sickness Benefits Convention, 1969 (No. 130)	14	–
Medical Care and Sickness Benefits Recommendation, 1969 (No. 134)	n.a.	–
Maintenance of Social Security Rights Convention, 1982 (No. 157)	3	–
Maintenance of Social Security Rights Recommendation, 1983 (No. 167)	n.a.	–
Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)	6	–
Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176)	n.a.	–
<i>Maternity protection</i>		
Maternity Protection Convention, 2000 (No. 183)	10	–
Maternity Protection Recommendation, 2000 (No. 191)	n.a.	–

Instrument	Ratifications ²	Year of General Survey ³
<i>Social policy</i>		
Workers' Housing Recommendation, 1961 (No. 115)	n.a.	1970
<i>Migrant workers ⁴</i>		
Migration for Employment Convention (Revised), 1949 (No. 97)	42	1999
Migration for Employment Recommendation (Revised), 1949 (No. 86)	n.a.	1999
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 43)	18	1999
Migrant Workers Recommendation, 1975 (No. 151)	n.a.	1999
<i>Seafarers</i>		
Continuity of Employment (Seafarers) Convention, 1976 (No. 145)	17	–
Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)	n.a.	–
Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)	14	–
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)	47	1990
Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)	n.a.	1990
Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)	12	–
Protection of Young Seafarers Recommendation, 1976 (No. 153)	n.a.	–
Seafarers' Welfare Convention, 1987 (No. 163)	15	–
Seafarers' Welfare Recommendation, 1987 (No. 173)	n.a.	–
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)	12	–
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)	2	–
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)	11	–
Repatriation of Seafarers Recommendation, 1987 (No. 174)	n.a.	–
Labour Inspection (Seafarers) Convention, 1996 (No. 178)	10	–
Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)	n.a.	–
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)	17	–
Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)	n.a.	–
Recruitment and Placement of Seafarers Convention, 1996 (No. 179)	9	–
Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)	n.a.	–
Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)	3	–
<i>Dockers</i>		
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)	22	–
Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)	n.a.	–

Instrument	Ratifications ²	Year of General Survey ³
<i>Indigenous and tribal peoples</i>		
Indigenous and Tribal Peoples Convention, 1989 (No. 169)	17	–
Indigenous and Tribal Populations Recommendation, 1957 (No. 104)	n.a.	–
<i>Specific categories of workers</i>		
Plantations Convention, 1958 (No. 110)	12	–
Plantations Recommendation, 1958 (No. 110)	n.a.	–
Protocol of 1982 to the Plantations Convention, 1958 (No. 110)	2	–
Tenants and Share-croppers Recommendation, 1968 (No. 132)	n.a.	–
Nursing Personnel Convention, 1977 (No. 149)	37	–
Nursing Personnel Recommendation, 1977 (No. 157)	n.a.	–
Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)	13	–
Working Conditions (Hotels and Restaurants) Recommendation, 1991 (No. 179)	n.a.	–
Home Work Convention, 1996 (No. 177)	4	–
Home Work Recommendation, 1996 (No. 184)	n.a.	–

¹ The fundamental Conventions are shown in bold and the priority Conventions in italics.

² As of 17 September 2004.

³ The date referred to is that of the discussion at the Conference.

⁴ See conclusions on a fair deal for migrant workers in a global economy, *Provisional Record* No. 22, International Labour Conference, Geneva, 2004, para. 27.