



Ministerie van Sociale Zaken en
Werkgelegenheid

Verslag van de 100^{ste} zitting van de Internationale Arbeidsconferentie

(Genève 1 – 17 juni 2011)

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DEEL I

INLEIDING / AGENDA

1.1 INLEIDING EN SAMENVATTING

1.1 Inleiding en samenvatting

Algemeen

De 100^e zitting van de Internationale Arbeidsorganisatie (IAC) van de Internationale Arbeidsorganisatie (IAO) vond plaats van 1 – 17 juni 2011. Als voorzitter van de Conferentie werd gekozen de heer Nkili (Kameroen). Tot vice-voorzitters werden gekozen: de heer Hernández Sánchez (Dominicaanse Republiek) namens de overheden, de heer Lima Godoy (Brazilië) namens de werkgevers en de heer Hossu (Roemenië) namens de werknemers.

Ambassadeur Major (Hongarije) trad op als voorzitter van de regeringsgroep, terwijl de heren Funes de Rioja (Argentinië) en Trotman (Barbados) optraden als voorzitters van respectievelijk de werkgevers- en de werknemersgroep.

De tripartiet samengestelde Koninkrijksdelegatie bestond uit vertegenwoordigers van Aruba, Curaçao, St. Maarten en Nederland. Gedelegeerden van de Nederlandse overheid waren de heer Beets, directeur Internationale Zaken bij het Ministerie van Sociale Zaken en Werkgelegenheid, en de heer Van Eenennaam, gevolmachtigd ambassadeur bij de Permanente Vertegenwoordiging van het Koninkrijk der Nederlanden te Genève. De samenstelling van de Koninkrijksdelegatie is opgenomen in bijlage 1.1.1.

Op 6 juni heeft de IAC een nieuwe Beheersraad gekozen voor de IAO voor de periode 2011-2014. Nederland is hierbij verkozen als *deputy member*, in lijn met de interne afspraken van de West-Europese groep. Ook andere regio's hadden vooraf intern een aantal kandidaten afgesproken.

De staatssecretaris van Sociale Zaken en Werkgelegenheid, de heer De Krom, sprak op 15 juni 2011 de plenaire vergadering toe en ging hierbij in op het rapport van de Directeur-generaal, *A New Era for Social Justice* (zie bijlage 1.1.2).

Inhoud

Jaarlijks wordt er tijdens de IAC een *Global Report* besproken in het kader van de follow-up van de IAO declaratie inzake fundamentele principes en rechten op het werk. Dit jaar behandelde het *Global Report* de wereldwijde stand van zaken rond het uitbannen van discriminatie bij arbeid en beroep. De EU heeft in een statement onder meer aandacht gevraagd voor het belang van gelijke kansen op de arbeidsmarkt voor gehandicapten oudere werknemers en mensen met HIV/AIDS.

Tijdens de en marge van de IAC gehouden Beheersraad van de IAO is het IAO Programma & Budget voor 2012-13 vastgesteld op USD 861 miljoen. Het eerder door DG IAO ingediende budgetvoorstel was in de Beheersraad van maart reeds bijgesteld van 2,7% groei naar 2,4% groei. DG IAO bracht in het *Finance Committee* een nieuw voorstel in dat 2,1% groei behelsde. Een grote meerderheid van lidstaten kon hiermee instemmen. Verschillende landen, waaronder de VS, het VK, Canada en Spanje stemden uiteindelijk tegen. Zes andere landen, waaronder NL, hebben zich van stemming onthouden.

In het *Comité inzake de toepassing en naleving van verdragen en aanbevelingen* is tijdens deze 100^e zitting weer een groot aantal landenzaken besproken. Net als ieder jaar was een speciale zitting gewijd aan de naleving door Birma van Verdrag nr. 29 (dwangarbeid). De meeste sprekers erkenden dat de regering van Birma/Myanmar beperkte vooruitgang boekt en riepen de regering van Birma/Myanmar op te voldoen aan de aanbevelingen van de IAO onderzoekscommissie. De EU heeft verklaringen afgelegd over Birma/Myanmar (dwangarbeid & vakbondsvrijheid), Oezbekistan (kinderarbeid), Zimbabwe, Swaziland en Belarus (vakbondsvrijheid). EU-coördinatie over verdere mogelijke verklaringen werd gecompliceerd door het feit dat sociale partners het pas heel laat eens werden over de te behandelen landenlijst.

Na een tweede lezing van een instrument ter bescherming van huishoudelijk personeel, heeft de IAC een verdrag met bijbehorende aanbeveling over *Decent Work for Domestic Workers* aangenomen. De discussie in het Comité kende een hoog ideologisch gehalte waarbij weinig ruimte werd gelaten voor praktische overwegingen, die vooral door de EU lidstaten naar voren werden gebracht. Bij de

discussie over sociale zekerheid wilde een grote meerderheid dat *domestic workers* gelijke rechten zouden krijgen t.o.v. reguliere werknemers. Nederland heeft in die discussie aangegeven dat de gekozen bewoording voor Nederland - waar veel huishoudelijk personeel voor meerdere huishoudens werkt - waarschijnlijk een onoverkomelijke drempel voor ratificatie zal betekenen. Nederland heeft tijdens de stemming over het instrument wel vóór aanneming van verdrag en aanbeveling gestemd. Hierbij heeft Nederland in een stemverklaring aangegeven dat het verdrag nuttig zal zijn om misstanden wereldwijd tegen te gaan, maar dat ratificatie voor Nederland voorlopig niet haalbaar lijkt.

Over *Labour Administration* en arbeidsinspectie werd een algemene beleidsdiscussie gehouden. De conclusies van dit comité zijn richtinggevend en hebben geen verplichtend karakter. De geïndustrialiseerde landen hebben geen behoefte aan verdere concrete internationale afspraken, maar onderkennen tegelijkertijd dat ook in tijden van zware bezuinigingen binnen de overheid een volwaardige en goed functionerende *labour administration & inspection* van belang is voor de samenleving. De richtinggevende conclusies hebben vooral betekenis voor ontwikkelingslanden en landen met een economie in transitie naar industrie en dienstverlening.

Tijdens deze zitting van de IAC is tijdens de zogenaamde terugkerende discussie m.b.t. de 2008 Verklaring over *Social Justice for a Fair Globalization* gesproken over sociale zekerheid. Het comité kwam tot conclusies die door Nederland in vergaande mate worden gedeeld. Sociale zekerheid speelt zowel een sociale als economische rol. Een activerende rol van sociale zekerheid en maatwerk op nationaal niveau zijn nodig. Daarnaast moet uitbreiding van de dekking naar meer mensen wereldwijd worden gerealiseerd al naar gelang het ontwikkelingsniveau en -tempo van het betrokken land. Ten slotte wordt het belang van effectievere en efficiëntere samenwerking tussen internationale organisaties genoemd. Tijdens de volgende twee IACs zal een Aanbeveling worden opgesteld. Het IAO-secretariaat zal daarnaast een Actieplan opstellen voor technische ondersteuning van lidstaten. Ten slotte is nog het vermelden waard dat Zwitserland vlak voor de IAC een concept-resolutie heeft ingediend, gericht op versterking van multilaterale coherentie. Het doel ervan was meer consistentie te bereiken in het beleid en de posities van verschillende multilaterale instellingen, alsook van de landen die hier lid van zijn. Nederland was co-sponsor van de resolutie, die echter niet op de steun kon rekenen van de werkgevers. De concept-resolutie is niet-ontvankelijk verklaard door het Bureau van de ILC. De IAO Beheersraad van 17 juni heeft de discussie over multilaterale coherentie vervolgens doorverwezen naar de Beheersraad van november 2011.

1.1.1 SAMENSTELLING VAN DE KONINKRIJKSDELEGATIE

1.1.1 Samenstelling van de Koninkrijksdelegatie

MINISTERS ATTENDING THE CONFERENCE

Mr. DE KROM, Paul, State Secretary of Social Affairs and Employment, the Netherlands

Mr. KOEIMAN, Hensley, Minister of Social Development Labour and Welfare, Curaçao

Mr. DE WEEVER, Cornelius, Minister of Public Health, Social Development and Labor, Sint Maarten

Accompanied by:

Mr. MOKVELD, Nico, Spokesperson, Ministry of Social Affairs and Employment

GOVERNMENT DELEGATES (G)

Mr. BEETS, Lauris, Director International Affairs, Ministry of Social Affairs and Employment

Mr. VAN EENENNAAM, Boudewijn, Permanent Representative, Geneva

SUBSTITUTE DELEGATES

Mr. BEL, Wim, deputy Director International Affairs, Ministry of Social Affairs and Employment

Mr. VISSER, Marhijn, Head Economic Affairs, Minister Plenipotentiary, Permanent Mission, Geneva

Mr. DRIESSEN, Edo, First Secretary, Permanent Mission, Geneva

ADVISORS

Mr. BOR, Hans, Senior Policy Advisor, Ministry of Social Affairs and Employment

Mr. TERWAN, Kees, Senior Policy Advisor, Ministry of Social Affairs and Employment

Ms. WIDERA, Ghislaine, Senior Policy Advisor, Ministry of Social Affairs and Employment

Mr. VAN DIJK, Wiebren, Policy Advisor, Ministry of Social Affairs and Employment

Ms. SANDEE, Dagmar, Policy Advisor, Ministry of Social Affairs and Employment

Mr. FRANCKEN, Ferdinand, Policy Advisor, Ministry of Foreign Affairs

Ms. HUSSEIN, Faryda, Policy Advisor, Ministry of Social Affairs and Employment

EMPLOYERS DELEGATE (E)

Mr. RENIQUE, Chiel, advisor, Confederation of Netherlands Industry and Employers VNO-NCW

SUBSTITUTE DELEGATE (E)

Ms. VAN EMBDEN ANDRES, Loes, Advisor, Confederation of Netherlands Industry and Employers VNO-NCW

EMPLOYERS ADVISORS

Mr. VAN HAASTEREN, Fred, advisor, chairman Randstad group Netherlands, Confederation of Netherlands Industry and Employers VNO-NCW/ABU

Mr. VAN DEN BRAAK, Jan Willem, advisor, Confederation of Netherlands Industry and Employers VNO-NCW

OTHER PERSONS ATTENDING THE CONFERENCE (E)

Mr. WIENTJES, Bernard, Chairman, Confederation of Netherlands Industry and Employers VNO-NCW

WORKERS DELEGATE (W)

Ms. VAN WEZEL, Annie, Policy Advisor, Netherlands Trade Union Confederation (FNV)

SUBSTITUTE DELEGATE

Ms. MORSINK-DENNENBERG, Marijke, Policy Advisor, National Federation of Christian Trade Unions in the Netherlands (CNV)

Ms. JONGERIUS, Agnes, Chair, Netherlands Trade Union Confederation (FNV)

WORKERS ADVISORS

Ms. KRAAMWINKEL, Margriet, Policy Analyst, Netherlands Trade Union Confederation (FNV)
Ms. BOONSTRA, Klara, advisor, Netherlands Trade Union Confederation (FNV)

OTHER PERSONS ATTENDING THE CONFERENCE (W)

Mr. MEIJER, Leon, Policy Advisor, National Federation of Christian Trade Unions in the Netherlands (CNV)
Ms. GROENEWEGEN, Marjolein, Policy Advisor, National Federation of Christian Trade Unions in the Netherlands (CNV)
Mr. HARTVELD, Leo, Netherlands Trade Union Confederation (FNV)

OTHER PERSONS NOT APPEARING ON THE LIST OF THE WORKERS (W)

Ms. PABON, Rebeca
Ms. ESCANO, Grace

GOVERNMENT DELEGATE OF CURAÇAO

Ms. ELS, Virlene, Policy Advisor, International Labour Affairs

WORKERS DELEGATE OF CURAÇAO

Mr. IGNACIO, Roland, president of CGTC of Curaçao

EMPLOYERS DELEGATE OF CURAÇAO

Mr. MORENO, Ivan, vice president of Chamber of Commerce, Curacao Netherlands Antilles

OTHER PERSONS NOT APPEARING ON THE LIST OF CURAÇAO

Ms. MORENO-SPROCK, Myrna, visitor

GOVERNMENT DELEGATE OF ARUBA

Mr. KOCK, Franklin, director, Department Labour and Research
Ms. WEVER, Muzaninn, Policy Advisor, Labour Department

WORKERS DELEGATE OF ARUBA

Mr. GEERMAN, Jose Rudolf, President, Workers Organization, Federacion di Trahadornan di Aruba

EMPLOYERS DELEGATE OF ARUBA

Mr. DE CUBA, Enrique, representative employers organization, Aruba Trade and Industry Association

GOVERNMENT DELEGATE OF SINT MAARTEN

Mr. BOASMAN, Rafael, Department Head of Labour, Ministry of Public Health, Social Development and Labour
Ms. FROSTON, Linda, Policy Advisor, Ministry of Public Health, Social Development and Labour

WORKERS DELEGATE OF SINT MAARTEN

Ms. ELSHOT, Claire, Vice President of the Chamber of Labor Unions, Windward Islands Chamber of Labor Unions

EMPLOYERS DELEGATE OF SINT MAARTEN

Mr. PANTOPHLET, Hubert, Vice President of the Board of Chamber of Commerce and Industry, St. Maarten of Commerce and Industry

1.1.2 SPEECH STAATSSECRETARIS PAUL DE KROM, 15 JUNI 2011



Seventeenth sitting

Wednesday, 15 June 2011, 10 a.m.

President: Mr Nkili

**REPORTS OF THE CHAIRPERSON OF THE GOVERNING
BODY AND OF THE DIRECTOR-GENERAL:
DISCUSSION (CONT.)**

Original French: The PRESIDENT

We will now resume our general discussion on the Reports of the Chairperson of the Governing Body and of the Director-General.

Mr DE PAYVA (Worker, Singapore)

The Singapore National Trades Union Congress congratulates the ILO on the 100th Session of the International Labour Conference.

In his Report, *A new era of social justice*, the Director-General said, “the Decent Work Agenda and a working ILO tripartism bring the possibility of better, more inclusive growth, of more peace, more equity and rights, less poverty and more stable development in economies, enterprises, workplaces and, ultimately, in society”. The Director-General’s words resonate deeply with the Singapore labour movement.

The Singapore National Trades Union Congress celebrates its 50th year of serving the workers of Singapore this year. At our 50th anniversary, our guest of honour, the founding father of Singapore, Mr Lee Kuan Yew said, “In government, I have never forgotten it is in the interest of workers and their unions that we must strive for growth and development. In other words, growth is meaningless unless it is shared by the workers, shared not only directly in wage increases but indirectly in better homes, better schools, better hospitals, better playing fields, a healthier environment for their families and for their children to grow up.”

Indeed, it must be the responsibility of all governments to put the interests of workers at the heart of all economic and social policies. After all, it is only when workers’ interests are taken care of that nations can achieve social justice and lasting peace, which is also the goal of the ILO.

Tripartism has been a critical competitive advantage for Singapore, which is a result of successful social dialogue between a responsive Government, progressive labour movement and responsible employers, constantly working together as equal partners. The labour movement has supported the Government’s economic policies and the Government has helped to ensure that employers share the fruits of success with labour.

We believe that labour movements all over the world can, and must, play a bigger role to advance the interests of workers and achieve greater social justice in the world of globalization. Unions cannot expect to be taken seriously if they do not make sure that they continue to grow and represent the majority of the working population.

To this end, the Singapore labour movement has been expanding its membership to cover workers of all collars, all ages and all nationalities, which we termed the “All CAN” and we will build on our “All CAN” membership base with a three-generation approach of reaching out to workers of yesterday, today and tomorrow.

To help workers, especially low-waged workers, increase their real income, we will continue to work closely with our social partners to train and retrain our workers, so that they can improve their productivity, earn better wages or obtain the necessary skills to take on better-paying jobs that have been created.

Creating decent jobs and strengthening social protection, especially for the vulnerable groups, such as older workers, casual and contract workers, will continue to remain high priorities in both the labour movement and Singapore.

We also believe that, for unions to remain relevant to workers, we must offer services beyond collective bargaining. Our 12 social enterprises have played an important role to moderate the cost of living and stretch the hard-earned money of workers. We will strengthen our social enterprises so that we can serve the needs of even more workers and Singaporeans.

Colleagues, let us share experiences and cooperate closely so that we can find new and innovative ways to achieve the vision of full and productive employment, and decent work for all.

Mr DE KROM (State Secretary of Social Affairs and Employment, Netherlands)

It is important that we return here each year, since fundamental labour standards are still not universally upheld. Child labour and forced labour are still widespread; freedom of association and collective bargaining remain out of reach for many. We must, therefore, continue working together to combat such wrongs.

Last year, the Netherlands had the privilege of organizing a conference against child labour, in close cooperation with the ILO. We agreed upon a roadmap to end the worst forms of child labour by 2016

– clear, effective and powerful international cooperation at its best.

Social security is on the agenda of this year's Conference. The Netherlands operates a social security system geared towards activation of the individual, a system in which social security is meant only for those who truly need it. We choose not to look at what people cannot do, but at what they can do. Everyone, after all, is able to contribute. This conviction, given practical shape in law and practice, has already proven effective. The reform of our disability legislation in 2006, for example, has caused a 71 per cent decline in the likelihood of becoming dependent on disability benefits. This is possible because we choose to focus on opportunities rather than on obstacles, and we wish to extend this way of thinking – an approach that is both empowering and necessary.

Our socio-economic challenges and opportunities are unique; they require an effective, tailor-made approach. In the future, the Netherlands will have as many as a million job openings – that is, if we do not act now – and this can only be met by stimulating labour. Work is the economic and social engine of Dutch society, and only by fine-tuning can we hope to keep it going, to keep moving forward.

Each government must be able to tackle its own unique reality. This requires international standards that leave governments sufficient flexibility to implement them according to national circumstances. Detailed, universally imposed standards stand in the way of solutions tailored to the needs of individual countries. A different approach to international standards, one that we agree upon in the ILO, is needed. We need to be firm on principles and rights at work, but flexible in the ways to implement them. Such an approach enhances the chance of ratification of standards and thus the chance of overall success.

I argue, therefore, that international labour standards should be better suited to the socio-economic reality we face. Policies need room to respond to new challenges. Current ILO standards were mostly adopted in different times and under different circumstances; those times have changed and we face a much different reality today. We need standards that guide us through the circumstances we face now. We need standards that allow governments of all regions in the world to meet their obligations, and we need standards that will bring us closer to the level playing field we have striven for, and the fairness that goes with it. I am convinced that this can be achieved without lowering protection standards.

It is, and will remain, necessary for us to continue our dialogue, a dialogue that guarantees the necessary protection to workers as well as creating a sustainable business environment and leaving governments sufficient space to design and implement policies that tackle the problems they are faced with. ILO standards should be tailored to meet these requirements at the same time. The Netherlands is ready to meet that challenge.

Original Greek: Mr PANAGOPOULOS (Worker, Greece)

The Greek General Confederation of Labour, at this landmark 100th Session of the International Labour Conference, shares the concerns raised by the Director-General's Report.

We note, in particular, the emphasis on the adverse impact of the "financialization" of the econ-

omy, where the share of profits originating from finance, rather than production, rose from 25 to 42 per cent.

"Poorly governed financial markets", as the Report remarks, are "a major source of inefficient growth. Financial institutions can still make money out of risky operations and shift major losses to governments", which launch austerity measures to address unsustainable deficits, "affecting economic recovery and jobs" – while the gains of financial institutions remain secured.

The Greek case exemplifies this situation. The Greek debt crisis is surely rooted in domestic flaws. It has, however, become uncontrollable due to the destructive drive of finance capital to maximize profits from a \$2.5 trillion lending spree by European banks to what became Europe's most troubled economies: Greece, Ireland, Portugal and Spain.

The EU-IMF exit strategy, rather than Greece, aims to rescue Eurozone banks from the impact of their irresponsible lending. Just like the debt crisis in the developing countries in the 1980s, or the Asian Tigers' crisis in the 1990s, once more we have the trademark IMF bailout, this time together with the EU demands, savage budget cuts and structural reforms regardless of the political and social impact.

In one year of implementation, the shock therapy has failed to put Greece's finances on a sustainable route. It damaged every indicator of the economy, at huge human and social cost. Neither is the Eurozone stabilized. Clearly, without growth there can be no budgetary improvement. On the contrary: unemployment and bankruptcies increase, tax revenue falls and the justified resistance of the people grows.

Unemployment is at unprecedented levels, reaching 42.5 per cent among young people. One out of two young people is unemployed. For the first time in the post-war period, Greece faces an employment crash. The risk to social peace and cohesion is obvious.

The conditionality of the EU-IMF loan mechanism traps Greece in a vicious circle, where austerity breeds recession, followed by harsher austerity, new taxes and deeper recession.

Another austerity package of new taxes, cuts and sell-out privatizations has been announced recently, almost doubling the scope of the existing belt-tightening measures. A new unilateral provision increases the compulsory unemployment contribution in wages universally from 0.5 per cent to 3 per cent. Oddly now, the State's obligation to social protection is passed on to the workers. Nonetheless, the shrinking economy will not allow Greece to pay its debts at the current high interest rates, no matter how hard people are squeezed.

At the frontline of the labour movement in Greece, we struggle to protect workers' income and rights that are the main target of austerity and structural adjustment. We have in a timely fashion brought to the attention of the ILO the permanent, unilateral, disproportionate and socially unfair measures that violate core Conventions ratified by Greece.

We argue that direct or indirect interventions in pay, in the autonomy of collective bargaining or in national wage formation systems cannot be justified by any crisis pretext. Measures should not irreversibly disempower workers and be imposed without

1.2 AGENDA VAN DE INTERNATIONALE ARBEIDSCONFERENTIE 2011

(100^{STE} ZITTING)

1.2 Agenda van de Internationale Arbeidsconferentie van 2011 (100^{ste} zitting)

Behandeling vaste onderwerpen

1. A Rapporten van de voorzitter van de Beheersraad
1. B Global report in het kader van de follow-up van de IAO declaratie inzake fundamentele principes en rechten op het werk, thema 2011: uitbannen van discriminatie bij arbeid en beroep.
2. Programma- en budgetvoorstellen en andere aangelegenheden
3. Comité inzake de toepassing en naleving van verdragen en aanbevelingen

Behandeling onderwerpen door de Beheersraad op de agenda geplaatst

4. *Decent work* voor huishoudelijk personeel (normstellend – tweede discussie)
5. *Labour* Administratie en Arbeidsinspectie (algemene discussie)
6. Terugkerende discussie in de follow-up van de 2008 Verklaring over *Social Justice for a Fair Globalization* (sociale zekerheid)

DEEL II
BEHANDELING VASTE ONDERWERPEN

2.1 (A) RAPPORTEN VAN DE VOORZITTER VAN DE BEHEERSRAAD



Report of the Chairperson of the Governing Body to the Conference for the year 2010–11

This report on the work of the Governing Body is submitted to the Conference in accordance with section 5.5.1 of the Standing Orders of the Governing Body. It covers the period since the last general session of the Conference (June 2010), i.e. the 308th (June 2010), 309th (November 2010) and 310th (March 2011) Sessions of the Governing Body. It focuses only on the highlights of the Governing Body's year, on the basis of the respective agendas, and does not cover any matter otherwise before the Conference.

For more extensive and detailed information on the work of the Governing Body, including the minutes of the three sessions under consideration, of the documents submitted to the committees and to the Governing Body itself, please refer to the Governing Body website.¹

1. International Labour Conference

Matters arising out of the work of the 99th Session (2010) of the International Labour Conference

Follow-up to the adoption of the resolution concerning the recurrent discussion on employment

At its November meeting, the Governing Body reviewed actions undertaken by the Office to give effect to the resolution concerning the recurrent discussion on employment adopted by the 99th Session of the International Labour Conference (June 2010). The Governing Body took note of a paper² outlining the cross-cutting issues that were guiding the immediate follow-up work of the Office and summarizing the steps already taken and plans set in motion by the Office to act on the main priorities identified in the resolution.

In keeping with the interrelationship of the four strategic objectives and the work across the Office to promote the strategic objective of employment, the Governing Body

¹ Visit www.ilo.org and follow the link to the Governing Body.

² GB.309/3/1.

received reports of discussions pertinent to the follow-up of the recurrent discussion in the Working Party on the Social Dimension of Globalization³ (regarding policy coherence), in the Economic and Social Policy Committee⁴ (on recovery patterns, growth and employment potential with reference to the Global Jobs Pact), in the Committee on Legal Issues and International Labour Standards⁵ (including discussion on the alignment of the subjects of General Surveys with those of the recurrent discussions), in the Steering Group on the Follow-up to the Declaration (2008)⁶ (in the review of the process of the first recurrent discussion on employment), and in the Programme, Financial and Administrative Committee (PFAC)⁷ (in the preview of the Programme and Budget proposals for 2012–13).

The follow-up of the Office was reported as being guided by four objectives, namely: strengthening existing areas of work to promote employment; responding to new priorities, especially in the increased scope of work on a pro-employment macroeconomic policy framework and on trade and investment issues; promoting better coherence between economic, financial, employment and social policies at the national and international levels; and changing work methods towards a more efficient and integrated manner of delivering support.

These cross-cutting objectives were reflected in the steps being taken and planned by the Office to act on the main priorities identified under the six employment themes covered in the conclusions: (1) the promotion of a *macroeconomic policy framework* to promote full, decent, productive and freely chosen employment included a joint report and conference with the International Monetary Fund (IMF)⁸ and plans to strengthen inter-ministerial coordination in developing national employment policies; (2) actions to improve advisory capabilities on *employment and labour market policies* included developing new methodologies, for example on employment targeting; strengthening capacity to evaluate policy impact and draw lessons; and aligning research and dissemination of findings with the emerging new knowledge-management system; (3) increasing analysis of policies to *improve employability, productivity, living standards and social progress* would underpin the Office's Green Jobs Initiative, the development of a "knowledge bank" on skills and lifelong learning, the promotion of the principles of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) and multinational enterprises' (MNEs) roles in boosting employment, and the continued research and reporting on wage trends and policies; (4) the expertise of the Office was to be further strengthened in the area of *trade and investment policies to promote full, decent and productive employment* in terms of evaluation methodologies; international partnerships with the World Trade Organization (WTO), the World Bank and others; industrial policy development; and country-level initiatives; (5) *standards-related action around the strategic objective of employment* would continue to focus on the

³ GB.309/WP/SDG/1.

⁴ GB.309/ESP/1/2.

⁵ GB.309/LILS/4.

⁶ GB.309/SG/DECL/1.

⁷ GB.309/PFA/2.

⁸ ILO–IMF: *The challenges of growth, employment and social cohesion*, discussion document for the Joint ILO–IMF Conference in cooperation with the office of the Prime Minister of Norway, September 2010, available at <http://www.osloconference2010.org>.

ratification and effective implementation of the employment-related standards and on reviewing ways in which social dialogue and collective bargaining help ensure decent work; and (6) priorities of the work of the Office to strengthen the *interrelationship of the four strategic objectives and their impact on the strategic objective of employment* included improved coordination processes within the Office, more transparency in resource allocations, stronger synergies with the Bureau of Employers' Activities (ACT/EMP) and the Bureau for Workers' Activities (ACTRAV), and cooperative work in the national Jobs Pact implementation, including the development of the Global Jobs Pact Country Scan methodology and its relationship with the preparation of Decent Work Country Programmes (DWCPs).

The Governing Body endorsed the approach proposed by the Office to act on the adopted conclusions in order to respond more effectively to the realities and needs of ILO Members, in line with the Programme and Budget for 2010–11 and the Strategic Policy Framework 2010–15, and in revising the proposals for the Programme and Budget for 2012–13 to reflect the new ways of working.

The oral report by the Chairperson of the Steering Group on the Follow-up to the Declaration (2008)⁹ summarized the lessons learned from the first recurrent discussion under the ILO Declaration on Social Justice for a Fair Globalization. The Steering Group commended the extensive consultations in preparation of the recurrent discussion report; emphasized the importance of collaboration across the four strategic objectives in the preparation of the report in line with the requirements of the ILO Declaration on Social Justice for a Fair Globalization; recommended that future reports cover ILO activities and lessons learned from their implementation together with an analytical report of the actual situation and policy challenges faced by member States; and noted the importance of reflecting the outcomes of the recurrent discussion in programme and budget proposals and other work of the Governing Body. The Group was of the view that the timing of the review of the General Survey by the Conference Committee on the Application of Standards should take place one year in advance of the recurrent discussion so as to better integrate the standards-related aspects in the recurrent discussion.

The oral report by the Chairperson of the Working Party on the Social Dimension of Globalization¹⁰ summarized discussion of possible forms a framework for policy coherence might take, as had been requested in the Conclusions to the recurrent discussion. Building on a review of the ILO's experience in promoting policy coherence, further consideration could be given to the option proposing "a statement of the ILO's overall objectives for policy coherence nationally and internationally and a strategy for pursuing them over the remaining period of the Strategic Policy Framework to 2015". Consideration of the way forward should include strengthening the ILO's capacity in knowledge generation and management and setting priorities, undertaking regular reviews and imitating pilot activities at country level on policy coherence work.

⁹ GB.309/10.

¹⁰ GB.309/17.

Follow-up to the adoption of the HIV and AIDS Recommendation, 2010 (No. 200), and the related resolution concerning the promotion and implementation of the recommendation

On 23 March 2011, at its 310th Session, the Governing Body adopted unanimously the Global Action Plan¹¹ to promote the implementation of the HIV and AIDS Recommendation, 2010 (No. 200) setting out the promotional actions the Office proposes to take by 2015, subject to the availability of internal and external resources, to promote implementation of Recommendation No. 200.

The Global Action Plan optimizes the contribution of the world of work to the global HIV response, calling for ILO member States to develop, adopt, implement and monitor national policies and programmes on HIV and AIDS and the world of work, in consultation with organizations of employers and workers as well as organizations of persons living with HIV and other relevant actors. These policies and programmes are to be integrated into national development plans and poverty reduction strategies.

The Global Action Plan promotes implementation of the principles established in the HIV and AIDS Recommendation, 2010 (No. 200), which builds on the ILO code of practice on HIV/AIDS and the world of work (2001). It recognizes the crucial role of the world of work in the global HIV response and calls for the workplace to facilitate access to HIV prevention, treatment, care and support services for workers, their families and dependants. The Global Action Plan is structured around three main outcomes: the reduction of stigma and discrimination on the basis of real or perceived HIV status against women and men workers, their families and dependants; increased access for workers, their families and dependants to prevention, treatment, care and support services through the world of work; and scaled-up action by world of work actors to the HIV response and increased access to funding for this purpose. Each outcome is supported by focused activities, concrete indicators and targets to measure progress achieved.

The resolution on the promotion and implementation of the HIV and AIDS Recommendation, 2010 (No. 200), adopted at the 99th Session of the International Labour Conference in June 2010 calls for the allocation of additional resources necessary to carry out the work with tripartite constituents to give effect to the Recommendation. Provision was made in the Global Action Plan for the development of a budget. Accordingly, the Office has prepared a comprehensive workplan based on the Global Action Plan and is in the process of developing a budget to support its full implementation.

Agendas of the 100th (2011), 101st (2012) and 102nd (2013) Sessions of the International Labour Conference

In June 2010, the Governing Body had before it a document on the agendas of the 100th (2011) and 101st (2012) Sessions of the International Labour Conference, completed by an addendum.¹² The Governing Body decided to include in the agenda of the 100th Session (2011) of the Conference an item on labour administration and labour inspection for general discussion; it deferred its decision on the agenda of the 101st Session (2012) of the Conference.

¹¹ GB.310/17/1(Rev.).

¹² GB.308/5 and GB.308/5(Add.).

In November 2010, the Governing Body considered a document on the 101st Session (2012) of the Conference¹³ and a document containing proposals for the agenda of the 102nd Session (2013) of the Conference.¹⁴ The Governing Body deferred its final decision on the agenda of the 101st Session (2012) of the Conference and decided that an informal working group would be established, comprising the secretaries of the Employers' and Workers' groups and the regional coordinators of the Government group, with a view to building consensus on the items to be included in the agendas of the 101st (2012) and 102nd (2013) Sessions of the Conference and making recommendations which would facilitate decisions upon them by the Governing Body in March 2011.

In March 2011, the Governing Body considered a document on the agendas of the 101st (2012) and 102nd (2013) Sessions of the Conference.¹⁵ The Governing Body was able to take a certain number of decisions on the basis of the recommendations of the working group. The Governing Body included in the agenda of the 101st Session (2012) of the Conference an item on the youth employment crisis (*general discussion*). It also decided that the second technical item for 2012 would be selected following the June 2011 Conference recurrent discussion on social protection (social security). Preference would be given to a follow-up to the recurrent discussion on social protection (social security) on the basis of need and timing, as well as the nature of the follow-up to be decided. The scope of the discussion would be determined by the outcome of the Conference discussion at the 100th Session.

Regarding the 102nd Session (2013) of the Conference, the Governing Body decided that it would be held in Geneva, and included the following items in its agenda: a recurrent discussion on the strategic objective of social dialogue; and employment and social protection in the new demographic context (*general discussion*); it was understood that the finalization of the 2013 Conference agenda would depend on the final decision to be taken in June 2011 as regards the follow-up to the recurrent discussion on social protection (social security) in the context of the 2012 Conference agenda.

2. Governing Body

ILO response to the crisis

In November 2010, the Governing Body had a paper before it on the ILO's response to the crisis.¹⁶ At the Chairperson's suggestion, the Governing Body agreed to consider this report in conjunction with the reports of the Committee on Employment and Social Policy,¹⁷ of the Committee on Sectoral and Technical Meetings and Related Issues¹⁸ and

¹³ GB.309/2/1.

¹⁴ GB.309/2/2.

¹⁵ GB.310/2.

¹⁶ GB.309/4.

¹⁷ GB.309/14.

¹⁸ GB.309/15.

of the Working Party on the Social Dimension of Globalization,¹⁹ as the discussions in those bodies had touched on various aspects of the Organization's crisis-related activity. The document on the ILO's response to the crisis set out a number of possible future directions for ILO action, and these were largely commented on during the debate.

The continued recognition of the Global Jobs Pact in the G20 agenda and across the multilateral system bore witness to the effective approach adopted by the ILO in response to the crisis. It was felt that clear evidence was now needed of Office-driven, on-the-ground delivery and impact of the approach. The ILO should thus retain its capacity to react swiftly to emergency requests. The special approach being implemented in the Global Jobs Pact, in particular with reference to the country scans, should be progressively transformed into an integrated approach for the preparation, revision and updating of DWCPs. The Employers' group felt that the emphasis should now be placed on recovery, rather than crisis, and that a post-Global Jobs Pact plan should be developed. The Workers' group stressed that the crisis was not over in many parts of the world, particularly the developing world, and that the Pact, as the Decent Work Agenda applied in the context of the crisis, should not be shelved.

There was support for the ILO's action in supplying constituents with information and analysis on the effects of the crisis on employment, enterprises and social and labour conditions. It was felt that the Office should be able to advise on best policies and should become an active contributor, as well as observer and reporter. It should be proactive in assisting member States to collect better quality data, and to compile and disseminate real-time information on the policies and measures applied by countries in all areas of the ILO's mandate.

The Governing Body agreed on the need to "think differently" on employment, social protection, rights at work and dialogue. The G20 had confirmed support for decent work as part of the recovery programme, along with a commitment to provide social protection to the most vulnerable: a basic social protection floor. The roots of the crisis, as was often the case, were to be found in deep-seated structural conditions and stronger socio-economic governance was needed to ensure sustainable recovery and fairer globalization. Employment should figure at the heart of recovery as a key macroeconomic objective. Macroeconomic objectives should be broadened to encompass the growth of productive investment and employment through sustainable enterprises, expanded social protection and strong labour institutions. While the ILO's area of expertise was in labour issues, it should deepen its analysis in these fields through building a strong technical and analytical capacity to examine macroeconomic policies from an employment perspective, and through forming partnerships with other institutions to address wider issues.

The Governing Body noted the encouraging cooperation with the United Nations (EU), with the IMF, in the joint organizing of the Conference on the Challenges of Growth, Employment and Social Cohesion (Oslo, 13 September 2010), and with the World Bank. It was widely felt that policy coherence between multilateral institutions should be reinforced. The G20 should regularly discuss employment and social policy as part of the framework for strong, sustainable and balanced growth: the ILO had demonstrated that it had an important role in this connection, and should continue to do so. The Organization should assert the importance of linkages between recovery and wages and income, a linkage recognized by the G20 Labour Ministers and continue to put forward ideas for promoting employment as a policy priority at national and international level.

¹⁹ GB.309/17.

During the debate in November, the Governing Body also received as a guest His Excellency, Mr Tayeb Louh, Minister of Labour of Algeria, who gave a comprehensive presentation of Algeria's response to the crisis, in which he explained how social dialogue had played a critical role in management of the effects of the crisis. He also said that the widespread use of social dialogue in Algeria was the result of political will at the highest level.

In March 2011, the Governing Body received a report of the Working Party on the Social Dimension of Globalization,²⁰ which had held discussions on the themes of "Challenges and change in the Arab world" and "Recovering from the crisis". The Governing Body noted that the demands from the peoples of the Arab nations for dignity, rights, jobs and social justice resonated strongly with the ILO Decent Work Agenda. It further noted that trade unions were playing a key role in the process of change. Guaranteed freedom of association and collective bargaining were central to democracy and social justice, while sustainable enterprise development and productive investment were required to meet aspirations for a better life. Good governance and the rule of law were an essential foundation for both foreign and domestic investors. The Governing Body felt that the ILO should be a key partner for the emerging democracies of the region and welcomed the initial reallocation of resources to the region announced by the Director-General. The Decent Work Agenda and the Global Jobs Pact were important tools to address the challenges faced by these countries. An integrated approach was required, embracing international labour standards, especially fundamental principles and rights at work, employment and enterprise development, with a particular focus on youth, extending social protection and broad-based dialogue. ILO support to the region should be substantial and for the "long haul". The Organization should work more closely with other international partners, as well as with regional and subregional structures in ensuring that the promotion of decent work and social development were an integral part of a coherent international response to the challenges of the region.

In its debate on recovering from the global crisis, the Governing Body noted that while policies drawing on the Global Jobs Pact were necessary, they were insufficient for the recovery to become sustainable development. Financial reforms were incomplete and the real economy was not being adequately serviced by the financial sector, while growth was still unevenly distributed. Past policies had focused narrowly on a limited number of issues, such as the goal of low inflation, achieved through tight monetary policy. A broader range of goals, relating to the quantity and quality of employment, and a broader range of policies would be needed in the future, with greater emphasis placed on policy coherence at national and global levels.

Reform of the Governing Body

The Working Party on the Functioning of the Governing Body and of the International Labour Conference met at both the March and November sessions of the Governing Body, as well as holding an intersessional meeting on 9 and 10 February 2011. The reform process was also taken forward by extensive formal and informal consultations. At its intersessional meeting in February 2011, the Working Party recognized that sufficient progress had been made, and sufficient convergence reached, for the Governing Body to move towards taking a decision on reform. In response to a request from the Working Party, the Office therefore produced a draft proposal of a reform

²⁰ GB.310/16.

package,²¹ which was examined by the Working Party at its meeting on Monday, 14 March 2011. The package was further refined by two subsequent meetings of the Working Party, held on Thursday, 17 and Monday, 21 March 2011, and at the latter meeting, the Working Party approved the reform package²² and submitted it for adoption to the Governing Body.

The Governing Body deemed the reform to be a balanced package that reflected the views of all parties, and which would be in harmony with the spirit of the 2008 Declaration on Social Justice for a Fair Globalization. It would provide the ILO with a more efficient executive organ, capable of using the full strength of tripartism and social dialogue. The main elements of the reform are firstly, that the Governing Body will meet in continuous plenary session with thematic sections and segments. Secondly, no two meetings will be held concurrently – a principle which will facilitate the participation of smaller delegations. Thirdly, a more participatory system for setting the agenda of the Governing Body will be introduced. Fourthly, the new structure will cover the four strategic objectives and provide flexibility for Governing Body work. Finally, a key element is that the composition and the role of the Officers of the Governing Body, as established by the ILO Constitution, will be maintained. The Governing Body noted that the reform also provided for a review period, to allow adjustments to be made, and that the date for review was fixed at the 318th Session of the Governing Body (November 2013).

In adopting the reform package, the Governing Body also requested the Office to prepare proposals for the amendments of the Standing Orders of the Governing Body, the Introductory Note to the Compendium of Rules applicable to the Governing Body and any other complementary text of the Organization for the consideration of the 311th Session of the Governing Body (June 2011) in order to give effect to the reform package. It further requested the Office to organize timely tripartite consultation in developing these proposals, as well as requesting the Office to prepare an estimate of the cost implications of the reform package.

Finally, the Governing Body noted that the Working Party had still to turn its attention to recommending improvements to the functioning of the International Labour Conference.

3. Review of annual reports under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work

In March 2011, the Governing Body examined an Office report²³ which highlighted the manner in which the fundamental principles and rights at work had been promoted and realized in each of the countries that have not ratified one or more of the eight Conventions dealing with fundamental principles and rights. The Governing Body noted in particular the importance of the Declaration on Fundamental Principles and Rights at Work for the ILO as a tool to promote those principles. This had been reflected in the Conference resolution of 15 June 2010 which chose to retain and align the follow-up to the

²¹ GB.310/WP/GBC/1.

²² GB.310/9/1.

²³ GB.310/3.

1998 Declaration in the light of the adoption of the Social Justice Declaration of 2008. The Governing Body further noted the clarification that the body of the text of the Declaration, as adopted in 1998, does make specific reference to the obligation of the Organization to offer technical cooperation and advisory services to promote ratification and implementation of the fundamental Conventions. In this regard, the Office had adopted a dynamic approach to its interaction with ILO member States by focusing technical assistance it can provide to meet the needs of member States in their promotion and realization of the principles enumerated in the Declaration.

4. Enhanced programme of technical cooperation for the occupied Arab territories

In November 2010, the Governing Body discussed a report²⁴ detailing the ILO's support to the occupied Arab territories, and participants were also able to attend an information meeting for Governing Body members and donor countries, held in Geneva on 15 November 2010, which presented a framework for an expanded programme of technical cooperation. The enhanced programme was in line with the vision of the Palestinian government agenda to address the Palestinian people's needs through nation-building efforts and strengthened public institutions. The programme also fell within the framework of the national strategy of the labour sector developed by the Ministry of Labour which aimed at creating an environment conducive to decent work.

During the period under review, the ILO supported the Government and the social partners in revitalizing the Palestinian Fund for Employment and Social Protection, reactivating the National Tripartite Committee for Labour Affairs, in developing a policy framework for micro, small and medium enterprises and the promotion of an entrepreneurship culture targeting youth, in supporting the national cooperative reform process and the adoption of the unified cooperative law, and in promoting private sector growth. The programme also focused on strengthening women's economic empowerment opportunities, as well as implementing a series of quick impact interventions to improve the productivity and income-earning opportunities in conflict-affected Gaza.

Members of the Workers' and Employers' groups expressed their appreciation for the assistance extended through the technical assistance programme and noted the importance of raising additional resources. Members of the Government group also stressed the critical importance of further reinforcing the ILO programme in the occupied Arab territories.

5. Complaints under article 26 of the ILO Constitution

Observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

A Supplementary Understanding was signed by the Government of Myanmar on 26 February 2007, establishing a mechanism through which victims of forced labour could

²⁴ GB.309/5.

seek redress. The trial period of the Supplementary Understanding had previously been extended for a 12-month period in 2008, 2009 and 2010.

At its November 2010 session, the Governing Body examined a report on the functioning of this mechanism.²⁵ On the basis of the discussion held, the Governing Body adopted the following conclusions:

The Governing Body took note of the report of the Liaison Officer, the statement made by the Permanent Representative of the Government of the Union of Myanmar and the subsequent discussion. In light of the debate, it adopted the following conclusions:

- The Governing Body welcomes the release of Daw Aung San Suu Kyi and urges that other persons still in detention, including labour activists and persons associated with the making of, or supporting the submission of, complaints under the Supplementary Understanding, will similarly be given their liberty as soon as possible. In particular, it reiterates its previous call for the release of U Zaw Htay, U Htay Aung, U Nyan Myint, Daw Su Su Nway, U Min Aung, U Myo Aung Thant, U Thurein Aung, U Wai Lin, U Nyi Nyi Zaw, U Kyaw Kyaw, U Kyaw Win and U Myo Min.
- In light of the commitment made by the Permanent Representative of the Government, the Governing Body calls on the new Parliament to proceed without delay to bring legislation into line with the Forced Labour Convention, 1930 (No. 29), starting with the repeal of the relevant provisions of the Villages Act and Towns Act as called for by the Commission of Inquiry.
- Notwithstanding the reported progress in increased awareness of both government personnel and the community at large of their rights and responsibilities under the law, much remains to be done to eliminate the use of forced labour. Further committed action is required to end all forms of forced labour, including under-age recruitment into the military and human trafficking. Bringing an end to the impunity which allows forced labour to continue requires the strict application of the Penal Code to all perpetrators.
- The Governing Body calls for the continuation and intensification of awareness-raising activities undertaken jointly and severally by the Government and the ILO Liaison Officer encompassing government personnel, the military and civil society. It again calls on the Government to continue to actively support the wide distribution of the agreed brochure and its translation into all local languages.
- The Governing Body notes the increased number of forced labour complaints received but considers it essential that the movement towards an environment free from harassment or fear of retribution be sustained. In this context, the Government is requested to grant the Liaison Officer access to court files and detainees for the purpose of verifying the absence of judicial retribution.
- The Governing Body calls upon the Government to cooperate with the Liaison Officer on cases raised at the Officer's own initiative.
- The Governing Body notes that the Liaison Officer has engaged additional temporary resources to assist in meeting the demands of the increasing workload. However, that does not meet the need that the Governing Body has consistently identified for the strengthening of capacity to deal with complaints and associated activities. Therefore, the Governing Body calls on the Government to ensure the conditions and facilities necessary for the effective and timely receipt and processing of complaints throughout the country.
- The Governing Body recalls and reconfirms all of its previous conclusions and those of the ILC and calls upon the Government and the Office to work proactively towards their realization.

²⁵ GB.309/6.

In March 2011, the Governing Body further reviewed the operation of the Supplementary Understanding and the results of the ILO's mission to Myanmar,²⁶ from 22 to 25 February 2011, during which a further 12-month extension of the trial period of the Supplementary Understanding was signed. The following conclusions, drawn from the discussion, were adopted by the Governing Body:

The Governing Body took note of the report of the Liaison Officer, the statement made by the Permanent Representative of the Government of the Union of Myanmar and the subsequent discussion. In the light of the debate, it adopted the following conclusions:

- The Governing Body welcomes some positive developments in Myanmar as well as the extension of the Supplementary Understanding trial period for a further 12 months, and urges a revitalized programme of activities towards fully implementing the recommendations of the Commission of Inquiry.
- The Governing Body notes the increase in the number of cases dealt with under the terms of the Supplementary Understanding. This highlights the need for the Government to adopt a more proactive stance in dealing with the overall causes of forced labour and for it to cooperate in ensuring that the ILO Liaison Office is adequately strengthened to respond to its increasing workload, including through timely positive responses to visa and licensing applications.
- The Governing Body notes the Government's indication that draft legislation aimed at achieving legislative conformity with Convention No. 29 is in the process of preparation. It invites the Government to take advantage of the technical assistance of the ILO with a view to the rapid amendment of the Village and Towns Acts 1907, the review of the Jail Manual, and the introduction of proposed new labour legislation prohibiting the use of forced labour in all its forms.
- The Governing Body strongly supports educational and awareness-raising activities as a means for changing behavioural patterns in respect of forced labour and to this end calls for the continuation of such activities particularly amongst the civilian and military authorities, for the continuation of initiatives for enhanced community awareness including ILO workshop activity, and for the publication and wide distribution of the information brochure on forced labour in local languages in addition to the official national language. Specific targeted awareness raising and training of persons associated with or affected by major construction projects, including oil/gas pipelines, would also be of particular importance.
- While taking note of the information provided on activities undertaken, the Governing Body re-emphasizes the need for national laws to be consistently applied. The practices of the army and defence institutions in respect of forced cropping and the forcible use of villagers or prison labour for portering of military supplies, sentry duty and construction work in conflict zones, must be stopped. The Government is urged to take all measures to combat the culture of impunity, including through the strict application of the Penal Code to all those who use forced labour, even when such acts are committed by the military.
- The successful elimination of the use of forced labour depends critically on the confidence of persons to complain of breaches of the law in the knowledge that they can do so without fear of harassment or retaliation.
- The Governing Body, whilst noting the early release of U Htay Aung, reaffirms its previous call for the release of U Zaw Htay, U Nyan Myint, Daw Su Su Nway, U Min Aung, U Myo Aung Thant, U Thurein Aung, U Wai Lin, U Nyi Nyi Zaw, U Kyaw Kyaw, U Kyaw Win and U Myo Min, and of other persons still in detention, including labour activists and persons associated with the making of, or supporting the submission of, complaints under the Supplementary Understanding. Furthermore, the Governing Body calls for the Government to facilitate the free access of the Liaison Officer to visit

²⁶ GB.310/5.

persons so detained and to effect the reinstatement of the advocacy licences of U Aye Myint and Ko Pho Phyu.

- The Governing Body notes that a number of long-standing complaints in the Magwe Region remain unresolved and, as a result, the issues and relationships in this area are becoming more complex and entrenched, with the potential to disrupt the overall positive operation of the Supplementary Understanding. The Government is urged to work with the ILO Liaison Officer towards finding early and lasting solutions to these cases.
- The Governing Body recalls and reconfirms all of its previous conclusions and those of the International Labour Conference, and calls upon the Government and the Office to work proactively towards their realization.

Observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

At its 307th Session (March 2010), the Governing Body took note of the report of the Commission of Inquiry established to examine complaints submitted under article 26 of the Constitution by Workers' and Employers' delegates to the June 2008 session of the International Labour Conference concerning the observance by Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).²⁷ At its 308th Session (June 2010), the Governing Body took note of the acceptance by the Government of Zimbabwe of the Commission of Inquiry's recommendations and its request for support and guidance in their implementation.²⁸

Complaint concerning the non-observance by the Government of Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 99th Session (2010) of the International Labour Conference under article 26 of the ILO Constitution

The Governing Body declared this complaint admissible at its 309th Session (November 2010) and transmitted it to the Government for any observations it wished to make thereon.²⁹ In March 2011, at its 310th Session, the Governing Body took due note of the Government's reply to the complaint and decided to request it to transmit to the Office, without delay, the draft law on labour organizations currently under preparation so as to allow a full and meaningful consultation and deferred a decision on the appointment of a Commission of Inquiry to its 312th Session (November 2011).³⁰

²⁷ GB.307/5.

²⁸ GB.308/6/2.

²⁹ GB.309/7.

³⁰ GB.310/6.

Observance by the Government of the Bolivarian Republic of Venezuela of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Following a decision at its 309th Session to place this question on the agenda of its March 2011 session,³¹ the Governing Body decided that the complaint presented originally in 2004 under article 26 of the ILO Constitution would not be referred to a Commission of Inquiry. It requested the Director-General to send a high-level tripartite mission to the Bolivarian Republic of Venezuela to address all the issues before the Governing Body related to Case No. 2254 as well as technical cooperation matters, and to provide a full report to the Governing Body at its 312th Session (November 2011). As a result of this decision, the procedure started under article 26 of the ILO Constitution, in June 2004, was closed.³²

6. Freedom of association – 357th, 358th and 359th Reports

During the past year, the Committee on Freedom of Association examined 190 cases, and in 164 cases followed up the measures taken by member States to give effect to its recommendations. The Committee continued to observe an important increase in the number of complaints against alleged violations of freedom of association submitted to the special procedure, but was also able to note with interest significant positive developments in the matters before it, including the release of detained trade union leaders and members. In June and November 2010 and March 2011, the Governing Body took note of the introduction to the 357th, 358th and 359th Reports³³ of the Committee on Freedom of Association, and approved the recommendations of the Committee on Freedom of Association with respect to the cases in these Reports.

7. Reports of the Programme, Financial and Administrative Committee

Programme and Budget proposals for 2012–13

In November 2010, the Governing Body discussed and provided guidance on the preview of the Programme and Budget proposals for 2012–13.³⁴ In March 2011, the Governing Body considered the Programme and Budget proposals for 2012–13.³⁵ This will be the second programme and budget document under the simplified and more rigorous results framework set out in the Strategic Policy Framework 2010–15.

³¹ GB.309/20/3.

³² GB.310/7.

³³ GB.308/3, GB.309/8, and GB.310/8, respectively.

³⁴ GB.309/PFA/2 and GB.309/PFA/2(Add.).

³⁵ GB.310/PFA/2.

Resource proposals for the regular budget are complemented by estimates of extra-budgetary expenditure and the Regular Budget Supplementary Account (RBSA). Subject to the positions taken and opposition expressed in the course of the discussion in the PFAC, the Governing Body endorsed a zero real growth budget for onward submission to the 100th Session of the International Labour Conference. The budget responds to the need to sustain the ILO's core functions and programmes at a time of growing demand for ILO services and the financial constraints weighing on member States. It places great emphasis on strengthening services to constituents, including through an enhanced knowledge management system and collaborative working methods, while pursuing efforts to improve effectiveness, efficiency and value for money.

Use of the Special Programme Account

In November 2010, the Governing Body decided to allocate US\$14.4 million from the Special Programme Account to support: (i) strengthening the application of standards; (ii) strengthening the implementation of DWCPs; (iii) strengthening the knowledge base; and (iv) modernizing the information technology infrastructure.³⁶ The Governing Body also requested the Director-General to submit proposals on the use of the remaining US\$4.2 million at its session in November 2011.

Evaluation

In November 2010, the Governing Body reviewed the annual evaluation report 2009–10³⁷ and, while noting good progress, expressed some concern about the weak follow-up to evaluations and the modalities for consulting constituents on topics for high-level evaluations. It requested the postponement of the high-level evaluation of capacity building amongst constituents. The Governing Body also requested the Director-General to take into consideration the findings and recommendations contained in the summaries of the independent evaluations of the DWCPs for both the United Republic of Tanzania and Kyrgyzstan,³⁸ and the independent evaluation of the ILO's strategy to extend the coverage of social security.³⁹

In March 2011, the Governing Body reviewed the independent external evaluation of the ILO's evaluation function (IEE)⁴⁰ and the revised ILO evaluation strategy, Results-based strategies 2011–15: Evaluation strategy – Strengthening the use of evaluations.⁴¹ The Governing Body supported the aim of the strategy paper to improve the use of evaluations, noting that it incorporated several of the IEE recommendations. It requested the Director-General to implement all the IEE recommendations within available resources and approved both Governing Body papers with the request to incorporate the following points: (i) organizationally consolidate the evaluation function into an entity that

³⁶ GB.310/PFA/3.

³⁷ GB.309/PFA/5/1.

³⁸ GB.309/PFA/5/2 and GB.309/PFA/5/3.

³⁹ GB.309/PFA/5/4.

⁴⁰ GB.310/PFA/4/2.

⁴¹ GB.310/PFA/4/1.

reports directly to the Director-General and through this position to the Governing Body; (ii) appoint the Director of the Evaluation Unit henceforth in accordance with UN-system best practices; (iii) establish a process of informal consultations with governments, through regional coordinators, and the secretariats of the workers and employers on the topics for high-level strategy evaluations and their terms of reference; (iv) include high-level strategy evaluations in the measurement criteria of outcome 1; (v) draw upon existing best practices for evaluation in the ILO in developing and refining appropriate evaluation standards; and (vi) ensure the independence and external nature of the subsequent review of the 2011–15 evaluation strategy in 2015.

Building Subcommittee

The Building Subcommittee of the PFAC met in November 2010 and March 2011. The Subcommittee reviewed and discussed reports on ILO accommodation worldwide, ongoing urgent renovation work, the headquarters building renovation project and a long-term strategy for the financing of future periodic refurbishment and renovation of ILO buildings. In November 2010, the Governing Body approved a comprehensive plan⁴² for the renovation of the ILO headquarters building during the period 2011–18. It authorized the Director-General to commence the first phase of the project with an estimated cost of 89.1 million Swiss francs (CHF). It also authorized the use of the Working Capital Fund and/or a loan, if necessary, to complete the first phase of the project pending the receipt of additional funds. The Governing Body approved the use of CHF4.3 million from the Building and Accommodation Fund to replace the elevators in the headquarters building.⁴³ In March 2011, the Governing Body endorsed the long-term strategy for the financing of future periodic refurbishment and renovation of ILO buildings.⁴⁴ This endorsement had been a prerequisite for the transfer to the Building and Accommodation Fund of one half of the 2008–09 net premium (amounting to CHF14,869,967) to partially fund the first phase of the headquarters building renovation project.

Audit and oversight

In March 2011, the Governing Body received and considered the third report of the Independent Oversight Advisory Committee.⁴⁵ The Governing Body also considered the report of the Chief Internal Auditor for 2010⁴⁶ and the report on follow-up action taken by the Office on the report of the Chief Internal Auditor for 2009.⁴⁷ The Governing Body was

⁴² GB.309/PFA/BS/2(&Corr.).

⁴³ GB.309/PFA/BS/4.

⁴⁴ GB.310/PFA/BS/2 and GB.310/PFA/8.

⁴⁵ GB.310/PFA/5/3.

⁴⁶ GB.310/PFA/5/2.

⁴⁷ GB.310/PFA/5/1.

also informed of progress made towards the full adoption of International Public Sector Accounting Standards, scheduled for 2012.⁴⁸

Revised field structure

In November 2010, the Governing Body received a report on the implementation of the revised field structure.⁴⁹ The report provided an overview of action already taken and of the next steps in the process. The Governing Body noted that an independent evaluation of the impact of the changes in the field structure was planned for 2013.

Information technology

The Information and Communications Technology Subcommittee of the PFAC met in November 2010 to consider an independent study⁵⁰ undertaken on ILO technology investment needs. The conclusions of the report and considerations of the Governing Body were incorporated in the Programme and Budget proposals and Special Programme Account decisions taken at the March 2011 session.

Matters relating to the ILO Administrative Tribunal

At its November 2010 session, the Governing Body approved revised financing arrangements for the ILO Administrative Tribunal to ensure a more equitable sharing of costs amongst participating organizations.⁵¹

During its 310th Session (March 2011) and following consideration of proposals by its Officers concerning the renewal and appointment of judges of the Administrative Tribunal of the ILO,⁵² the Governing Body recommended that the 100th Session of the International Labour Conference convey its appreciation to Mr Agustín Gordillo for the services he had rendered as judge of the Tribunal, renew the term of office of Ms Mary G. Gaudron (Australia) for three years, and appoint Ms Suzie d’Auvergne (Saint Lucia) as judge of the Administrative Tribunal for a term of office of three years.⁵³ The proposed measures were included in a draft resolution submitted to the Conference.

During the same session, the Governing Body considered the question of the locus standi of staff unions and associations before the Administrative Tribunal of the ILO, including decisions of the UN General Assembly on the subject in relation to its Dispute

⁴⁸ GB.310/PFA/5/4.

⁴⁹ GB.309/PFA/4.

⁵⁰ GB.309/PFA/ICTS/1.

⁵¹ GB.309/PFA/15.

⁵² GB.310/PFA/14/1.

⁵³ GB.310/10(Rev.).

Tribunal.⁵⁴ The Governing Body requested the Office to be kept informed in good time of any relevant developments.⁵⁵

Human resources management

The Governing Body approved amendments to the Staff Regulations concerning repatriation grants, education grants and hardship entitlements.⁵⁶ It also approved an increase in the base salary for the Professional and higher categories and changes in dependants' allowances resulting from the annual report and recommendations of the International Civil Service Commission (ICSC), as endorsed by the UN General Assembly.⁵⁷ Reports were also received relating to the decisions of the UN General Assembly on the report of the Board of the UN Joint Staff Pension Fund and to the Board of the ILO Special Payments Fund.⁵⁸

Progress report on the proposals contained in the Director-General's letter of 17 November 2010 to the Chairperson of the Staff Union

At the November session the Director-General outlined to the Governing Body a number of steps that he was taking to resolve the differences between management and the Staff Union. These proposals had been communicated to the Staff Union in a letter from the Director-General dated 17 November 2010. The Governing Body had been apprised of the Staff Union's point of view in the statement of the Chairperson of the Staff Union Committee to the PFAC.⁵⁹ The Director-General informed the Governing Body that as the matters concerned were complex, both sides would benefit from recourse to an external independent mediator, and that a tight time frame would be set for negotiations, to allow progress to be reported to the Governing Body in March 2011. It was essential that trust be restored between the parties. The Governing Body gave its full backing to the approach described by the Director-General, and was confident that the negotiations would have a successful outcome, and that the interests of the Organization would be guaranteed.

At the March 2011 session, the Governing Body learned from the statement by the Chairperson of the Staff Union to the PFAC⁶⁰ that although the negotiations had not been easy, good progress had been made. The Staff Union was pleased to note that each item for which an immediate solution had been agreed in November had been finalized. The mediation process, with the assistance of an external mediator who enjoyed the confidence of both parties had begun. The Office for its part was confident that the mediation process

⁵⁴ GB.310/PFA/14/2.

⁵⁵ GB.310/10/2(Rev.), para. 45.

⁵⁶ GB.309/PFA/14 and GB.310/PFA/12.

⁵⁷ GB.310/PFA/12 and GB.309/PFA/13.

⁵⁸ GB.310/PFA/13/1 and GB.310/PFA/13/2.

⁵⁹ GB.309/11(Rev.), Appendix II.

⁶⁰ GB.310/10/2(Rev.), appendix.

would strengthen the atmosphere of renewed dialogue and respect, and a further report on progress would be made to the 312th Session of the Governing Body in November 2011.

8. Reports of the Committee on Legal Issues and International Labour Standards

Measures relating to the representation of employers and workers at the International Labour Conference: Addressing tripartite imbalance within delegations

Following discussion in previous sessions held at the request of the 98th Session of the Conference (June 2009),⁶¹ the Governing Body further considered the question of tripartite imbalance in relation to advisers accompanying the respective tripartite delegations to the International Labour Conference. At its 309th Session (November 2010), it requested the Office to review and, as appropriate, revise the information provided in the letter of convocation of the Conference concerning the composition of Conference delegations relevant to the question of tripartite imbalance in delegations; bring the content of the debate on this question in the Governing Body to the attention of the Credentials Committee of the 100th Session of the Conference; and submit a new document on any relevant developments for review by the Governing Body at its 312th Session (November 2011).⁶²

Constitution of the International Labour Organization: Proposals to introduce inclusive language for the purpose of promoting gender equality

At its 309th Session, the Governing Body continued its previous discussions of proposals to introduce inclusive language for the purpose of promoting gender equality in the Constitution of the International Labour Organization. At its 310th Session, the Governing Body approved a draft resolution concerning gender equality and the use of language in legal texts of the ILO for submission to the 100th Session of the International Labour Conference.⁶³ Subject to the adoption of the resolution by the Conference, the Governing Body requested the Office to attach the editor's note approved by the Governing Body to the Constitution of the International Labour Organization.

Improvements in standards-related activities of the ILO

In November 2010, the Governing Body considered a document⁶⁴ providing an update on the development of the interim plan of action (adopted in 2007) for the implementation of the standards strategy (adopted in 2005), and the follow-up given to it

⁶¹ ILO: *Provisional Record* No. 4C, International Labour Conference, 98th Session, Geneva, 2009, para. 122 (Credentials Committee request).

⁶² GB.309/PV, para. 304 and GB.309/12/1(Rev.), para. 11.

⁶³ GB.310/11/1(Rev.), para. 18(a) and Appendix I.

⁶⁴ GB.309/LILS/4.

since March 2010. The document took particular account of the conclusions of the consultations on standards policy that had been held in February and March 2010 and contained specific proposals by the Office for a comprehensive approach to strengthen that policy. It further proposed a plan of action to improve the conditions of work of fishers through the widespread ratification and effective implementation of the Work in Fishing Convention, 2007 (No. 188), and the effect given to the Work in Fishing Recommendation, 2007 (No. 199). Finally, it contained information concerning the tripartite working group of experts to examine the Termination of Employment Convention, 1982 (No. 158), and its accompanying Recommendation (No. 166), as well as on the implementation of the three other components of the strategy, concerning the supervisory system, technical cooperation and information.

The Governing Body invited the Office to prepare a paper for submission to the 310th Session (March 2011) of the Governing Body containing further details on the implementation of the standards policy component of the standards strategy, including draft terms of reference of a possible standards review mechanism, as revised in light of the discussion.

In March 2010, the Office submitted two documents on the question of improvements in standards-related activities of the ILO. The first focused on the ILO's standards policy (first component of the standards strategy) and was entitled "an approach for a robust and effective international labour code".⁶⁵ This document was based on the consultations and discussions that had taken place in 2010. It contained proposals for the implementation of the standards policy using the ILO Declaration on Social Justice for a Fair Globalization as an overarching framework. The objective was to ensure that the Organization had available to it a clear and up-to-date body of international labour standards. The document proposed the establishment of a standards review mechanism in respect of which the Committee on Legal Issues and International Labour Standards (LILS) would play a central role. The proposals included the establishment of working group(s), their composition, working methods and the principles to guide the review, options for the standards to be reviewed and possible time frames for the reviews. The proposals were very positively received and gave rise to a rich debate. The Governing Body invited the Office⁶⁶ to prepare a paper for submission to the 312th Session (November 2011) of the Governing Body, taking into account comments made during the discussion and containing concrete proposals for the establishment and the implementation of a standards review mechanism.

The second document⁶⁷ on this item concerned the streamlining of the sending and processing of information and reports, in the framework of the second component of the strategy. It covered the question of the review of article 22 report forms for occupational safety and health (OSH) Conventions and a new article 22 reporting cycle for the fundamental and governance Conventions. With regard to the first question, the Governing Body decided to modify slightly, in accordance with the Office proposal, the annex to the Occupational Safety and Health Recommendation, 1981 (No. 164), in the article 22 report form on the Occupational Safety and Health Convention, 1981 (No. 155); it invited the Office to report on the ongoing review of the article 22 report forms concerning the Asbestos Convention, 1986 (No. 162), the Safety and Health in Construction Convention, 1988 (No. 167), the Chemicals Convention, 1990 (No. 170), the Prevention of Major Industrial Accidents Convention, 1993 (No. 174), and the Safety and Health in Mines

⁶⁵ GB.310/LILS/3/1.

⁶⁶ GB.310/11/2(Rev.).

⁶⁷ GB.310/LILS/3/2.

Convention, 1995 (No. 176), and it invited the Office to carry out a review of the general parts of the report forms of the up-to-date Conventions, in due time. Concerning the second question, the Governing Body approved the three-year and five-year reporting cycles with the existing grouping of Conventions by subject matter, and invited the Office to implement the three-year reporting cycle for the fundamental and governance Conventions as of 2012.⁶⁸

The Maritime Labour Convention, 2006, preparation for entry into force

It will be recalled that at its 306th Session in November 2009, the Governing Body decided⁶⁹ to establish a Preparatory Tripartite MLC, 2006, Committee (“the Preparatory Committee”), modelled⁷⁰ on the future “Special Tripartite Committee” to be established under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), when it comes into force.⁷¹

The mandate of the Preparatory Committee is to “keep under review the preparations by Members for implementing the MLC, 2006, identify any common issues and prepare the work for the future Special Tripartite Committee on any questions that might need to be dealt with as a matter of urgency after entry into force of the Convention, including the rules of procedure of the Committee”. The Governing Body, in establishing the Preparatory Committee, envisaged that, subject to budgetary considerations, the Committee would “meet at least once during 2010 and once during the 12-month period following deposit of the 30th ratification”.

As noted in the summary report provided to the LILS Committee in November 2010⁷² and in the final report to the Governing Body in March 2011, at its 310th Session,⁷³ the Preparatory Committee attended by representatives of the governments of 59 interested ILO Members and representatives nominated respectively by

⁶⁸ GB.310/11/2(Rev.).

⁶⁹ Reports of the Committee on Legal Issues and International Labour Standards, second report, Governing Body, 306th Session, Geneva, November 2009, GB.306/10/2(Rev.), para. 83.

⁷⁰ The composition of the Preparatory Committee, as established by the Governing Body was “to be open to governments of any interested member States and includes up to ten representatives nominated respectively by the International Shipping Federation and the International Transport Workers’ Federation” (ibid., para. 83(a)(iii)). The Governing Body instructed “the Office to provide funding for the participation at meetings of the committee of ten representatives nominated by the Shipowners’ and Seafarers’ groups of the Joint Maritime Commission, respectively. There would be no limitation on the number of interested seafarers or shipowners that chose to participate at their own expense”. (ibid., para. 83(b)(iii)).

⁷¹ Article VIII, paragraph 3, of the MLC, 2006 requires ratification by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent. The Convention has now been ratified by 12 Members of the Organization, whose total share in the world gross tonnage of ships is greater than 33 per cent (now approximately 48 per cent). Currently it is expected that the 30th instrument of ratification will be deposited by the end of 2011. The Convention will come into force 12 months after registration of the 30th ratification.

⁷² GB.309/LILS/7.

⁷³ GB.310/LILS/6; GB.310/11/2(Rev.), paras 70–75.

the International Shipping Federation (ISF) and the International Transport Workers' Federation (ITF), met at ILO headquarters in Geneva from 20 to 22 September 2010.

As also noted in those reports the participants expressed their appreciation of the meeting, which had, in particular, allowed discussion on problems encountered in the implementation of the MLC, 2006, as well as on how those problems could be solved on the basis of the Convention's provisions.

In connection with the Preparatory Committee's mandate with respect to the rules of procedure of the Article XIII Special Tripartite Committee, the participants indicated a strong interest in a further opportunity, if at all possible, through a second meeting of the Preparatory Committee, to participate in the development of draft standing orders for the future Special Tripartite Committee, before their consideration and adoption by the Governing Body. In particular, they hoped that there would be an opportunity for the members to submit comments on a draft text of the Standing Orders before they were finally adopted by the Governing Body. Subject to the availability of funding, such a second meeting is scheduled for December 2011.

Choice of Conventions and Recommendations on which reports should be requested under article 19 of the Constitution in 2012

In March 2011, the Governing Body had before it a document ⁷⁴ containing proposals for the choice of Conventions and Recommendations on which governments might be invited to submit reports under article 19 of the Constitution in 2012, with a view to the General Survey to be prepared by the 2012 Committee of Experts to be examined by the Committee on the Application of Standards in 2013.

The Governing Body decided to request governments to submit reports for 2012, under article 19 of the Constitution, on the Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163), on the basis of the report form contained in the appendix to the Office document. ⁷⁵ It should be noted that this form had been adopted in March 2008, but its sending had been deferred following the alignment of the subjects of the General Surveys with those of the recurrent report under the follow-up to the Declaration on Social Justice for a Fair Globalization. The Governing Body further decided, so as to establish an interval of one year between the discussion in the Committee on the Application of Standards of the General Survey and the recurrent discussion on the same subject, that no new General Survey on instruments related to employment should be undertaken for the purposes of the next recurrent discussion on employment during the present cycle.

Ratification and promotion of fundamental and governance Conventions

In 1995, the Director-General launched a campaign to promote ratification of the fundamental Conventions. Following the adoption, in 2008, of the ILO Declaration on

⁷⁴ GB.310/LILS/4.

⁷⁵ GB.310/11/2(Rev.).

Social Justice for a Fair Globalization, this campaign was extended to include the four governance Conventions.

The document submitted to the Governing Body in March 2011⁷⁶ contained information on the ratification prospects and possible obstacles to ratification in respect of both groups of Conventions. Regarding the fundamental Conventions, the report noted that since November 2009, five new ratifications had been registered. In this respect, to reach the goal of universal ratification, set for 2015, 142 ratifications were still needed. Regarding the governance Conventions, the document indicated that since November 2009, 12 new ratifications had been registered. The Governing Body noted the information in the document and decided to keep the subject on the agenda of the Committee on Legal Issues and International Labour Standards with a view to following the progress made.⁷⁷

9. Subcommittee on Multinational Enterprises

In November 2010, the Governing Body established an ad hoc Working Group⁷⁸ to review the follow-up mechanism of the MNE Declaration with a view to developing promotional options. The participants included employers' representatives from Denmark, Germany and South Africa; workers' representatives from Italy, South Africa and the United Kingdom; and government representatives from Argentina, Azerbaijan, Belgium, China, Italy and South Africa. The Chairperson of the Working Group provided an update on progress during the March 2011 meeting.

All participants affirmed the continuing relevance of the MNE Declaration. It provided guidance to companies on Corporate Social Responsibility (CSR), as well as promoting the role of MNEs in economic and social development, addressing the key responsibilities of governments and promoting social dialogue. Much discussion centred on what could be done at national level to promote dialogues involving the MNEs, using the MNE Declaration as the basis. Although the follow-up mechanism in the form of a periodic survey to monitor the effect given to the Declaration had not been viewed as a success, it did serve as a "periodic reminder" to all ILO constituents at a national level. The debates focused on how best to encourage national discussions, without adding to the existing reporting requirements, through e.g., ILO Regional Meetings and workplans, the preparation of DWCPs, and discussions at the International Labour Conference. The Office could help facilitate exchange of national experiences in implementing the MNE Declaration. The MNE Declaration should be promoted more assertively outside the ILO through enhanced cooperation with other international organizations as well as within the Office. There were divergent views on whether or how the promotional options could include a sector-level approach.

The Office would investigate options to incorporate a universal follow-up to the national tripartite promotion of the MNE Declaration without increasing the existing tripartite reporting contributions of member States; it would further explore how the MNE Declaration could be most effectively and systematically mainstreamed into existing work

⁷⁶ GB.310/LILS/5(&Add.).

⁷⁷ GB.310/11/2(Rev.), para. 69.

⁷⁸ GB.309/13(Rev.), para. 28.

within ILO departments. Final recommendations would be presented to the Governing Body in November 2011.

The Office also provided examples of ILO engagement with MNEs⁷⁹ through regular internal meetings to exchange experiences, to discuss common challenges and develop a more coordinated approach.

10. Committee on Employment and Social Policy

In November 2010, the Governing Body took note of the discussion held in the Employment and Social Policy Committee (ESP Committee) on the following agenda items: (1) Follow-up to the Global Jobs Pact; (2) Recurrent item on social security (ILC, 2011): Update; and (3) Labour inspection and administration: Challenges and perspectives.

At the request of the constituents, the Committee kept the interactive panel discussion format as at the previous Global Jobs Pact reporting session. In November, the panel took up special assignments (i), (iii) and (iv).⁸⁰

With regard to special assignment (i) – ensuring sound and integrated technical support to the operational response to constituents in countries – the Office informed the Committee that Global Jobs Pact implementation efforts had centred on working in multidisciplinary teams, conducting policy reviews through the preparation of the scan documents, providing capacity building and technical support. Lessons learned showed that policy dialogues had been instrumental in the promotion of the Pact. Despite divergent views expressed by the Employers' and Workers' groups, progress in implementation of the Pact was widely acknowledged.

With regard to assignment (iii) – crisis-related research – the Committee noted that research revealed that the Global Jobs Pact had brought a double dividend, both in helping to smooth the impact of the economic and financial crisis and in softening the employment and social impact of falling gross domestic product (GDP). Reporting on assignment (iv) – resource mobilizations – the Committee noted the Office's resources mobilization strategy of mainstreaming the Pact's objectives in the outcome-based workplans.

During the second part of the discussion, the Committee reviewed the Office paper on recovery patterns, growth and employment potential which highlighted broad policy options facing policy-makers, and contained an analysis of recovery patterns with reference to six countries. The crisis had created space for different views on macroeconomic policy and the paper drew attention to some of the key arguments for discussion. The Committee acknowledged that the Office had a clear mandate to explore and promote mechanisms to place employment and social protection at the centre of growth and development strategies.

The Governing Body was given an oral update on the preparation of the ILC Recurrent item on social security. Following the endorsement of the main structure of the report at its March 2009 session of the ESP Committee, the Office had produced an initial

⁷⁹ GB.310/MNE/2.

⁸⁰ Special Office arrangements to support ILO constituents to give effect to the Global Jobs Pact, Director-General's announcement, IGDS No. 127.

draft text. The purpose of the November 2010 update was to make the fact base available to constituents and inform them of overall progress made and the production timetable.

Challenges and perspectives regarding labour inspection and administration were also discussed in November. The Office received inputs and guidance for the preparation of the report to the 99th Session of the Conference on this subject. The importance of both labour administration and labour inspection, at the national, subregional and regional levels was strongly stressed. National labour administration institutions and labour inspectorates should be reinforced as a priority in order to promote good governance. The Office took account of various constructive suggestions to be incorporated into the Conference report.

In its March session in 2011, the Committee received the Office report⁸¹ on rural developments favourably; it also reiterated the need for the ILO to address rural issues and welcomed the Office's proposed strategy. The Committee held a further panel discussion updating implementation of the Global Jobs Pact, and reporting on special assignments (i) and (iii). The Office presented country scans on Bulgaria, Indonesia and South Africa. These three country scans were selected as they reflected different levels of development and national crisis response policy packages. The quality of the scan documents, the scan presentations, the multidisciplinary approach adopted and progress in implementation were highly appreciated. The Committee supported the scan methodologies to be used for DWCPs, and for transforming Global Jobs Pact scans into Decent Work Country scans, noting that this would require sufficient time and consultations in order to ensure the correct outcomes.

Finally, at its March 2011 session, the Committee discussed global trends and wage policy developments in selected countries in the context of economic and financial crisis and future recovery. The Committee appreciated the improved methodologies in the Global Wage Report 2010/11, however, there were divergent views in respect of approaches on this much debated subject. The Office took note of the future areas of work proposed by the constituents.

11. Committee on Sectoral and Technical Meetings and Related Issues

In its work last year, through its Committee on Sectoral and Technical Meetings and Related Issues, the Governing Body paid particular attention to ensuring that new developments in specific economic sectors were addressed effectively through the Sectoral Activities Programme.

Aside from fulfilling its mandate on an ongoing basis, the Committee therefore used its November 2010⁸² and March 2011⁸³ sessions to review recent outcomes of sectoral work. In these reviews, which were aimed at deepening further the Governing Body's understanding of the challenges, limitations and opportunities specific to the Sectoral Activities Programme, the Committee analysed some of the Programme's recent achievements and shared lessons learned with a view to assisting the Governing Body in

⁸¹ GB.310/ESP/1.

⁸² GB.309/15(Rev.).

⁸³ GB.310/14.

defining future areas of intervention and adjusting the focus and modalities of the Programme accordingly.

At its November session, the Committee focused on reviewing sectoral initiatives on HIV and AIDS carried out in the last ten years and, at its March session, it evaluated the outcomes of the action programmes on health services, public services, telecommunication services and utilities as well as progress made in the action programme on transport equipment manufacturing.

Based on these reviews, the strategic orientation contained in the Strategic Policy Framework 2010–15, and informal consultations through sectoral advisory bodies (in line with the procedures adopted in 2007), the Committee recommended to the Governing Body priorities for work under the Sectoral Activities Programme for 2012–13. In making these recommendations, the Committee also fully considered the Governing Body's November decisions related to the follow-up of meetings held in 2010, such as the Meeting of Experts to Adopt a Code of Practice on Safety and Health in Agriculture, the Global Dialogue Forum on Vocational Education and Training, and the Global Dialogue Forum on New Developments and Challenges in the Hospitality and Tourism Sector and their Impact on Employment, Human Resources Development and Industrial Relations.

As part of its continued analysis of sectoral developments connected to the global economic downturn, at its November session, the Committee discussed new developments in public administration and, at its March session, repercussions of the downturn on the education and research sectors.

Transport and maritime issues were also brought to the attention of the Committee, which made recommendations on further follow-up to the resolution concerning tonnage measurement and accommodation, adopted by the 96th Session of the International Labour Conference, on convening of the Subcommittee on Wages of Seafarers of the Joint Maritime Commission, and on ILO cooperation with IMO, UNECE and WHO in the transport sectors.

12. Committee on Technical Cooperation

At its session in November 2010, the Committee on Technical Cooperation discussed a paper on capacity development for tripartite constituents. It agreed on the importance of institutional capacity development for ILO constituents to play a more active role in development policy. It further noted a report on ILO technical cooperation and DWCPs, 2008–09. The Committee also discussed technical cooperation priorities and action plans regarding the abolition of child labour as a follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. With regard to this item, it re-endorsed the Global Action Plan of 2006, endorsed the 2010 Global Action Plan, taking into account the Roadmap for Achieving the Elimination of the Worst Forms of Child Labour agreed at The Hague Global Child Labour Conference, and reconfirmed its commitment to the elimination of child labour as one of the Organization's highest priorities, and the role of the International Programme on the Elimination of Child Labour (IPEC) in supporting efforts to eliminate child labour.

At its March 2011 session, in follow-up to its previous discussion on capacity development, the Committee adopted a number of operational strategies for capacity development in DWCPs and technical cooperation regarding assessment of capacity needs, promoting institutional capacity development through DWCPs and technical cooperation, leveraging the advantages of the Turin Centre, and strengthening the monitoring, evaluation and communication of capacity-building results. It requested further information on the ILO's current capacity-development initiatives. The Committee also

discussed the issue of decent work and aid effectiveness in relation to the upcoming Fourth High-Level Forum on Aid Effectiveness in Busan, Korea, at the end of 2011. The Committee agreed on the need for the ILO to engage in this debate and to promote an agenda of development effectiveness which stressed engagement with civil society, capacity development, South–South cooperation, and support to fragile States. At the same session, the Committee was briefed orally on operational aspects of IPEC, and noted a report on the implementation of the Tripartite Agreement on Freedom of Association and Democracy in Colombia.

13. Issues dealt with in supplementary reports of the Director-General

Appointment of the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector

In November 2010, the Governing Body noted the appointment by the Director-General of Mr Guy Ryder as Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, at the Deputy Director-General level, with effect from 1 September 2010.

Appointments of regional directors

In November 2010, the Governing Body noted the appointment by the Director-General of Ms Susanne Hoffmann as Regional Director of the Regional Office for Europe and Central Asia, with effect from 1 May 2010, and of Ms Elizabeth Tinoco Acevedo as Regional Director of the ILO Regional Office for Latin America and the Caribbean in Lima, at the Assistant Director-General level, with effect from 1 February 2011.

Measuring decent work

Further to the discussion at the 307th Session (March 2010), the Governing Body reviewed progress on “Measuring decent work” at both its November 2010 and March 2011 sessions. (The report⁸⁴ of the Chairperson of the Governing Body to the 99th Session of the International Labour Conference (2010) provides further information on this ongoing work.)

The November 2010 Governing Body:

- (a) received, examined and discussed additional information provided by the Office on the objectives, construction and key elements of the method developed to document progress towards the application of fundamental principles and rights at work; and
- (b) requested the Office to organize further consultations on the method and results of the pilot project and to provide a further report to be submitted to the 310th Session (March 2011) of the Governing Body.

⁸⁴ *Provisional Record* No. 1, ILC 99th Session, Geneva, 2010.

Subsequent to the decision of the Governing Body (November 2010), the Policy Integration and International Labour Standards Departments jointly organized a half-day meeting on 3 February 2011 with the participation of representatives from the Workers' and Employers' groups and Government representatives from the regional groups. The meeting provided a brief presentation on the method, elaborated in a Working Paper⁸⁵ prepared and published (January 2011) by the Office, and shared preliminary results on four pilot countries.

At its March 2011 session, the Governing Body took note on the information provided by the Office as regards the above meeting and the request made to the Office to organize further and more in-depth consultations on the method and its results. The results would be reported to the Governing Body along with a review of progress in the development of Decent Work Country Profiles.

Promotion of the ratification of the 1986 Instrument of Amendment of the Constitution of the International Labour Organisation

During its 309th Session (November 2010), the Governing Body took note of updated information on the campaign to promote the ratification of the 1986 Instrument of Amendment of the Constitution of the International Labour Organisation,⁸⁶ reiterating its request to the Office to widen and diversify its action and inviting the Director-General to submit periodic reports on the implementation of its decision.⁸⁷

Developments in relation to the International Organization for Standardization

At its 309th Session (November 2010), the Governing Body requested the Office to inform the International Organization for Standardization (ISO), in response to its request, that the ILO did not agree with its proposal to establish a new technical committee to facilitate the development of a management system of standards for the human resource management field "associated with all sectors and industries where human labour is applied". The Governing Body considered that the proposed activity would interfere with the work of the ILO and that ISO should abstain from any further action in the field of human resources management.⁸⁸ At its 310th Session (March 2011), the Governing Body expressed its concern and disappointment that, despite the objections it had raised, ISO had decided to proceed with the activity. The Governing Body requested the Director-General to respond to any ISO request for cooperation on the matter by underlining the need for a clear and shared understanding of the respective competences of the ILO and of ISO as the precondition for any such cooperation.⁸⁹

⁸⁵ Accessible at: http://www.ilo.org/integration/resources/papers/lang--en/docName--WCMS_150702/index.htm.

⁸⁶ GB.307/16/6(Rev.), para. 5, GB.309/18/3 and GB.309/PV, paras 347–357.

⁸⁷ GB.309/18/3, para. 7, and GB.309/PV, paras 354 and 357.

⁸⁸ GB.309/18/4, GB.309/18/4(Add.) and GB.309/PV, para. 363.

⁸⁹ GB.310/17/7, para. 5, as amended.

Progress on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

At its 306th Session in November 2009, the Governing Body was informed⁹⁰ that the Office planned to organize a meeting of governments from member States that had ratified the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), or which were seriously considering ratification, along with representatives from the ISF and the ITF. The purpose of these consultations was to review the state of progress on Convention No. 185 and to consider potential solutions to any impediments to ratification, especially in light of a new "biometric profile" (ISO/IEC 24713-3 standard) which had been prepared under the auspices of the ISO in response to a request by the ILO.

The envisaged consultations were held in Geneva on 23–24 September 2010. They fully met the Office's expectations not only by providing it with the technical expertise on a subject matter that is beyond its normal competence but, above all, by throwing light on the question as to why the pace of ratification of this Convention and, in some cases, its implementation by ratifying countries, had been slow. Perhaps the main reason that was highlighted during the consultations in connection with the relatively slow pace of ratification was the absence of ratification by other ILO Members, particularly port States. Because of this, countries considering whether to ratify the Convention saw little advantage in doing so at the present time. The question of cost was also a reason for the hesitancy in ratification, especially in the case of developing countries and countries with very few seafarers. There was consensus on the potential usefulness of certain solutions, of a technical or administrative nature, that had been proposed by the ISO/IEC committees which developed the new standard or by the Office for improving the system of identification under Convention No. 185 and achieving cost savings, where possible, for Members establishing their national systems pursuant to the Convention. One such idea was the establishment of an international centre to coordinate the national focal points (or electronic access) which Members are required to make available 24 hours a day, seven days a week, under Article 4 of the Convention.

It was also considered that the Office should accept a proposal made by the ISO/IEC committees to develop their standard so as to support the optional addition to the seafarer's identity document (SID) of a microchip. The sole purpose of this innovation would be to enable the information already on the SID to be read by the existing infrastructures created to read ePassports. It was stressed that the inclusion of such a chip should in no circumstances be made mandatory. In addition, the Seafarer representatives in the consultations indicated that, in exchange for their accepting this substantial technical improvement, port States should give significant weight to allowing shore leave for seafarers holding SIDs validly issued in accordance with Convention No. 185.

Another idea would be for the Office to conduct or to facilitate the conduct of an international procurement to establish a list of qualified vendors that could provide all elements of a SID-issuance system at low cost. Consideration might be given to including in the procurement a list of companies qualified to conduct independent evaluations so that Members would be able to refer to a list of qualified entities to conduct such evaluations at a fixed cost.

The Office is at present following up the various ideas with a view to defining concrete proposals or options for implementing Convention No. 185 in a cost-effective way having regard to the different situations of interested ILO Members.

⁹⁰ GB.306/17/3.

The Participatory Gender Audit

The 2009 International Labour Conference conclusions on gender equality instructed the ILO to use the Participatory Gender Audit (PGA) as a tool for assessing progress towards gender equality and stated that progress on the conclusions should be reported to the Governing Body.⁹¹ In March 2011, the Governing Body took note of the information contained in a paper⁹² presenting the PGA and its development over the last ten years. The Governing Body expressed satisfaction with results achieved on gender equality among constituents, the Office and UN system partners which have undertaken PGAs and related trainings. PGA's recognition and increasing use by the UN Country Teams (12 to date) were acknowledged and interest regarding further adaptations was high. In this regard, the relevance of the newly developed manual for conducting PGAs in UN settings⁹³ was highlighted, and a link established with gender equality developments in the multilateral system such as the formation of UN Women.

Decent work and the multilateral system

On the basis of a paper concerning "decent work in the multilateral system"⁹⁴ the Governing Body examined the main issues surrounding the further advance of decent work in the UN system, covering the outcome of the UN General Assembly High-Level Plenary Meeting on the Millennium Development Goals (MDGs) (September 2010), reflections in the Chief Executives' Board (CEB) on the post-2015 situation, the UN Economic and Social Council (ECOSOC), the Social Protection Floor and other crisis response initiatives, UN reform issues and the work of the UN Development Group (UNDG), the current status and use of the CEB Toolkit for Mainstreaming Employment and Decent Work, the creation of the new UN entity on gender issues (UN Women), South-South cooperation, and the forthcoming Fourth UN Conference on the Least Developed Countries (May 2011) and the UN Conference on Sustainable Development (Rio+20, 2012).

Governing Body speakers stressed the importance of the participation of employers' and workers' organizations in work with other agencies, especially G20 processes, and the need for the international community to pay greater attention to decent work in multilateral cooperation.

14. Regional Meetings

Arrangements for the 12th African Regional Meeting

At its 310th Session (March 2010), the Governing Body decided that the 12th African Regional Meeting would be held in Johannesburg, South Africa, during the week starting 10 October 2011. The Governing Body adopted the agenda of the Meeting, which is to

⁹¹ ILO: Resolution concerning gender equality at the heart of decent work, International Labour Conference, 98th Session, Geneva, 2009, paras 52(f) and 58.

⁹² GB.310/17/3.

⁹³ http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_151526.pdf.

⁹⁴ GB.301/17/4.

discuss, on the basis of a report submitted by the Director-General, progress made by the countries of the region towards achieving the targets set by the Decent Work Agenda in Africa 2007–15, adopted at the 11th African Regional Meeting (Addis Ababa, Ethiopia, 24–27 April 2007); key challenges in implementing this Agenda in Africa, including the impacts of, and responses to, the global financial and economic crisis, and an analysis of the situation in northern Africa. The Regional Meeting will also set out future priority actions for the region to achieve the Decent Work Agenda in Africa. The Governing Body further decided that the official languages of the Meeting would be English, French and Arabic.

Arrangements for the 15th Asian Regional Meeting

In the light of the devastating earthquake and tsunami which hit Japan on 11 March 2011, the Governing Body decided that the 15th Asia and the Pacific Regional Meeting would be rescheduled and authorized the Director-General to propose an appropriate date to the Officers of the Governing Body, to be confirmed at its 311th Session (June 2011).

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**2.1 B GLOBAL REPORT IN HET KADER VAN DE FOLLOW-UP VAN DE IAO DECLARATIE
INZAKE FUNDAMENTELE PRINCIPES EN RECHTEN OP HET WERK, THEMA 2011:
UITBANNEN VAN DISCRIMINATIE BIJ ARBEID EN BEROEP**

2.1 b Global report in het kader van de follow-up van de IAO declaratie inzake fundamentele principes en rechten op het werk, thema 2011: uitbannen van discriminatie bij arbeid en beroep.

Algemeen

Het follow-up mechanisme van de in 1998 door de Internationale Arbeidsorganisatie (IAO) aangenomen Verklaring over fundamentele principes en rechten op het werk bestaat uit twee delen. Het eerste deel is de bespreking tijdens iedere maartzitting van de Raad van Beheer van de IAO, van de jaarlijkse rapportage van de landen die niet alle fundamentele arbeidsnormen hebben geratificeerd. Het tweede deel van de follow-up is het zogenoemde *Global Report*. De Directeur-Generaal van de IAO presenteert ieder jaar tijdens de Conferentie een rapport over een van de vier categorieën van fundamentele rechten. Deze categorieën zijn:

- 1) de fundamentele vakbondsrechten (2004, 2008);
- 2) gedwongen arbeid en slavernij (2005; 2009);
- 3) kinderarbeid (2006; 2010);
- 4) discriminatie op het werk (2007; 2011).

Het *Global Report* dient als basis voor:

- het vaststellen van de effectiviteit van de door de IAO verleende ondersteuning aan een lidstaat;
- het vaststellen van prioriteiten en actieplannen voor technische samenwerking voor de periode van vier jaar volgend op de bespreking in de Conferentie.

Het rapport en Nederland

Dit jaar gaat het Global Report over discriminatie op het werk, het thema dat ook in 2007 werd besproken. In het Global Report wordt een wereldwijd beeld geschetst van de ontwikkelingen in de praktijk betreffende de uitbanning van discriminatie bij arbeid en beroep. De effecten van de mondiale economische en financiële crisis worden duidelijk in kaart gebracht in relatie tot dit thema. Het rapport heeft als subtitel "de voortdurende uitdaging", het er vanwege de impact van de crisis niet gemakkelijker op is geworden discriminatie tegen te gaan. We staan voor een nog grotere uitdaging.

Het goede nieuws, volgens het rapport, is dat er wereldwijd meer wetgeving is doorgevoerd op het gebied van anti-discriminatie, er meer institutionele initiatieven tot stand zijn gekomen en er meer bewustzijn is gecreëerd. Het slechte nieuws is dat er, met name vanwege de crisis, een gebrek aan capaciteit is ontstaan. Zowel personele als financiële middelen schieten te kort om anti-discriminatie beleid succesvol uit te voeren.

Het rapport stelt 4 prioriteitsdoelen:

1. Het inzetten op en promoten van de universele ratificatie en toepassen van de twee fundamentele IAO verdragen over gelijkheid en non-discriminatie
2. Het ontwikkelen en delen van kennis op het gebied van bestrijding van discriminatie bij arbeid en beroep.
3. Het ontwikkelen van de institutionele capaciteit van de IAO-leden om effectiever fundamentele rechten op het gebied van non-discriminatie te kunnen implementeren.
4. Het versterken van internationale partnerschap met belangrijke actoren op het gebied van gelijkheid.

Nederland is onverminderd pleitbezorger van het belang van de naleving van de fundamentele arbeidsnormen.

Nederland wordt over het algemeen in positieve zin benoemd in het rapport. Vooral op het gebied van monitoring en reviewing wordt Nederland meermalen aangehaald als voorbeeld. Ook op het gebied van beleid tegen leeftijddiscriminatie, veelvoudige discriminatie en projecten op het gebied van gender-gelijkheid, wordt Nederland positief belicht.

Nederland wordt niet expliciet in negatieve zin genoemd, maar in vergelijking met andere landen komt Nederland niet altijd evengoed naar voren in bijvoorbeeld grafieken. Nederland bevindt zich op het gemiddelde van de OESO landen als het gaat om de gelijke beloning van mannen en vrouwen. Ondanks dit gemiddelde cijfer, heeft er wel een stijging in ongelijkheid plaatsgevonden ten opzichte van 2007. De kloof in 2007 stond op 7%, dit rapport meldt een percentage tussen de 15 en 20%. De kloof tussen immigranten en niet-immigrante werknemers is in Nederland ook relatief gezien veel meer gegroeid ten tijde van de economische crisis (tussen 2007 en 2009), namelijk met 5,3%. Het rapport benadrukt wel dat deze stijging (in het algemeen) niet per definitie te maken hoeft te hebben met discriminatie, maar bijvoorbeeld is veroorzaakt omdat bepaalde sectoren waarin allochtonen werkzaam zijn harder zijn geraakt door de crisis (bouw).

Nederlandse insteek

Nederland wilde als reactie op het rapport een aantal aspecten benadrukken tijdens de behandeling van het rapport in de IAC, hetzij in individueel verband of gecoördineerd met de EU of IMEC landen. De volgende punten zijn namens Nederland onder de aandacht gebracht.

- Disability: Mensen met een handicap moeten niet enkel verzekerd zijn van gelijke behandeling maar ook gelijke kansen. Er zal extra inspanning vereist zijn om mensen met een handicap de mogelijkheid te bieden mee te draaien in de maatschappij;
- HIV/AIDS: Vorig jaar is er een aanbeveling "HIV/AIDS and the World of work" aangenomen. (Zie argumentatiebox). Nederland verwelkomt het feit dat HIV/AIDS apart in het DG Rapport wordt benoemd, wat het belang van dit onderwerp onderstreept, gezien HIV een significant obstakel vormt voor het verkrijgen van fatsoenlijk werk en duurzame ontwikkeling. Nederland vindt echter het vrij zijn van stigma's en discriminatie niet voldoende. Werknemers moeten ook toegang hebben tot onderwijs, informatie, behandeling, zorg en ondersteuning op zowel nationaal niveau als op het werk. Toegang tot deze middelen zal deze groep helpen een langer en productiever bestaan te leiden en daarmee helpen bijdragen aan de nationale economie en de maatschappij. Los van enkele aangenomen belangrijke principes, zoals het verbieden van verplichte HIV-testen, geheimhouding, gelijkheid tussen mannen en vrouwen en het vrij zijn van discriminatie, is Nederland van mening dat ook commerciële sekswerkers het antwoord van in de IAO zouden moeten worden opgenomen. Deze groep werd niet genoemd in het rapport, noch in het Global Action Plan;
- Gelijke beloning: Nederland is van mening dat gelijke beloning alleen niet voldoende is. Er zou moeten worden ingezet op gelijke loopbaan;
- Leeftijd discriminatie: In verband met de vergrijzing is de bijdrage van de oudere arbeiders nodig. Nederland is groot voorstander van duurzame inzetbaarheid. Daar gaat mee gepaard dat het imago van oudere werknemers extra aandacht behoeft. Vooroordelen en verkeerde informatie zorgen er onder andere voor dat de kansen voor oudere werknemers worden verkleind;
- Seksuele oriëntatie: Nederland vindt dat het Global Report niet voldoende ingaat op seksuele oriëntatie. Nederland zou graag haar zorg willen uiten over de situatie van LGBTs (Lesbian, Gay, Bisexual, Transgender) op de arbeidsmarkt en ziet graag meer beleid om het welzijn van en de werkgelegenheid voor deze groep te bevorderen.

De IAC

De plenaire behandeling van het rapport stond gepland voor de middag van vrijdag 10 juni en zou in de vorm van een paneldiscussie worden gehouden. Als voorzitter van de EU was de Nederlandse insteek met Hongarije afgestemd en was afgesproken dat deze vrijwel in zijn geheel zou worden overgenomen en worden uitgedragen namens alle lidstaten van de EU. Volgens Hongarije kon op het punt van seksuele oriëntatie en het expliciet benoemen van commerciële sekswerkers geen consensus worden bereikt binnen de EU. Op advies van de organisatie van de paneldiscussie en op nadrukkelijk verzoek van de Hongaren, werd het oplezen van individuele statements niet aangemoedigd. Het werd Nederland derhalve niet aangespoord deze twee thema's alsnog onder de aandacht te brengen tijdens de panel discussie. Afhankelijk van de stemming tijdens de discussie zouden deze twee thema's eventueel in vraagvorm worden geaccentueerd.

Na een korte opening door de president en de Director General Mr. Juan Somavia, sprak de eregast Ms. Michelle Bachelet - de VN Under-Secretary General en Executive Director van de VN Vrouwen haar visie uit. Ms. Bachelet benadrukte in haar statement onder andere de voorkomende discriminatie op grond van seksuele oriëntatie en het belang om dit tegen te gaan. Ondanks de toewijding aan dit thema door Ms. Bachelet, kwam de nadruk uiteindelijk te liggen op discriminatie op grond van geslacht. De discussie die daarop volgde, zowel tussen de panelleden als plenair, richtte zich dan ook voornamelijk op de veelvoorkomende discriminatie van vrouwen.

Het vierledig panel, waarvan 3 vrouwen, bestond uit de Braziliaanse Ms. Iriny Lopes - Special Secretary voor Vrouwenbeleid; de Noorse Ms. Hanne Bjurstrom - Minister van Werkgelegenheid; Mr. Phil O'Reilly, de CEO van Business NZ, uit Nieuw Zeeland; en Ms. Rabiadou Diallo, de Secretaris-Generaal van de Werknemers confederatie uit Guinea. Het panel, in lijn met de IAO, was tripartiet. De discussie werd grotendeels gedomineerd door de sociale partners. Overheden kwamen nauwelijks aan het woord. Gezien deze balans en het hoofdonderwerp is ervoor gekozen niet te interveniëren en de twee van het EU-statement uitgesloten thema's nog expliciet te benoemen.

Na de discussie zijn er totaal 16 statements afgegeven waarvan 8 door overheden. De Arabische landen waren hierin oververtegenwoordigd.

2.2 PROGRAMMA- EN BUDGETVOORSTELLEN EN ANDERE AANGELEGENHEDEN

2.2 Programma- en budgetvoorstellen en andere aangelegenheden

Het *Finance Committee* besprak het door DG IAO ingediende budgetvoorstel. Dit was in de Beheersraad van maart reeds bijgesteld van 2,7% groei naar 2,4% groei. Omdat vooral de Geneve Groep zich tegen dit voorstel bleef keren, bracht DG IAO in het *Finance Committee* een nieuw voorstel in dat neerkomt op 2,1% groei. Een grote meerderheid van lidstaten kon hiermee instemmen. VS, VK, SP, CA, BU, IS, PO stemden uiteindelijk tegen. Zes andere landen, waaronder NL, hebben zich van stemming onthouden. Het uiteindelijke IAO budget voor 2012-13 komt hiermee uit op USD 861.620.000.

2.3 COMITÉ INZAKE DE TOEPASSING EN NALEVING VAN VERDRAGEN EN AANBEVELINGEN

2.3 Comité inzake de toepassing en de naleving van verdragen en aanbevelingen

In het *Comité inzake de toepassing en naleving van verdragen en aanbevelingen* werd, als ieder jaar, een speciale zitting gewijd aan de naleving door *Birma* van Verdrag nr. 29 (dwangarbeid). De meeste sprekers erkenden dat de regering van Birma/Myanmar beperkte vooruitgang boekt en riepen de regering van Birma/Myanmar op te voldoen aan de aanbevelingen van de IAO onderzoekscommissie. Het niet in vrijheid opereren van vakbonden in Wit-Rusland is al jaren en ook dit jaar onderwerp van discussie in de IAC geweest. Het Comité riep de regering wederom op om de aanbevelingen van de IAO onderzoekscommissie door te voeren en de wetswijzingen en een actieplan met duidelijke deadlines voor te leggen aan de IAO. Zimbabwe werd dit jaar niet besproken in afwachting van de bevindingen van de IAO onderzoekscommissie, die dit voorjaar in Zimbabwe is geweest. Guatemala werd dit jaar besproken in het comité vanwege het klimaat van straffeloosheid en geweld en het vermoorden van vakbondsleden. Het comité sprak zijn bezorgdheid uit over het feit dat de politieke wil ontbrak om de sociale dialoog te versterken en vakbondsleden te beschermen. Ook riep het comité de regering van Guatemala op om wetswijzigingen door te voeren en een IAO high level mission te accepteren.

2.3.1 LIJST INDIVIDUELE GEVALLEN

B

**Index of observations regarding which
Governments are invited to supply
information to the Committee**

Report of The Committee Of Experts
(Report III (PART 1A), ILC, 100th Session, 2011)

Country	Convention No. (The page numbers in parentheses refer to the English version of the Report of the Committee of Experts)
Azerbaijan*	138 (page 277)
Belarus*	98 (page 56)
Cambodia	87 (page 64)
Canada	162 (page 679)
Democratic Republic of the Congo*	29 (page 225)
Fiji	111 (page 430)
Greece	98 (page 82)
Guatemala*	87 (page 83)
Honduras	122 (page 615)
Malaysia – Peninsular Malaysia*	19 (page 742)
Mexico	155 (page 712)
Myanmar	29 (page 240) – Special sitting 87 (page 118)
Nigeria	87 (page 125)
Pakistan	87 (page 129)
Panama	87 (page 131)
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Sri Lanka	103 (page 752)
Swaziland	87 (page 165)
Turkey	87 (page 180)
Uruguay	98 (page 193)
Uzbekistan*	182 (page 396)
Zimbabwe	87 (page 213)

* The countries highlighted with an asterix are those in relation to which the Committee of Experts has placed a double footnote.

DEEL III
BEHANDELING ONDERWERPEN DOOR DE BEHEERSRAAD OP DE AGENDA GEPLAATST

3.1 *DECENT WORK* VOOR HUISHOUELIJK PERSONEEL (NORMSTELLEND – TWEEDE DISCUSSIE)

3.1 Decent work voor huishoudelijk personeel (normstellend – tweede discussie)

Wereldwijd werken miljoenen mensen, veelal vrouwen, als 'domestic workers'. Onder het begrip 'domestic work' worden onder meer tegen betaling verleende huishoudelijke hulp en zorg aan huis geschaard. Domestic work speelt zich in veel landen in de informele sector af en is vaak weinig gereguleerd.

Van 1 tot en met 11 juni is in Genève onderhandeld over een verdrag met bijbehorende aanbeveling ter bescherming van huishoudelijk personeel (*Decent Work for Domestic Workers*). Het betrof hier de tweede en laatste lezing van een aan te nemen mondiale standaard. Tijdens de 99^e ILC (2010) heeft de eerste lezing plaatsgevonden.

Nederland heeft zich tijdens de discussie over de bepalingen van het verdrag, in lijn met de richtlijnen voor de Koninkrijksdelegatie, hard gemaakt voor formuleringen die niet te gedetailleerd zijn, rekening houdend met de bijzondere omstandigheden waarin *domestic work* wordt uitgevoerd en die voldoende ruimte laten aan landen die al een hoge beschermingsgraad kennen. Dit om brede ratificatie van het uiteindelijke verdrag mogelijk te maken. Nederland trad hiertoe meestal op in EU-verband.

Het bleek lastig de verschillende praktijken van de betrokken lidstaten in één verdrag te vatten. In ontwikkelingslanden wordt veelvuldig gebruik gemaakt van inwonend huishoudelijk personeel. De positie van deze vaak onzichtbare groep is uitermate kwetsbaar. Met name de ontwikkelingslanden vroegen dan ook aandacht voor de bescherming van deze groep en werden hierin gesteund door de werknemers. Ook streefden zij naar gedetailleerde bepalingen in het verdrag om misstanden aan te kunnen pakken. Ontwikkelde landen zochten naar bewoordingen die enige flexibiliteit laten aan lidstaten die al een hoge beschermingsgraad kennen, en bewoordingen die niet onnodig prescriptief zouden zijn in het geval van (deeltijd) huishoudelijk personeel. Dit is een praktijk die vooral in ontwikkelde landen veel voorkomt. Hierin werden zij op bepaalde onderdelen gesteund door de werkgevers.

Nederland heeft in de discussie samen met de Nederlandse sociale partners regelmatig een bemiddelende rol kunnen spelen.

In de discussie over de informatieverplichtingen ten behoeve van *domestic workers* (artikel 6) heeft Nederland niet kunnen voorkomen dat de verdragstekst te gedetailleerd is geworden. Het lag volgens Nederland en de andere EU lidstaten meer voor de hand om de details in de aanbeveling op te nemen. Een verdrag op hoofdlijnen en de details in de aanbeveling dragen immers bij aan het streven naar een breed ratificeerbaar verdrag.

In de discussie over arbeidstijden (artikel 10) is een compromis bereikt dat ruimte laat aan een referentieperiode van 14 dagen voor het opnemen en accumuleren van de wekelijkse rust van *domestic workers*, in lijn met de Europese Arbeidstijdenrichtlijn.

Bij de discussie over sociale zekerheid wenste een meerderheid van werknemers, werkgevers en overheden een bewoording waarbij *domestic workers* gelijk behandeld moeten worden ten opzichte van andere werknemers op het gebied van sociale zekerheid zonder dat een objectief gerechtvaardigd onderscheid mogelijk is. Nederland kon hiermee niet instemmen omdat dit in de Nederlandse praktijk zou leiden tot een aanzienlijke en onaanvaardbare financiële en administratieve lastenverzwaring voor private huishoudens, vallend onder de Regeling dienstverlening aan huis, waarbij deeltijd huishoudelijk personeel werkzaam is. Dit heeft een negatieve weerslag op de werkgelegenheid van het deeltijd huishoudelijk personeel. Aangezien de aangenomen tekst geen ruimte lijkt te laten voor de Regeling dienstverlening aan huis heeft Nederland tijdens deze discussie

aangegeven dat de gekozen bewoording voor Nederland niet acceptabel is en dat dit waarschijnlijk ratificatie van dit verdrag in de weg zal staan.

Op 16 juni is het verdrag (bijlage 3.1.1) met de bijbehorende aanbeveling (bijlage 3.1.2) ruimschoots aangenomen door de Internationale Arbeidsconferentie. Nederland heeft hierbij vóór verdrag en aanbeveling gestemd, omdat het verdrag in een duidelijke behoefte van met name ontwikkelingslanden voorziet en nuttig kan zijn om misstanden wereldwijd tegen te gaan. Nederland heeft echter wel met een stemverklaring toegelicht dat deze stem voor het verdrag niet betekent dat Nederland ratificatie kan overwegen. Zoals al tijdens de onderhandelingen over de tekst was aangekaart, biedt het verdrag Nederland niet de ruimte om een zinvolle regeling te handhaven.

Nederland zal na ommekomst van het aangenomen verdrag met de bijbehorende aanbeveling zich bezinnen op de wijze waarop invulling kan worden gegeven aan het verdrag en de aanbeveling. Hierover zal op de gebruikelijke wijze en na consultatie van de sociale partners een standpuntbepaling aan de Rijksministerraad worden voorgelegd.

3.1.1 VERDRAG *DECENT WORK* VOOR HUISHOUELIJK PERSONEEL

Provisional Record
Compte rendu provisoire

15A



One hundredth Session, Geneva, 2011

Centième session, Genève, 2011

TEXT OF THE CONVENTION CONCERNING
DECENT WORK FOR DOMESTIC WORKERS

TEXTE DE LA CONVENTION CONCERNANT
LE TRAVAIL DÉCENT POUR LES TRAVAILLEUSES
ET TRAVAILLEURS DOMESTIQUES

TEXT OF THE CONVENTION CONCERNING DECENT WORK FOR DOMESTIC WORKERS

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its 100th Session
on 1 June 2011, and

Mindful of the commitment of the International Labour Organization
to promote decent work for all through the achievement of the
goals of the ILO Declaration on Fundamental Principles and
Rights at Work and the ILO Declaration on Social Justice for a
Fair Globalization, and

Recognizing the significant contribution of domestic workers to the
global economy, which includes increasing paid job opportunities
for women and men workers with family responsibilities, greater
scope for caring for ageing populations, children and persons with
a disability, and substantial income transfers within and between
countries, and

Considering that domestic work continues to be undervalued and
invisible and is mainly carried out by women and girls, many of
whom are migrants or members of disadvantaged communities
and who are particularly vulnerable to discrimination in respect
of conditions of employment and of work, and to other abuses of
human rights, and

Considering also that in developing countries with historically scarce
opportunities for formal employment, domestic workers constitute
a significant proportion of the national workforce and remain
among the most marginalized, and

Recalling that international labour Conventions and Recommendations
apply to all workers, including domestic workers, unless otherwise
provided, and

Noting the particular relevance for domestic workers of the Migration
for Employment Convention (Revised), 1949 (No. 97), the Migrant
Workers (Supplementary Provisions) Convention, 1975 (No. 143),
the Workers with Family Responsibilities Convention, 1981
(No. 156), the Private Employment Agencies Convention, 1997
(No. 181), and the Employment Relationship Recommendation,
2006 (No. 198), as well as of the ILO Multilateral Framework on
Labour Migration: Non-binding principles and guidelines for a
rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is
carried out that make it desirable to supplement the general

**TEXTE DE LA CONVENTION CONCERNANT
LE TRAVAIL DÉCENT POUR LES TRAVAILLEUSES
ET TRAVAILLEURS DOMESTIQUES**

La Conférence générale de l'Organisation internationale du Travail,
Convoquée à Genève par le Conseil d'administration du Bureau
international du Travail, et s'y étant réunie le 1^{er} juin 2011, en sa
centième session;

Consciente de l'engagement pris par l'Organisation internationale du
Travail de promouvoir le travail décent pour tous par la réalisation
des objectifs de la Déclaration de l'OIT relative aux principes et
droits fondamentaux au travail et de la Déclaration de l'OIT sur
la justice sociale pour une mondialisation équitable;

Reconnaissant la contribution significative des travailleurs domestiques
à l'économie mondiale, y compris par l'augmentation des
possibilités d'emploi rémunéré pour les travailleuses et travailleurs
ayant des responsabilités familiales, le développement des services
à la personne pour les populations vieillissantes, les enfants et
les personnes handicapées ainsi que les transferts de revenus
substantiels au sein des pays et entre eux;

Considérant que le travail domestique continue d'être sous-évalué et
invisible et qu'il est effectué principalement par des femmes et des
jeunes filles, dont beaucoup sont des migrantes ou appartiennent
aux communautés défavorisées et sont particulièrement exposées
à la discrimination liée aux conditions d'emploi et de travail et
aux autres violations des droits humains;

Considérant également que, dans les pays en développement où les
opportunités d'emploi formel sont historiquement rares, les
travailleurs domestiques représentent une proportion significative
de la population active de ces pays et demeurent parmi les plus
marginalisés;

Rappelant que, sauf disposition contraire, les conventions et
recommandations internationales du travail s'appliquent à tous
les travailleurs, y compris les travailleurs domestiques;

Notant que la convention (n° 97) sur les travailleurs migrants
(révisée), 1949, la convention (n° 143) sur les travailleurs migrants
(dispositions complémentaires), 1975, la convention (n° 156) sur les
travailleurs ayant des responsabilités familiales, 1981, la convention
(n° 181) sur les agences d'emploi privées, 1997, la recommandation
(n° 198) sur la relation de travail, 2006, sont particulièrement
pertinentes pour les travailleurs domestiques tout comme l'est le
Cadre multilatéral de l'OIT pour les migrations de main-d'œuvre:
Principes et lignes directrices non contraignants pour une approche
des migrations de main-d'œuvre fondée sur les droits (2006);

Reconnaissant que les conditions particulières dans lesquelles s'effectue
le travail domestique rendent souhaitable de compléter les normes

standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

Article 1

For the purpose of this Convention:

- (a) the term “domestic work” means work performed in or for a household or households;
- (b) the term “domestic worker” means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Article 2

1. The Convention applies to all domestic workers.

2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:

- (a) categories of workers who are otherwise provided with at least equivalent protection;
- (b) limited categories of workers in respect of which special problems of a substantial nature arise.

de portée générale par des normes spécifiques aux travailleurs domestiques afin de leur permettre de jouir pleinement de leurs droits;

Rappelant d'autres instruments internationaux pertinents tels que la Déclaration universelle des droits de l'homme, le Pacte international relatif aux droits civils et politiques, le Pacte international relatif aux droits économiques, sociaux et culturels, la Convention internationale sur l'élimination de toutes les formes de discrimination raciale, la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes, la Convention des Nations Unies contre la criminalité transnationale organisée, et notamment son Protocole additionnel visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, ainsi que son Protocole contre le trafic illicite de migrants par terre, air et mer, la Convention relative aux droits de l'enfant et la Convention internationale sur la protection des droits de tous les travailleurs migrants et des membres de leur famille;

Après avoir décidé d'adopter diverses propositions relatives au travail décent pour les travailleurs domestiques, question qui constitue le quatrième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce jour de juin deux mille onze, la convention ci-après, qui sera dénommée Convention sur les travailleuses et travailleurs domestiques, 2011.

Article 1

Aux fins de la présente convention:

- a) l'expression «travail domestique» désigne le travail effectué au sein de ou pour un ou plusieurs ménages;
- b) l'expression «travailleur domestique» désigne toute personne de genre féminin ou masculin exécutant un travail domestique dans le cadre d'une relation de travail;
- c) une personne qui effectue un travail domestique seulement de manière occasionnelle ou sporadique sans en faire sa profession n'est pas un travailleur domestique.

Article 2

1. La convention s'applique à tous les travailleurs domestiques.

2. Un Membre qui ratifie cette convention peut, après consultation des organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, des organisations représentatives de travailleurs domestiques et de celles d'employeurs de travailleurs domestiques, exclure totalement ou partiellement de son champ d'application:

- a) des catégories de travailleurs qui bénéficient à un autre titre d'une protection au moins équivalente;
- b) des catégories limitées de travailleurs au sujet desquelles se posent des problèmes particuliers d'une importance significative.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Article 4

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.

2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

Article 5

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

3. Tout Membre qui se prévaut de la possibilité offerte au paragraphe précédent doit, dans son premier rapport sur l'application de la convention en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail, indiquer toute catégorie particulière de travailleurs ainsi exclue en précisant les raisons d'une telle exclusion et, dans ses rapports ultérieurs, spécifier toute mesure qui pourra avoir été prise en vue d'étendre l'application de la convention aux travailleurs concernés.

Article 3

1. Tout Membre doit prendre des mesures pour assurer la promotion et la protection effectives des droits humains de tous les travailleurs domestiques comme prévu dans la présente convention.

2. Tout Membre doit prendre à l'égard des travailleurs domestiques les mesures prévues par la présente convention pour respecter, promouvoir et réaliser les principes et droits fondamentaux au travail, à savoir:

- a) la liberté d'association et la reconnaissance effective du droit de négociation collective;
- b) l'élimination de toute forme de travail forcé ou obligatoire;
- c) l'abolition effective du travail des enfants;
- d) l'élimination de la discrimination en matière d'emploi et de profession.

3. Lorsqu'ils prennent des mesures afin d'assurer que les travailleurs domestiques et les employeurs des travailleurs domestiques jouissent de la liberté syndicale et de la reconnaissance effective du droit de négociation collective, les Membres doivent protéger le droit des travailleurs domestiques et des employeurs des travailleurs domestiques de constituer leurs propres organisations, fédérations et confédérations et, à la condition de se conformer aux statuts de ces dernières, de s'affilier aux organisations, fédérations et confédérations de leur choix.

Article 4

1. Tout Membre doit fixer un âge minimum pour les travailleurs domestiques qui doit être compatible avec les dispositions de la convention (n° 138) sur l'âge minimum, 1973, et de la convention (n° 182) sur les pires formes de travail des enfants, 1999, et ne pas être inférieur à celui qui est prévu par la législation nationale applicable à l'ensemble des travailleurs.

2. Tout Membre doit prendre des mesures pour veiller à ce que le travail effectué par les travailleurs domestiques d'un âge inférieur à 18 ans et supérieur à l'âge minimum d'admission à l'emploi ne les prive pas de la scolarité obligatoire ni ne compromette leurs chances de poursuivre leurs études ou de suivre une formation professionnelle.

Article 5

Tout Membre doit prendre des mesures afin d'assurer que les travailleurs domestiques bénéficient d'une protection effective contre toutes les formes d'abus, de harcèlement et de violence.

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

Article 7

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 8

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

Article 6

Tout Membre doit prendre des mesures afin d'assurer que les travailleurs domestiques, comme l'ensemble des travailleurs, jouissent de conditions d'emploi équitables ainsi que de conditions de travail décentes et, lorsqu'ils sont logés au sein du ménage, de conditions de vie décentes qui respectent leur vie privée.

Article 7

Tout Membre doit prendre des mesures afin d'assurer que les travailleurs domestiques soient informés de leurs conditions d'emploi d'une manière appropriée, vérifiable et facilement compréhensible, de préférence, lorsque cela est possible, au moyen d'un contrat écrit conformément à la législation nationale ou aux conventions collectives, notamment en ce qui concerne:

- a) le nom et l'adresse de l'employeur et du travailleur;
- b) l'adresse du ou des lieux de travail habituels;
- c) la date de commencement de l'emploi et, si le contrat est d'une durée déterminée, sa durée;
- d) le type de travail à effectuer;
- e) la rémunération, son mode de calcul et la périodicité des paiements;
- f) la durée normale de travail;
- g) le congé annuel payé et les périodes de repos journalier et hebdomadaire;
- h) la fourniture de nourriture et d'un logement, le cas échéant;
- i) la période d'essai, le cas échéant;
- j) les conditions de rapatriement, le cas échéant;
- k) les conditions relatives à la cessation de la relation de travail, y compris tout préavis à respecter par l'employeur ou par le travailleur.

Article 8

1. La législation nationale doit prévoir que les travailleurs domestiques migrants qui sont recrutés dans un pays pour effectuer un travail domestique dans un autre pays doivent recevoir par écrit une offre d'emploi ou un contrat de travail exécutoire dans le pays où le travail sera effectué, énonçant les conditions d'emploi visées à l'article 7, avant le passage des frontières nationales aux fins d'effectuer le travail domestique auquel s'applique l'offre ou le contrat.

2. Le paragraphe précédent ne s'applique pas aux travailleurs qui jouissent de la liberté de circulation aux fins d'occuper un emploi en vertu d'accords bilatéraux, régionaux ou multilatéraux ou dans le cadre de zones d'intégration économique régionales.

3. Les Membres doivent prendre des mesures pour coopérer entre eux afin d'assurer l'application effective des dispositions de la présente convention aux travailleurs domestiques migrants.

4. Tout Membre doit, par voie de législation ou d'autres mesures, déterminer les conditions en vertu desquelles les travailleurs domestiques migrants ont droit au rapatriement après expiration ou résiliation du contrat de travail par lequel ils ont été recrutés.

Article 9

Each Member shall take measures to ensure that domestic workers:

- (a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
- (b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
- (c) are entitled to keep in their possession their travel and identity documents.

Article 10

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Article 11

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

Article 12

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 9

Tout Membre doit prendre des mesures afin d'assurer que les travailleurs domestiques:

- a) soient libres de parvenir à un accord avec leur employeur ou leur employeur potentiel sur le fait de loger ou non au sein du ménage;
- b) qui sont logés au sein du ménage ne soient pas obligés de rester au sein du ménage ou avec les membres du ménage pendant les périodes de repos journalier ou hebdomadaire ou de congés annuels;
- c) aient le droit de garder en leur possession leurs documents de voyage et leurs pièces d'identité.

Article 10

1. Tout Membre doit prendre des mesures en vue d'assurer l'égalité de traitement entre les travailleurs domestiques et l'ensemble des travailleurs en ce qui concerne la durée normale de travail, la compensation des heures supplémentaires, les périodes de repos journalier et hebdomadaire et les congés annuels payés, conformément à la législation nationale ou aux conventions collectives, compte tenu des caractéristiques particulières du travail domestique.

2. Le repos hebdomadaire doit être d'au moins 24 heures consécutives.

3. Les périodes pendant lesquelles les travailleurs domestiques ne peuvent disposer librement de leur temps et restent à la disposition du ménage pour le cas où celui-ci ferait appel à eux doivent être considérées comme du temps de travail dans la mesure déterminée par la législation nationale, par les conventions collectives ou par tout autre moyen compatible avec la pratique nationale.

Article 11

Tout Membre doit prendre des mesures afin d'assurer que les travailleurs domestiques bénéficient du régime de salaire minimum, là où un tel régime existe, et que la rémunération soit fixée sans discrimination fondée sur le sexe.

Article 12

1. Les travailleurs domestiques doivent être payés directement en espèces, à intervalles réguliers et au moins une fois par mois. A moins que le mode de paiement ne soit prévu par la législation nationale ou les conventions collectives, le paiement peut se faire par transfert bancaire, par chèque bancaire ou postal, par ordre de paiement, ou autre moyen légal de paiement monétaire, lorsque les travailleurs intéressés y consentent.

2. La législation nationale, les conventions collectives ou les sentences arbitrales peuvent prévoir le paiement d'un pourcentage limité de la rémunération des travailleurs domestiques, sous la forme de paiements en nature qui ne soient pas moins favorables que ceux généralement applicables aux autres catégories de travailleurs, à condition que des mesures soient prises pour assurer que ces paiements en nature sont acceptés par le travailleur, visent son usage et son intérêt personnels, et que la valeur monétaire qui leur est attribuée est juste et raisonnable.

Article 13

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

- (a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;
- (b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;
- (c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;

Article 13

1. Tout travailleur domestique a droit à un environnement de travail sûr et salubre. Tout Membre doit prendre, conformément à la législation et à la pratique nationales, des mesures effectives en tenant dûment compte des caractéristiques particulières du travail domestique, afin d'assurer la sécurité et la santé au travail des travailleurs domestiques.

2. Les mesures visées au paragraphe précédent peuvent être appliquées progressivement en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives de travailleurs domestiques et celles d'employeurs de travailleurs domestiques.

Article 14

1. Tout Membre doit prendre des mesures appropriées, conformément à la législation nationale et en tenant dûment compte des caractéristiques spécifiques du travail domestique, afin d'assurer que les travailleurs domestiques jouissent, en matière de sécurité sociale, y compris en ce qui concerne la maternité, de conditions qui ne soient pas moins favorables que celles applicables à l'ensemble des travailleurs.

2. Les mesures visées au paragraphe précédent peuvent être appliquées progressivement en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives de travailleurs domestiques et celles d'employeurs de travailleurs domestiques.

Article 15

1. Afin d'assurer que les travailleurs domestiques, y compris les travailleurs domestiques migrants, recrutés ou placés par des agences d'emploi privées sont effectivement protégés contre les pratiques abusives, tout Membre doit:

- a) déterminer les conditions d'exercice de leurs activités par les agences d'emploi privées lorsqu'elles recrutent ou placent des travailleurs domestiques, conformément à la législation et à la pratique nationales;
- b) assurer qu'il existe des mécanismes et des procédures appropriés aux fins d'instruire les plaintes et d'examiner les allégations d'abus et de pratiques frauduleuses, concernant les activités des agences d'emploi privées en rapport avec des travailleurs domestiques;
- c) prendre toutes les mesures nécessaires et appropriées, dans les limites de sa juridiction et, le cas échéant, en collaboration avec d'autres Membres, pour faire en sorte que les travailleurs domestiques recrutés ou placés sur son territoire par des agences d'emploi privées bénéficient d'une protection adéquate, et pour empêcher que des abus ne soient commis à leur encontre. Ces mesures doivent comprendre des lois ou règlements qui spécifient les obligations respectives de l'agence d'emploi privée et du ménage vis-à-vis du travailleur domestique et qui prévoient des sanctions, y compris l'interdiction des agences d'emploi privées qui se livrent à des abus et à des pratiques frauduleuses;

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- (d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and
 - (e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

Article 18

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers' and workers' organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

Article 19

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

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- d) envisager de conclure, lorsque des travailleurs domestiques sont recrutés dans un pays pour travailler dans un autre, des accords bilatéraux, régionaux ou multilatéraux pour prévenir les abus et les pratiques frauduleuses en matière de recrutement, de placement et d'emploi;
 - e) prendre des mesures visant à assurer que les honoraires facturés par les agences d'emploi privées ne soient pas déduits de la rémunération des travailleurs domestiques.

2. Pour donner effet à chacune des dispositions du présent article, tout Membre doit consulter les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, les organisations représentatives de travailleurs domestiques et celles d'employeurs de travailleurs domestiques.

Article 16

Tout Membre doit prendre des mesures afin d'assurer, conformément à la législation et à la pratique nationales, que tous les travailleurs domestiques, seuls ou par l'intermédiaire d'un représentant, aient un accès effectif aux tribunaux ou à d'autres mécanismes de règlement des différends, à des conditions qui ne soient pas moins favorables que celles qui sont prévues pour l'ensemble des travailleurs.

Article 17

1. Tout Membre doit mettre en place des mécanismes de plainte et des moyens effectifs et accessibles afin d'assurer le respect de la législation nationale relative à la protection des travailleurs domestiques.

2. Tout Membre doit établir et mettre en œuvre des mesures en matière d'inspection du travail, de mise en application et de sanctions, en tenant dûment compte des caractéristiques particulières du travail domestique, conformément à la législation nationale.

3. Dans la mesure où cela est compatible avec la législation nationale, ces mesures doivent prévoir les conditions auxquelles l'accès au domicile du ménage peut être autorisé, en tenant dûment compte du respect de la vie privée.

Article 18

Tout Membre doit mettre en œuvre les dispositions de la présente convention, en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives par voie de législation ainsi que par des conventions collectives ou des mesures supplémentaires conformes à la pratique nationale, en étendant ou en adaptant les mesures existantes aux travailleurs domestiques, ou en élaborant des mesures spécifiques à leur endroit, s'il y a lieu.

Article 19

La présente convention n'affecte pas les dispositions plus favorables applicables aux travailleurs domestiques en vertu d'autres conventions internationales du travail.

Article 20

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 21

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 22

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 23

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 24

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

Article 25

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a

Article 20

Les ratifications formelles de la présente convention sont communiquées au Directeur général du Bureau international du Travail aux fins d'enregistrement.

Article 21

1. La présente convention ne lie que les Membres de l'Organisation internationale du Travail dont la ratification a été enregistrée par le Directeur général du Bureau international du Travail.

2. Elle entre en vigueur douze mois après que les ratifications de deux Membres ont été enregistrées par le Directeur général.

3. Par la suite, cette convention entre en vigueur pour chaque Membre douze mois après la date de l'enregistrement de sa ratification.

Article 22

1. Tout Membre ayant ratifié la présente convention peut la dénoncer à l'expiration d'une période de dix années après la date de la mise en vigueur initiale de la convention, par un acte communiqué au Directeur général du Bureau international du Travail aux fins d'enregistrement. La dénonciation prend effet une année après avoir été enregistrée.

2. Tout Membre ayant ratifié la présente convention qui, dans l'année après l'expiration de la période de dix années mentionnée au paragraphe précédent, ne se prévaut pas de la faculté de dénonciation prévue par le présent article sera lié pour une nouvelle période de dix années et, par la suite, pourra dénoncer la présente convention dans la première année de chaque nouvelle période de dix années dans les conditions prévues au présent article.

Article 23

1. Le Directeur général du Bureau international du Travail notifie à tous les Membres de l'Organisation internationale du Travail l'enregistrement de toutes les ratifications et dénonciations qui lui sont communiquées par les Membres de l'Organisation.

2. En notifiant aux Membres de l'Organisation l'enregistrement de la deuxième ratification communiquée, le Directeur général appelle l'attention des Membres de l'Organisation sur la date à laquelle la présente convention entrera en vigueur.

Article 24

Le Directeur général du Bureau international du Travail communique au Secrétaire général des Nations Unies, aux fins d'enregistrement, conformément à l'article 102 de la Charte des Nations Unies, des renseignements complets au sujet de toutes ratifications et dénonciations enregistrées.

Article 25

Chaque fois qu'il le juge nécessaire, le Conseil d'administration du Bureau international du Travail présente à la Conférence générale un

report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 26

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:
 - (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 22, if and when the new revising Convention shall have come into force;
 - (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 27

The English and French versions of the text of this Convention are equally authoritative.

rapport sur l'application de la présente convention et examine s'il y a lieu d'inscrire à l'ordre du jour de la Conférence la question de sa révision totale ou partielle.

Article 26

1. Au cas où la Conférence adopte une nouvelle convention portant révision de la présente convention, et à moins que la nouvelle convention n'en dispose autrement:

- a) la ratification par un Membre de la nouvelle convention portant révision entraîne de plein droit, nonobstant l'article 22, la dénonciation immédiate de la présente convention, sous réserve que la nouvelle convention portant révision soit entrée en vigueur;
- b) à partir de la date de l'entrée en vigueur de la nouvelle convention portant révision, la présente convention cesse d'être ouverte à la ratification des Membres.

2. La présente convention demeure en tout cas en vigueur dans sa forme et teneur pour les Membres qui l'auraient ratifiée et qui ne ratifieraient pas la convention portant révision.

Article 27

Les versions française et anglaise du texte de la présente convention font également foi.

3.1.2 AANBEVELING *DECENT WORK* VOOR HUISELIJK PERSONEEL

Provisional Record
Compte rendu provisoire

15B



One hundredth Session, Geneva, 2011

Centième session, Genève, 2011

TEXT OF THE RECOMMENDATION CONCERNING
DECENT WORK FOR DOMESTIC WORKERS

TEXTE DE LA RECOMMANDATION CONCERNANT
LE TRAVAIL DÉCENT POUR LES TRAVAILLEUSES
ET TRAVAILLEURS DOMESTIQUES

TEXT OF THE RECOMMENDATION CONCERNING DECENT WORK FOR DOMESTIC WORKERS

The General Conference of the International Labour Organization,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its 100th Session
on 1 June 2011, and
Having adopted the Domestic Workers Convention, 2011, and

Having decided upon the adoption of certain proposals with regard to
decent work for domestic workers, which is the fourth item on the
agenda of the session, and

Having determined that these proposals shall take the form of
a Recommendation supplementing the Domestic Workers
Convention, 2011;

adopts this day of June of the year two thousand and eleven the
following Recommendation, which may be cited as the Domestic Workers
Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the
Domestic Workers Convention, 2011 (“the Convention”), and should be
considered in conjunction with them.

2. In taking measures to ensure that domestic workers enjoy freedom
of association and the effective recognition of the right to collective
bargaining, Members should:

- (a) identify and eliminate any legislative or administrative restrictions
or other obstacles to the right of domestic workers to establish their
own organizations or to join the workers’ organizations of their own
choosing and to the right of organizations of domestic workers to join
workers’ organizations, federations and confederations;
- (b) give consideration to taking or supporting measures to strengthen
the capacity of workers’ and employers’ organizations, organizations
representing domestic workers and those of employers of domestic
workers, to promote effectively the interests of their members, provided
that at all times the independence and autonomy, within the law, of
such organizations are protected.

3. In taking measures for the elimination of discrimination in respect of
employment and occupation, Members should, consistent with international
labour standards, among other things:

- (a) make sure that arrangements for work-related medical testing respect
the principle of the confidentiality of personal data and the privacy of
domestic workers, and are consistent with the ILO code of practice

TEXTE DE LA RECOMMANDATION CONCERNANT LE TRAVAIL DÉCENT POUR LES TRAVAILLEUSES ET TRAVAILLEURS DOMESTIQUES

La Conférence générale de l'Organisation internationale du Travail,
Convoquée à Genève par le Conseil d'administration du Bureau
international du Travail, et s'y étant réunie le 1^{er} juin 2011, en sa
centième session;

Après avoir adopté la convention sur les travailleuses et travailleurs
domestiques, 2011;

Après avoir décidé d'adopter diverses propositions relatives au travail
décent pour les travailleurs domestiques, question qui constitue
le quatrième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une
recommandation complétant la convention sur les travailleuses et
travailleurs domestiques, 2011,

adopte, ce jour de juin deux mille onze, la recommandation ci-après,
qui sera dénommée Recommandation sur les travailleuses et travailleurs
domestiques, 2011.

1. Les dispositions de la présente recommandation complètent celles
de la convention sur les travailleuses et travailleurs domestiques, 2011 («la
convention»), et devraient être considérées en relation avec elles.

2. Lorsqu'ils prennent des mesures afin d'assurer que les travailleurs
domestiques jouissent de la liberté syndicale et de la reconnaissance effective
du droit de négociation collective, les Membres devraient:

- a) recenser et éliminer toutes restrictions législatives ou administratives
ou tout autre obstacle au droit des travailleurs domestiques de
constituer leurs propres organisations ou de s'affilier aux organisations
de travailleurs de leur choix, ainsi qu'au droit des organisations de
travailleurs domestiques de s'affilier à des organisations, fédérations
et confédérations de travailleurs;
- b) prendre ou appuyer des mesures visant à renforcer la capacité des
organisations de travailleurs et d'employeurs, des organisations
représentant les travailleurs domestiques et des organisations
d'employeurs de travailleurs domestiques de promouvoir efficacement
les intérêts de leurs membres pour autant que l'indépendance et
l'autonomie de ces organisations, agissant dans le respect de la loi,
soient en tout temps préservées.

3. En prenant des mesures pour l'élimination de la discrimination en
matière d'emploi et de profession, les Membres devraient, entre autres, en
accord avec les normes internationales du travail:

- a) assurer que le régime des examens médicaux relatif au travail respecte
le principe de la confidentialité des données personnelles et la vie
privée des travailleurs domestiques et qu'il est conforme au Recueil de

“Protection of workers’ personal data” (1997), and other relevant international data protection standards;

- (b) prevent any discrimination related to such testing; and
- (c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

- (a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;
- (b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and
- (c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

- (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
- (b) prohibiting night work;
- (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
- (d) establishing or strengthening mechanisms to monitor their working and living conditions.

6. (1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

- (a) a job description;

directives pratiques du BIT sur la Protection des données personnelles des travailleurs, 1997, et aux autres normes internationales pertinentes sur la protection des données;

- b) prévenir toute discrimination liée à ces examens;
- c) assurer que les travailleurs domestiques ne soient en aucun cas tenus de se soumettre à un dépistage du VIH ou à un test de grossesse, ou de divulguer leur statut VIH ou leur état de grossesse.

4. Les Membres qui prévoient des examens médicaux à l'intention des travailleurs domestiques devraient envisager:

- a) de mettre à la disposition des ménages et des travailleurs domestiques des informations de santé publique sur les principaux problèmes de santé et maladies pouvant justifier, selon le contexte national, la nécessité de se soumettre à des tests médicaux;
- b) de mettre à la disposition des ménages et des travailleurs domestiques des informations sur les tests médicaux volontaires, les traitements médicaux et les bonnes pratiques en matière de santé et d'hygiène, conformément aux initiatives de santé publique destinées à la société dans son ensemble;
- c) de faire connaître les bonnes pratiques concernant les examens médicaux liés au travail en veillant à les adapter pour refléter la nature particulière du travail domestique.

5. (1) Les Membres devraient, en tenant compte des dispositions de la convention (n° 182) et de la recommandation (n° 190) sur les pires formes de travail des enfants, 1999, recenser les types de travail domestique qui, par leur nature ou les conditions dans lesquelles ils s'exercent, sont susceptibles de compromettre la santé, la sécurité ou la moralité des enfants, et devraient également interdire et éliminer ces types de travail des enfants.

(2) Lorsqu'ils réglementent les conditions de travail et de vie des travailleurs domestiques, les Membres devraient accorder une attention particulière aux besoins de ceux qui sont d'un âge inférieur à 18 ans et supérieur à l'âge minimum d'admission à l'emploi, tel que défini par la législation nationale, et prendre des mesures pour les protéger, y compris:

- a) en limitant strictement la durée de leur travail afin d'assurer qu'ils aient suffisamment de temps pour leur repos, leur éducation et leur formation, les activités de loisirs et les contacts avec la famille;
- b) en interdisant le travail de nuit;
- c) en établissant des restrictions relatives au travail qui est excessivement exigeant, physiquement ou psychologiquement;
- d) en établissant des mécanismes ou en renforçant ceux qui existent pour assurer le suivi de leurs conditions de vie et de travail.

6. (1) Les Membres devraient fournir une aide appropriée, lorsque cela est nécessaire, afin d'assurer que les travailleurs domestiques comprennent leurs conditions d'emploi.

(2) Outre les éléments énumérés à l'article 7 de la convention, les conditions d'emploi devraient également inclure:

- a) une description des tâches;

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- (b) sick leave and, if applicable, any other personal leave;
 - (c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
 - (d) any other payments to which the domestic worker is entitled;
 - (e) any payments in kind and their monetary value;
 - (f) details of any accommodation provided; and
 - (g) any authorized deductions from the worker's remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

(4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8. (1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9. (1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;

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- b) le congé de maladie et, le cas échéant, tout autre congé pour raisons personnelles;
 - c) le taux de rémunération ou la compensation des heures supplémentaires et des périodes de disponibilité définies à l'article 10 (3) de la convention;
 - d) tout autre paiement auquel le travailleur domestique a droit;
 - e) tout paiement en nature et sa valeur monétaire;
 - f) la description de tout logement fourni;
 - g) toute retenue autorisée sur la rémunération.

(3) Les Membres devraient envisager d'établir un contrat de travail type pour le travail domestique, en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives des travailleurs domestiques et celles des employeurs de travailleurs domestiques.

(4) Le contrat type devrait être gratuitement et en permanence à la disposition des travailleurs domestiques, des employeurs, des organisations représentatives et du public en général.

7. Les Membres devraient envisager de mettre en place des mécanismes destinés à protéger les travailleurs domestiques des abus, du harcèlement et de la violence, notamment:

- a) en créant des mécanismes de plainte accessibles pour que les travailleurs domestiques signalent les cas d'abus, de harcèlement et de violence;
- b) en assurant que toutes les plaintes pour abus, harcèlement et violence soient instruites et, s'il y a lieu, donnent lieu à des poursuites;
- c) en élaborant des programmes de relogement et de réadaptation des travailleurs domestiques victimes d'abus, de harcèlement et de violence, notamment en leur fournissant un hébergement temporaire et des soins médicaux.

8. (1) Les heures de travail effectuées, y compris les heures supplémentaires et les périodes de disponibilité définies à l'article 10 (3) de la convention, devraient être enregistrées fidèlement et cette information devrait être librement accessible au travailleur domestique.

(2) Les Membres devraient envisager d'élaborer des orientations pratiques en la matière, en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives de travailleurs domestiques et celles d'employeurs de travailleurs domestiques.

9. (1) En ce qui concerne les périodes pendant lesquelles les travailleurs domestiques ne peuvent disposer librement de leur temps et restent à la disposition du ménage pour le cas où celui-ci ferait appel à eux (périodes de disponibilité), les Membres devraient, dans la mesure prévue par la législation nationale ou les conventions collectives, réglementer:

- a) le nombre maximal d'heures de disponibilité par semaine, par mois ou par année, qui peut être exigé du travailleur domestique et la manière dont elles pourraient être calculées;

(b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and

(c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11. (1) Weekly rest should be at least 24 consecutive hours.

(2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

(3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:

- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
- (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
- (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
- (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and

b) le repos compensatoire auquel le travailleur domestique a droit, si la période normale de repos est interrompue par une période de disponibilité;

c) le taux auquel les heures de disponibilité devraient être rémunérées.

(2) En ce qui concerne les travailleurs domestiques dont le travail s'effectue normalement pendant la nuit, et compte tenu des contraintes du travail de nuit, les Membres devraient envisager des mesures comparables à celles spécifiées au sous-paragraphe 9 (1).

10. Les Membres devraient prendre des mesures pour assurer que les travailleurs domestiques aient droit, pendant la journée de travail, à des périodes de repos convenables qui leur permettent de prendre leurs repas et leurs pauses.

11. (1) Le repos hebdomadaire devrait être d'au moins 24 heures consécutives.

(2) Le jour fixe de repos hebdomadaire devrait être déterminé par accord entre les parties, conformément à la législation nationale ou aux conventions collectives, en tenant compte des nécessités du travail et des exigences culturelles, religieuses et sociales du travailleur domestique.

(3) Lorsque la législation nationale ou les conventions collectives prévoient un repos hebdomadaire cumulable sur une période excédant sept jours pour l'ensemble des travailleurs, cette période ne devrait pas excéder 14 jours pour les travailleurs domestiques.

12. La législation nationale ou les conventions collectives devraient définir les motifs pour lesquels les travailleurs domestiques peuvent être tenus de travailler pendant la période de repos journalier ou hebdomadaire et prévoir un repos compensatoire approprié, indépendamment de toute compensation financière.

13. La période durant laquelle les travailleurs domestiques accompagnent les membres du ménage en vacances ne devrait pas être considérée comme faisant partie de leur congé annuel payé.

14. Lorsqu'il est prévu qu'un pourcentage limité de la rémunération est versé en nature, les Membres devraient envisager:

a) de fixer le pourcentage maximal de la rémunération qui peut être payé en nature de façon à ne pas réduire indûment la rémunération nécessaire pour assurer l'entretien des travailleurs domestiques et de leur famille;

b) de calculer la valeur monétaire des paiements en nature en se référant à des critères objectifs tels que la valeur du marché, le prix de revient ou le prix fixé par les autorités publiques, selon le cas;

c) de limiter les paiements en nature à ceux qui répondent manifestement à l'usage et à l'intérêt personnels du travailleur domestique, comme la nourriture et le logement;

d) d'assurer que, s'il est exigé d'un travailleur domestique qu'il réside dans un logement fourni par le ménage, aucune déduction ne soit faite de sa rémunération au titre de ce logement, à moins qu'il n'y consente;

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- (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

- (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- (b) access to suitable sanitary facilities, shared or private;
- (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
- (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

- (a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;
- (b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;

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- e) d'assurer que les biens directement liés à la réalisation du travail domestique comme les uniformes, les outils ou les équipements de protection, ainsi que leur nettoyage et leur entretien, ne soient pas considérés comme un paiement en nature et que leur coût ne soit pas déduit de la rémunération du travailleur domestique.

15. (1) Les travailleurs domestiques devraient, lors de chaque versement du salaire, recevoir un relevé écrit facilement compréhensible de la rémunération totale qui leur est due, ainsi que du montant précis et du motif d'éventuelles retenues.

(2) Lorsque l'engagement prend fin, toute somme due devrait être versée sans délai.

16. Les Membres devraient prendre des mesures pour assurer que les travailleurs domestiques jouissent de conditions qui ne soient pas moins favorables que celles dont bénéficient l'ensemble des travailleurs en ce qui concerne la protection de leurs créances en cas d'insolvabilité ou de décès de l'employeur.

17. Lorsque le logement et la nourriture sont fournis, ils devraient comprendre, en tenant compte des conditions nationales:

- a) une pièce séparée, privée, convenablement meublée et aérée et équipée d'une serrure et d'une clé qui devrait être remise au travailleur domestique;
- b) l'accès à des installations sanitaires convenables, communes ou privées;
- c) un éclairage suffisant et, s'il y a lieu, le chauffage et la climatisation, en fonction des conditions qui prévalent au sein du ménage;
- d) des repas de bonne qualité et en quantité suffisante, adaptés, le cas échéant et dans la mesure où cela est raisonnable, aux exigences culturelles et religieuses du travailleur domestique concerné.

18. En cas de licenciement pour des motifs autres qu'une faute grave, les travailleurs domestiques logés au sein du ménage devraient bénéficier d'un préavis raisonnable et, pendant ce préavis, d'une période de temps libre d'une durée raisonnable pour pouvoir chercher un nouvel emploi et un nouveau logement.

19. Les Membres devraient, en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives des travailleurs domestiques et celles des employeurs de travailleurs domestiques, prendre des mesures visant notamment à:

- a) protéger les travailleurs domestiques en éliminant ou en réduisant au minimum, dans la mesure où cela est raisonnablement et pratiquement réalisable, les risques et dangers liés au travail, afin de prévenir les accidents, les maladies et décès et de promouvoir la sécurité et la santé au travail au sein du domicile qui constitue le lieu de travail ;
- b) établir un système d'inspection suffisant et approprié, conformément à l'article 17 de la convention, et des sanctions adéquates en cas de violation de la législation relative à la sécurité et à la santé au travail;

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- (c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;
 - (d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and
 - (e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21. (1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

- (a) establishing a national hotline with interpretation services for domestic workers who need assistance;
- (b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;
- (c) developing a network of emergency housing;
- (d) raising employers' awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;
- (e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and
- (f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies,

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- c) établir des procédures pour la collecte et la publication de statistiques sur les accidents et les maladies liés au travail domestique, ainsi que d'autres statistiques considérées comme contribuant à la prévention des risques et des accidents dans le cadre de la sécurité et la santé au travail;
 - d) dispenser des conseils concernant la sécurité et la santé au travail, y compris sur les aspects ergonomiques et les équipements de protection;
 - e) élaborer des programmes de formation et diffuser des orientations relatives aux exigences de sécurité et de santé au travail spécifiques au travail domestique.

20. (1) Les Membres devraient envisager, conformément à la législation nationale, des moyens de faciliter le paiement des cotisations de sécurité sociale, y compris pour les travailleurs domestiques ayant plusieurs employeurs, au moyen, par exemple, d'un système de paiement simplifié.

(2) Les Membres devraient envisager de conclure des accords bilatéraux, régionaux ou multilatéraux pour assurer aux travailleurs domestiques migrants auxquels ils s'appliquent l'égalité de traitement en matière de sécurité sociale, ainsi que l'accès à des droits à des prestations de sécurité sociale, la préservation de ces droits ou leur transférabilité.

(3) La valeur monétaire des paiements en nature devrait être dûment prise en considération aux fins de la sécurité sociale, en ce qui concerne notamment la cotisation de l'employeur et les droits à prestations des travailleurs domestiques.

21. (1) Les Membres devraient envisager des mesures supplémentaires pour assurer la protection effective des travailleurs domestiques et, en particulier, des travailleurs domestiques migrants, telles que:

- a) mettre en place un service national d'assistance téléphonique, doté d'un service d'interprétation, pour les travailleurs domestiques qui ont besoin d'aide;
- b) conformément à l'article 17 de la convention, prévoir un système de visites préalables au placement aux ménages dans lesquels des travailleurs domestiques vont être employés;
- c) établir un réseau d'hébergement d'urgence;
- d) sensibiliser les employeurs à leurs obligations en leur donnant des informations sur les bonnes pratiques en matière d'emploi de travailleurs domestiques, sur les obligations découlant de la législation relative à l'emploi et à l'immigration en ce qui concerne les travailleurs domestiques migrants, sur les mesures d'exécution et les sanctions encourues en cas d'infraction, ainsi que sur les services d'assistance à la disposition des travailleurs domestiques et de leurs employeurs;
- e) assurer aux travailleurs domestiques l'accès à des mécanismes de plainte et la possibilité d'intenter des actions au civil et au pénal pendant et après la période d'emploi, qu'il y ait ou non départ du pays concerné;
- f) mettre en place un service public d'assistance pour informer les travailleurs domestiques, dans une langue qu'ils comprennent, de leurs droits, de la législation pertinente, des mécanismes de plainte

concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

- (a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;
- (b) address the work-life balance needs of domestic workers; and
- (c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative

et des recours disponibles, en ce qui concerne la législation régissant l'emploi et l'immigration ainsi que les garanties de la loi contre les crimes et délits tels que les actes de violence, la traite des personnes et la privation de liberté, et leur fournir tous autres renseignements pertinents dont ils pourraient avoir besoin.

(2) Les Membres qui sont des pays d'origine de travailleurs domestiques migrants devraient contribuer à la protection effective des droits de ces travailleurs en les informant de leurs droits avant leur départ, en créant des fonds d'assistance juridique, des services sociaux et des services consulaires spécialisés et par toute autre mesure appropriée.

22. Les Membres devraient, après consultation des organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, des organisations représentatives des travailleurs domestiques et de celles des employeurs de travailleurs domestiques, envisager de déterminer, par voie de législation ou d'autres mesures, les conditions dans lesquelles les travailleurs domestiques migrants ont le droit d'être rapatriés sans frais pour eux à l'expiration ou à la résiliation du contrat par lequel ils ont été recrutés.

23. Les Membres devraient promouvoir les bonnes pratiques des agences d'emploi privées envers les travailleurs domestiques, y compris les travailleurs domestiques migrants, en tenant compte et approches préconisés dans la convention (n° 181) sur les agences d'emploi privées, 1997, et la recommandation (n° 188) sur les agences d'emploi privées, 1997.

24. Dans la mesure où cela est compatible avec la législation et la pratique nationales concernant le respect de la vie privée, les Membres peuvent envisager les conditions auxquelles les inspecteurs du travail ou d'autres fonctionnaires chargés de veiller à l'application des dispositions régissant le travail domestique devraient être autorisés à accéder aux locaux où le travail est effectué.

25. (1) Les Membres devraient, en consultation avec les organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, avec les organisations représentatives des travailleurs domestiques et celles des employeurs de travailleurs domestiques, établir des politiques et des programmes:

- a) visant à encourager le développement continu des compétences et qualifications des travailleurs domestiques, y compris l'alphabétisation s'il y a lieu, afin d'améliorer leurs possibilités de perfectionnement professionnel et d'emploi;
- b) répondant aux besoins des travailleurs domestiques de concilier vie professionnelle et vie personnelle;
- c) assurant que les préoccupations et les droits des travailleurs domestiques soient pris en compte dans le cadre d'efforts plus généraux visant à concilier vie professionnelle et responsabilités familiales.

(2) Les Membres devraient, après consultation des organisations d'employeurs et de travailleurs les plus représentatives et, lorsqu'elles existent, des organisations représentatives des travailleurs domestiques et de

of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policy-making regarding domestic work.

26. (1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

- (a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and
- (b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

celles des employeurs de travailleurs domestiques, élaborer des indicateurs et des systèmes de mesure appropriés pour renforcer la capacité des bureaux statistiques nationaux de collecter de manière effective les données nécessaires pour appuyer l'élaboration de politiques effectives concernant le travail domestique.

26. (1) Les Membres devraient envisager de coopérer entre eux pour assurer l'application effective aux travailleurs domestiques migrants de la convention sur les travailleuses et travailleurs domestiques, 2011, et de la présente recommandation.

(2) Les Membres devraient coopérer aux niveaux bilatéral, régional et mondial afin d'améliorer la protection des travailleurs domestiques, en particulier en matière de prévention du travail forcé et de la traite des personnes, d'accès à la sécurité sociale, de suivi des activités des agences d'emploi privées qui recrutent des personnes appelées à travailler comme travailleurs domestiques dans un autre pays, de diffusion des bonnes pratiques et de collecte de statistiques sur le travail domestique.

(3) Les Membres devraient prendre des mesures appropriées afin de s'entraider pour donner effet aux dispositions de la convention par une coopération internationale renforcée ou une assistance internationale renforcée, ou les deux, y compris par des mesures de soutien au développement économique et social, aux programmes d'éradication de la pauvreté et à l'éducation universelle.

(4) Dans le contexte de l'immunité diplomatique, les Membres devraient envisager:

- a) d'adopter pour le personnel diplomatique des politiques et des codes de conduite destinés à prévenir la violation des droits des travailleurs domestiques;
- b) de coopérer entre eux aux niveaux bilatéral, régional et multilatéral pour aborder la question des pratiques abusives à l'encontre des travailleurs domestiques et prévenir ces pratiques.

3.2 *LABOUR* ADMINISTRATIE EN ARBEIDSINSPECTIE (ALGEMENE DISCUSSIE)

3.2 Labour Administratie en Arbeidsinspectie (algemene discussie)

Voor deze conferentie had de IAO voor dit Committee een rapport opgesteld met een wereldwijde impressie over ontwikkelingen op het terrein van Labour Administration (publiekrechtelijke instellingen die zich met arbeid bezig houden, b.v. arbeidsbemiddeling) en Arbeidsinspectie. In de loop der jaren hebben zich hierbij duidelijke veranderingen voorgedaan. Bij Labour Administration is in diverse landen een verschuiving waarneembaar van landelijke uitvoering naar meer regionale- en lokale uitvoering, waarbij de regie overigens wel een landelijke verantwoordelijkheid blijft. Daarnaast worden deze taken in tal van landen ook deels uitgevoerd door de semi-publieke en private sector.

Voor de naleving van de wetgeving op het terrein van arbeidsomstandigheden wordt steeds meer een mix van instrumenten ingezet, die aanvullend is op de sanctionering door de overheid. Ook worden er andere instrumenten/spelers ingezet (b.v. certificering, kwaliteitssystemen, inzet van media, voorlichtingstrajecten, verzekeringen) als aanvulling op de overheids-interventies. De technologische ontwikkelingen zoals robotisering, nano-technologie gaan snel en stellen samen met de problematiek van gevaarlijke stoffen, biologische agentia, trillingen en straling, hoge eisen aan de deskundigheid van de inspecteurs en het gebruik van de juiste inspectiemethodieken. Veranderingen doen zich ook voor op het terrein van de arbeid en arbeidsverhoudingen zoals outsourcing, thuis- en telewerken en hogere arbeidsparticipatie van vrouwen, een vergrijzende beroepsbevolking, meer zzp-ers, naast werknemers met een hoger opleidingsniveau, juist ook meer werknemers met een tijdelijk contract. Labour administration en arbeidsinspectie moeten hierop inspelen. Aan het inspecteren in bouw, landbouw en bosbouw, schoonmaaksector, maar ook het bestaan van een sterke informele economie in de ontwikkelingslanden, moeten specifieke eisen worden gesteld aan het overheidsfunctioneren.

Voor de uitvoering van deze taken moeten voldoende middelen en capaciteit beschikbaar zijn. Maar tal van overheden zijn juist nu bezig om hun overheidsfinanciën op orde te krijgen en bezuinigingen door te voeren in de publieke sector. Dat betekent dat Labour Administration en Labour Inspection ook hiermee te maken krijgen en hun organisatie en werkwijze voortdurend moeten aanpassen. Aan efficiënte en effectieve levering van de producten uit de publieke sector worden, net als in de andere sectoren, steeds hogere eisen gesteld.

Het belang van een goede samenwerking met de sociale partners op dit werkterrein wordt sterk benadrukt. Hetzelfde geldt voor samenwerkingsverbanden met andere overheidsinstellingen en inspectiediensten. ICT-ontwikkelingen hebben grote invloed op de manier van opereren, zoals werkzoekenden die zelf de vacatures online kunnen inzien, geautomatiseerde kennis/ data-bestanden, de opslag van bedrijfs- en inspectiegegevens etc.

De IAO stimuleert deze ontwikkelingen en verleent in tal van landen technische ondersteuning en advisering, waarbij gebruik gemaakt wordt van best practices van de andere lidstaten.

Opstelling Nederland

De Arbeidsinspectie en Labour Administration voldoen aan de relevante Europese en Internationale verdragen. Harde eisen genoemd in de IAO-verdragen 81 en 129 zijn o.a. de plaatsing onder een centrale autoriteit, de samenwerking met andere overheidsdiensten en het hebben van voldoende gekwalificeerde experts. De IAO-norm over het aantal inspecteurs is indicatief, dit heeft mede te maken met de sterke verschillen tussen landen w.b. het aantal en soort taken die door de onderscheiden Arbeidsinspecties worden uitgevoerd, maar ook mede afhankelijk van de totale arbostructuur in die landen. In Nederland bestaat b.v. een stelsel met deskundige arbodiensten, waarbij ziekteverzuimbeleid is gekoppeld aan personeelsbeleid en arbozorg. In sommige landen worden behalve inspecties naar arbeidsomstandigheden en arbeidstijden ook inspecties uitgevoerd naar illegale arbeid, bemiddeling arbeidsconflicten, ontslagzaken en mediation. Verder spelen b.v. specialisten en landelijke projectleiders in Nederland een belangrijke ondersteunende rol bij de uitvoering van inspecties, taken die in andere landen weer bij de inspecteurs zelf zijn belegd.

In Europees opzicht zit Nederland met 1 inspecteur op de 19.500 werknemers weliswaar aan de onderkant, samen met een aantal andere landen zoals Tsjechie, Portugal, België en Ierland. Hierbij zijn evenwel niet meegerekend de 44 fte's van de directie MHC en de 170 inspecteurs die op het terrein van arbeidsmarktfraude werkzaam zijn. In Nederland is sprake van een verschuiving van arbeidsomstandigheden (krimp arbo-inspecteurs van ongeveer 30 % in 9 jaar) naar arbeidsmarktfraude (uitbreiding amf-inspecteurs van 70 naar 170 in 9 jaar).

De Nederlandse overheid herkent zich in de ontwikkelingen die in het rapport zijn beschreven zoals de decentralisatie (bijstandszaken, arbeidsbemiddeling, reïntegratie), de afslanking naar een kleinere en nog beter functionerende overheid, het stimuleren van horizontaal toezicht naast het verticale toezicht, aandacht voor andere instrumenten zoals convenanten, preventie, advisering. Bij het inspecteren moet worden uitgegaan van vertrouwen; bij aperte overtredingen moet de overheid echter scherp handhaven en sanctioneren. De rol van sociale partners wordt verstevigd, zo spelen sociale partners een belangrijke rol bij de opstelling van arbo-normen die moeten gelden in een specifieke sector (arbocatalogus) en vervolgens door de Arbeidsinspectie als basis wordt genomen voor hun inspecties.

De conferentie Geneve juni 2011

Aangenomen tekst

De resolutie en de conclusies die zijn aangenomen zijn hebben geen verplichtend karakter. De richtinggevende conclusies hebben zeker betekenis voor de ontwikkelingslanden en landen in de overgang naar meer industrie en dienstverlening. De tekstvoorstellen zijn zo verwoord dat het belang van een effectief en efficiënt opererende Labour Administration en Labour Inspection wordt onderstreept maar waarbij tegelijkertijd ook veel ruimte en vrijheid bestaat over de wijze waarop dit kan worden bereikt. Samenvattend dragen de teksten het volgende uit:

Ongeacht het niveau van economische ontwikkeling, is het van belang internationale arbeidsstandaarden na te streven, omdat dit bijdraagt aan 'good governance' en 'decent work', ook in tijden van economische crisis. De Ministeries van Arbeid/Sociale Zaken zijn verantwoordelijk voor een efficiënt en effectief functionerende labour administration en arbeidsinspectie gericht op goede arbeidsverhoudingen en arbeidsomstandigheden. Hierbij moeten werkgevers en werknemers hun rechten en plichten goed kennen met extra aandacht vanuit de overheid voor kwetsbare groepen werknemers zoals gehandicapten, migranten, thuiswerkers. Juist in crisistijden kan de overheid hiermee een bijdrage leveren aan het herstel van de economie.

De Arbeidsinspectie heeft een belangrijke sanctionerende taak, maar zal aanvullend, veelal preventief, andere instrumenten kunnen inzetten, zoals voorlichting, opleiding, advisering. Voor de uitvoering van deze overheidstaken moeten voldoende capaciteit en middelen beschikbaar zijn. Daarnaast zal ook veel aandacht moeten worden besteed aan opleidingen en trainingen van de inspecteurs om op de nieuwe technologische en maatschappelijke ontwikkelingen te kunnen inspelen. Verder zijn ook het integer handelen van inspecteurs en de eigen veiligheid aandachtspunten.

De grote technische en maatschappelijke veranderingen vragen om een overheid die op deze ontwikkelingen inspeelt en haar organisatie, aanpak en werkwijze aanpast. De ict-ontwikkelingen geven nieuwe mogelijkheden; werkzoekenden kunnen zelf zoeken in de vacaturebanken, voor sociale partners en overheid komen kennis- en databanken beschikbaar.

Bij de ontwikkeling, maar zeker ook bij de uitvoering van beleid op het terrein van labour administration en arbeidsinspectie wordt aanbevolen dat er goede samenwerking plaats vindt op zowel landelijk, sectoraal/lokaal en ondernemingsniveau met de sociale partners. Het instellen van veiligheids- en gezondheidscommissies met deelname door sociale partners moet verder worden gepromoot. Diverse landen hebben een rijke ervaring met een goede uitvoering van taken op het terrein van b.v. arbeidsbemiddeling, arbeidsinspectie. Het uitwisselen van ervaringen, kennis en

best practices is waardevol en kan leiden tot snelle en praktische verbeteringen. Dat geldt overigens ook voor opleidingen, trainingen aan de inspecteurs en zaken als personeelsbeleid

Het comité beveelt de IAO aan om nader onderzoek te verrichten naar de bevordering van de naleving van de arbeidswetgeving. Verder ook naar de betekenis van de nieuwe arbeidsrelaties zoals zzp-ers, detacheringen, outsourcing voor de wetgeving en ook uitvoering. Aanbevolen wordt ook om een bijeenkomst met sociale partners en overheden te organiseren waarbij aandacht wordt besteed aan de groeiende uitbesteding van overheidstaken naar de semi-publieke en/of private markt. De IAO is ook gevraagd een database op te zetten die internationale vergelijkingen en het delen van informatie beter mogelijk maakt.

In lijn met het IAO gedachtengoed is opgeroepen de relevante conventies te ondertekenen, internationale normen en afspraken te respecteren – zoals integriteit, “the rule of law, democracy, tripartism, equity and transparency” – en voorgaande discussies en aanbevelingen uit te dragen, zoals Gender Equality en de Decent Work Agenda.

Krachtenveld

De geïndustrialiseerde landen hadden geen behoefte aan verdere verplichtende internationale afspraken, maar onderkenden tegelijkertijd wel dat, ook in tijden van zware bezuinigingen binnen de overheid, een volwaardige en goed functionerende Labour Administration en Labour Inspection van grote betekenis zijn voor de samenleving.

Tijdens de onderhandelingen is gebleken dat de sociale partners het belangrijk vinden dat er afspraken worden gemaakt voor ontwikkelingslanden, die toch ook een ruimere betekenis krijgen voor de andere lidstaten. Werknemers en werkgevers waren het over veel punten met elkaar eens, waardoor er minder ruimte was voor de tekstvoorstellen van de overheden. Te meer omdat er bij de overheden een duidelijke tweedeling was tussen enerzijds de EU-groep samen met de andere IMEC-landen (geïndustrialiseerde landen) en anderzijds Afrika en Latijns-Amerikaanse landen. De EU-IMEC-groep zat meer op de lijn om geen verder verplichtende toezeggingen te doen en internationale normen af te spreken. Veel Afrikaanse landen en de GRULAC-leden waren minder geneigd om internationale waarden of sociaal dialoog benadrukt te zien in de teksten, maar wilden juist liever wel concrete toezeggingen in de teksten opgenomen krijgen, b.v. extra middelen of meer inspecteurs.

Tekstvoorstellen door de sociale partners waren dan ook vaak bedoeld om processen in minder ontwikkelde landen op gang te brengen en daar een normerend kader aan te bieden. De EU/IMEC-landen waren door het normerend karakter van de tekstvoorstellen eerder geneigd om daar tegen in te gaan en van concrete verplichtingen af te zien. Het belang van goede samenwerking werd benadrukt met tegelijkertijd de onderkenning dat sommige landen nog een inhaalslag dienden te maken. De vakbonden stonden kritisch tegen het uitbesteden van publieke taken aan de private sector. De overheden zagen dit ruimer. Sanctionering zou evenwel altijd wel een overheidstaak moeten blijven, maar preventie in het kader van de handhaving is complementair en kan wel ook een semi-publieke en private taak zijn. Alle partijen onderstreepten het belang van een goede samenwerking en dialoog zowel horizontaal als verticaal.

**3.3 TERUGKERENDE DISCUSSIE IN DE FOLLOW-UP VAN DE 2008 VERKLARING OVER
*SOCIAL JUSTICE FOR A FAIR GLOBALIZATION (SOCIALE ZEKERHEID)***

3.3 Terugkerende discussie in de follow-up van de 2008 Verklaring over *Social Justice for a Fair Globalization* (sociale zekerheid)

De discussie in het Comité vond plaats van 1 tot en met 9 juni 2011.

In de conclusies van het comité is de Nederlandse inzet in belangrijke mate gerealiseerd. Daarbij gaat het om de volgende punten.

Allereerst speelt sociale zekerheid zowel een sociale als een economische rol.

Zij is belangrijk voor arbeidsmarktflexibiliteit, om arbeidsparticipatie te verhogen en om een hoger welvaartspeil in huishoudens (en langs die weg meer koopkrachtige vraag) te bereiken.

Ook voor het scheppen van een mondiaal 'level playing field' tussen landen is sociale zekerheid belangrijk, evenals -zoals uitgebreid onderzoek én recente ervaring hebben aangetoond- als stabiliserende factor in tijden van economische schokken en in processen van sociaaleconomische verandering.

Daarnaast is een activerende rol van sociale zekerheid ('de beste vorm van sociale zekerheid is een baan') nodig: werkgelegenheid en een goed functionerende arbeidsmarkt zijn cruciale voorwaarden voor sociale zekerheid en sociale bescherming.

Bij het ontwikkelen van systemen is 'maatwerk op nationaal niveau' het uitgangspunt.

Een ander belangrijk punt is de uitbreiding van de dekkingsgraad naar meer mensen (horizontale dimensie) en een verbetering van de sociale bescherming (verticale dimensie), al naar gelang het ontwikkelingsniveau en -tempo van het betrokken ontwikkelingsland.

Ook de financieel-budgettaire en economische houdbaarheid en 'good governance' (uitvoerbaarheid, handhaafbaarheid) van de te ontwikkelen nationale sociale zekerheidssystemen zijn factoren van cruciaal belang.

Ten slotte wordt, met instemming van Nederland, effectiever en efficiënter samenwerking op dit terrein tussen internationale organisaties als belangrijk aandachtspunt genoemd.

Wat betreft het resultaat van de debatten: met instemming van Nederland is afgesproken dat tijdens de IAC van 2012 wordt begonnen met het opstellen van een Aanbeveling. Bovendien komt het IAO-secretariaat in de loop van 2012 met een Actieplan voor technische ondersteuning van lidstaten.

