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Governing Body

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Legal Issues and International Labour Standards Section — LILS

Minutes of the Legal Issues and International Labour Standards Section

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Legal Issues Segment

1. Final provisions of international labour Conventions (GB.347/LILS/1)

1. The Governing Body had before it an amended version of the draft decision, which had been proposed by the Employers' group and circulated by the Office, which read:

> 74. The Governing Body
>
> (a) took note of the information presented in document GB.347/LILS/1 and transmitted the draft resolution contained in Appendix III concerning the final Articles of international labour Conventions, as amended, to the 111th Session (2023) of the International Labour Conference for possible adoption;.
>
> (b) decided to continue discussing possible further changes to the final Articles of international labour Conventions at its 349th Session (November 2023) or 350th Session (March 2024).

2. **The Employer spokesperson** emphasized the importance of well-designed and relevant final Articles in ILO Conventions to ensure that they functioned smoothly and that standards remained robust and up to date. The final Articles should be adapted to changing requirements, and it was time for an in-depth discussion of their provisions.

3. With regard to the individual provisions contained in those Articles, beginning with the terms for Conventions' entry into force, he said that the objective of international labour standards was to promote a global minimum-level playing field. As such, a critical mass was required for Conventions to be effective, and two States were not sufficient. The number of ILO Member States had quadrupled since that requirement had been introduced. Moreover, major multilateral treaties often required one third of the total number of States entitled to participate in the negotiation and adoption process. The ILO should align with that requirement as its Conventions were also multilateral treaties. A higher required number of ratifications would not weaken ILO standards. While the entry into force of a Convention could be delayed, ratifying States could still adapt domestic laws and practices. Given the size of the ILO, it was questionable that the supervisory process should be set in motion for only two countries. The fact that many Member States only reluctantly ratified ILO Conventions could not be solved by maintaining the threshold for entry into force at the lowest possible level. Early entry into force of a Convention was not in itself an incentive for ratification by other Member States. New Conventions should focus on key issues and avoid unduly detailed and complex regulation in order to quickly reach a higher number of ratifications. He proposed that the Governing Body should agree to at least 20 ratifications, or even 30, being the default for entry into force for future Conventions.

4. Other provisions could be added to the requirements for entry into force of Conventions, such as a number of ratifications by Member States that represented a percentage of the world population or global gross domestic product or a minimum coverage of regions. The current period of 12 months for the first entry into force should be maintained.

5. Regarding the denunciation of Conventions, the final Articles should reflect a balance between trust in continuity of international obligations and flexibility for Member States to adapt to changing circumstances. The current window for denunciations was unnecessarily strict, particularly when compared with practices in other international organizations. More liberal rules elsewhere had not led to an increase in the number of denunciations; thus, concerns regarding the potential instability of the supervisory system were unfounded. Denunciation periods of ILO Conventions should be aligned to those of other multilateral treaties. He

proposed that denunciation should be allowed any time after an initial period of ten years. The requirements of a written notice of denunciation and a notice period of one year should be retained.

6. The final provisions on the revision of Conventions and depository functions should not be amended. His group agreed that the Spanish language versions of Conventions should be recognized as authoritative, and that Article H should be amended accordingly. In addition, he said that the final clauses did not currently contain a process for dispute resolution, and the Governing Body should consider introducing such a provision.

7. His group had proposed amendments to the draft decision, not with a view to deciding on the text of the final Articles, but in order to create a constructive environment for in-depth discussion prior to the next standard-setting item being discussed at the International Labour Conference.

8. **The Worker spokesperson** recalled that the Governing Body's decision at its previous session had only called for an amendment to the final clause relating to authoritative language versions of Conventions, and nothing else. That was the task that the Governing Body should therefore complete: to recognize Spanish as an authoritative language. From the discussion in the Standards Review Mechanism Tripartite Working Group (SRM TWG) it was clear that there was no agreement on any other changes to the final clauses.

9. Her group was strongly opposed to any other changes in current practice. In terms of ratification thresholds, ILO Conventions were not comparable to other multilateral treaties because of the tripartite nature of the ILO and the unique and comprehensive tripartite process used to develop Conventions. Moreover, Conventions relating to the protection of labour rights could not and should not be compared with environmental, disarmament or other similar treaties. A Convention that had entered into force had greater legal value than one that had not. The threshold of two ratifications was acceptable as it allowed a Convention to enter into force as quickly as possible, granting protection to workers at the earliest possible date. Raising the threshold would undermine the sovereign decision by the two or more ratifying States to be bound by a Convention and would deprive them of the benefit of the supervisory system. A higher threshold for entry into force was not an indicator of a more effective standard, and, had such a threshold been applied recently, then many of the newer Conventions would not exist. Her group could not agree to a threshold of 20 ratifications and said that the current requirements should be retained. The objective of ILO Conventions was not to provide a level playing field, but rather to raise minimum standards on specific issues.

10. Her group supported the current process for denunciation, which was well thought out and preserved the stability of the ILO's standard-setting system. International labour standards codified labour-related human rights, and as such were unique. The Governing Body should not make it easier to denounce Conventions, particularly the fundamental Conventions. The principle of non-regression in human rights law should also be applied, prohibiting Member States from taking deliberately retrogressive measures. Only allowing for denunciation every ten years ensured that short-term changes of government would not affect citizens' rights.

11. Therefore, the draft resolution contained in Appendix III should only contain amendments to Article H. Further proposals of editorial changes to codify the current situation were unnecessary, as existing approaches were already being integrated by the Office in the final text of Conventions and did not need to be endorsed by the governing bodies. However, her group would join consensus if others wished to adopt those changes. The Governing Body should not initiate a full discussion on that matter.

12. Regarding the amendment proposed by the Employers, the Workers did not support the proposed inclusion of a new subparagraph (b) in the draft decision; she asked the Legal Adviser to clarify whether the proposed amendment to subparagraph (a) was necessary.

13. **Speaking on behalf of the Africa group,** a Government representative of Eswatini recalled that his group had previously supported retaining the current standard final provisions, except to include Spanish versions of Conventions among the authoritative versions. However, in light of the significant increase in membership of the ILO and the practice adopted for other major multilateral treaties, there was perhaps a need to review the standard final provisions relating to Conventions' entry into force to ascertain whether they remained relevant. The same was true with regard to denunciation; the current provisions seemed unnecessarily strict, particularly in comparison with the practice of other international organizations. Although the standard final provisions had been reviewed regularly in the early years of the ILO, the exercise had last been carried out in 1951. More time was required to allow the constituents to consider the changes, including through consultation at the subregional and national levels. He therefore supported the amendment proposed by the Employers.

14. **Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC),** a Government representative of Colombia welcomed the draft resolution that would be transmitted to the International Labour Conference and highlighted that the constituents of the Governing Body had demonstrated unanimous support for the need to update the standard final provision on the authoritative language versions of Conventions to include Spanish. The other changes appeared to have been proposed in the interests of transparency and aimed solely at aligning the standard final provisions with current practice. Her group therefore supported the draft decision, although it was open to the amendment proposed by the Employers on the understanding that GRULAC's priority was the change relating to the Spanish language version of Conventions.

15. **Speaking on behalf of the group of industrialized market economy countries (IMEC),** a Government representative of the United Kingdom of Great Britain and Northern Ireland expressed strong support for the recognition of the English, French and Spanish versions of Conventions as equally authoritative and for the addition of gender-inclusive language. The number of ratifications required for a Convention to enter into force should continue to be determined on a case-by-case basis, with two ratifications remaining the default. The same approach should be taken to the interval at which Conventions could be denounced, with the default remaining a one-year period every ten years. Both default values should apply unless decided otherwise by a technical committee tasked with drafting a Convention, although discussions on final provisions must not be allowed to frustrate the drafting process. IMEC supported the requirement for ratifications, declarations and denunciations to be communicated to the ILO Member States and brought to the attention of the Secretary General of the United Nations for registration. He supported the draft decision as prepared by the Office.

16. **Speaking on behalf of the European Union (EU) and its Member States,** a Government representative of Sweden said that Albania, North Macedonia, the Republic of Moldova, Montenegro, Serbia, Ukraine, Iceland and Norway aligned themselves with his statement. The EU and its Member States aligned themselves with the statement given on behalf of IMEC. His group believed that the current wording of the standard final provisions worked well. Low ratification rates did not necessarily mean that Member States found a Convention to be irrelevant; rather, they might indicate that governments required more time to proceed with ratifications. The present practice, under which Conventions' intended results were achieved within a reasonable period of time, was to be valued. Relaxing the provisions surrounding

denunciation would inevitably weaken legal certainty, the normative corpus and the supervisory system of the ILO. The EU and its Member States would, however, support the inclusion of the Spanish versions of Conventions among the authoritative versions. He supported the draft decision as prepared by the Office.

17. **The Worker spokesperson** stressed that agreement on what was meant by dispute resolution provisions must be reached before their inclusion in international labour Conventions could be discussed. International labour Conventions could not be compared to labour contracts. Further discussion of the standard final provisions was not required; they had been discussed repeatedly by the Governing Body and the SRM TWG. She did not support the amendment proposed by the Employers' group.

18. **The Chairperson** observed that there was broad agreement on the matter of including Spanish among the authoritative languages. In recent years, the decision had been made to require a very low number of ratifications for the entry into force of several international instruments that had required immediate implementation. Given that States signatories to an international instrument were required to adhere to it even prior to ratification, the number of ratifications required was not of paramount importance and would depend on the instrument's nature.

19. **The Employer spokesperson** said that although the matter had been discussed in the SRM TWG, no consensus had been reached. The standard final provisions must be examined as part of efforts to create modern, up-to-date standards. Labour contracts and international labour Conventions were comparable given the need for legislative measures at the national level in order to ratify and implement Conventions. While it was true that some recent international instruments had required a low number of ratifications to enter into force, others, such as the Minamata Convention on Mercury, had required a high number; the amount depended on the circumstances. Although IMEC had called for technical committees to decide on the number of required ratifications, those committees did not normally discuss the standard final provisions, and there was therefore a need to examine the rationale behind those provisions. His group's proposed amendment was intended to allow the Governing Body to adopt the change relating to Spanish, which enjoyed the Employers' full support, while also affording it the opportunity to undertake an in-depth review of the other standard final provisions in the near future, the need for which had been recognized by the Office for many years.

20. **The Worker spokesperson** clarified that she would be willing to adopt the editorial changes to the standard final provisions if there was consensus on that point. She questioned whether there was a logical relationship between a Convention's rate of ratification and its threshold for ratification; early ILO Conventions had much higher ratification rates than more modern Conventions because States were often reluctant to replace older instruments with newer ones, a fact unrelated to their thresholds. Similarly, there was no logical relationship between a threshold and the number of ILO Member States, given that Conventions were intended to improve labour protection in individual countries. The flexibility called for by IMEC was exactly the current situation: there was a default option that was occasionally adjusted. She had not heard a good argument for changing that system. The Workers disagreed that further discussion of the matter was necessary.

21. **The Employer spokesperson** said that the default provided the value that would be used in the absence of another more appropriate value. A default value should be chosen not on the basis of long use but because it reflected "normal" in the modern reality. The consequence of including a default number that was not fit for today's purposes was that valuable discussion

time was lost by repeated revisiting of the issue. A dedicated discussion would thus save time in future discussions. The Office had indicated in the past that such a change was needed. His amendment said only that further consideration was warranted, not what figure should be chosen. The Governing Body should approve the part on the Spanish language and decide that the other issues should go to a future session of the Governing Body for further consideration. The Employers strongly believed that time should be reserved for that debate at some point in the future.

22. **The Chairperson** noted that the nature of the treaties on the list put forward as examples of instruments requiring higher ratification was such that they involved cooperation on transnational issues. Higher ratification was therefore necessary because the transnational object of the treaty required the alignment of many countries for it to be effective; that should be clarified for the next round of consultations.

23. Seeking to clarify positions, he said his perception was that the minimum common denominator in the room was not to delete subparagraph (b). He noted also that the Employers wanted the discussion to continue and said there appeared to be no consensus on not continuing the discussion at some point.

24. **The Worker spokesperson** disagreed with the Chairperson's assessment that most were in favour of continuing the conversation. She perceived support for the original draft decision, from her own group and from IMEC, but had not heard majority support for the proposed amendment.

25. **Speaking on behalf of IMEC,** a Government representative of the United Kingdom confirmed that IMEC supported the draft decision as originally prepared by the Office.

26. **Speaking on behalf of the EU and its Member States,** a Government representative of Sweden clarified that his support was for the original draft decision, with the editorial changes.

27. **The Chairperson** said that his reading of the room had been incorrect.

28. **The Employer spokesperson** noted that the Africa group had indicated support for the Employers' proposal to deal with the Spanish language issue separately and have another discussion later. GRULAC had indicated its flexibility. That did not constitute a majority against an alternative solution. He emphasized that in deciding against holding a dedicated future discussion, the Governing Body would be ensuring repeated debate of those provisions every time a Convention came up for debate. The provisions had not been revisited for many years. He was not asking the Governing Body to decide on the substance of the matter, only to decide to discuss it at a future session. To be able to fulfil its goals, the ILO must have Conventions that could be applied and ratified in a manner that made them as widely effective as possible. Although two ratifications might be sufficient to bring an instrument into force and bring the supervisory system into play, it would not make a Convention as widely applicable as a larger, more reasonable number of ratifications, because the enforcement process then acquired critical mass. There were resource implications for the Office when the supervisory system was activated after a very low number of ratifications. The Employers wished the Governing Body to reflect at a future session on what default figure would be most appropriate.

29. **The Worker spokesperson** said that there was no convincing argument for increasing the number of ratifications required for a Convention to enter into force. An instrument that was in force, even if it had a low ratification rate, was more useful than one that was not; for example, instruments that were in force served as guidance for the Office when providing technical assistance to prepare the way for ratification. There was no use in postponing a decision on the item.

30. **Speaking on behalf of the Africa group,** a Government representative of Eswatini said that his group saw no harm in engaging in further discussions on the final provisions in the near future, with a view to ensuring that the text was up to date.

31. **Speaking on behalf of GRULAC,** a Government representative of Colombia clarified that, while her group was strongly in favour of the formal recognition of Spanish as one of the authoritative languages of the Conference, it did not have a strong opinion on whether or not additional discussions should be held on the other final provisions.

32. **The Employer spokesperson** suggested that the Governing Body should immediately adopt a decision concerning the inclusion of Spanish as an authoritative language and transmit a draft resolution to that effect to the International Labour Conference in June 2023. In addition, it should indicate in its decision that it intended to return to the discussion of the other final provisions in the future, to make it clear that further revisions were needed. It should not approve the text of the other final provisions as they stood, as that would imply that further revisions were not needed. The amendment proposed by his group had been intended to reflect that approach.

33. **The Worker spokesperson** said that there was clearly a consensus on the recognition of Spanish as an authoritative language and on the editorial changes. The majority of the Governing Body seemed to be in favour of adopting the original draft decision.

34. **The Chairperson** recalled that usual practice was for the Governing Body to decide first on a proposed amendment and then on the original draft decision. If agreement could not be reached, a vote would have to be held. As there was no consensus on the proposed amendment, he asked whether the Employers' group might consider withdrawing it.

35. **The Employer spokesperson** said that his group would withdraw its proposed amendment if another solution could be found that allowed for further discussion to be held on the issue of the final provisions and the default values in them. For example, a sentence could be added to the original draft decision stating that the Governing Body decided to put on the agenda of a future Governing Body session a discussion on the final provisions, with a specific focus on their relevance and on the default values.

36. **The Worker spokesperson** said that she saw no merit in having another discussion on the final provisions when the SRM TWG had already had a full discussion on them and had not been able to reach agreement. The final provisions with open values allowed for flexibility.

37. **A representative of the Director-General** (Legal Adviser) clarified that the Conference had last validated the form of the "model" final provisions in 1951, without introducing any change to the default threshold for entry into force of Conventions, which had remained at two ratifications since 1919. It was important to note, however, that the use of square brackets and ellipses in the final provisions indicated an open value (that could be changed by the Conference committee at its discretion) and the threshold was not fixed once and for all at two. Approving the revised or edited text of the "model" final provisions was thus merely a housekeeping matter. He further explained that if the Governing Body decided to adopt a decision only on the matter of the Spanish language, changes to the draft resolution to be transmitted to the Conference would also be necessitated. For example, the preambular paragraph referring to the changes that were needed with a view to including gender inclusive language would no longer be relevant and had to be removed, while the words "as amended" should be more accurately placed after "Appendix III".

38. **The Employer spokesperson** said that his group could accept deleting the words, "as amended," from subparagraph (a) of his group's proposed amendment, which would allow the

resolution to stand as drafted. However, subparagraph (b), which referred to further discussions, should be retained.

39. **The Worker spokesperson** proposed, following consultations, that subparagraph (b) could be subamended to read: “decided to defer the discussion on the final Articles of international labour Conventions to a future session of the Governing Body”.

40. **The Employer spokesperson** expressed support for the subamendment proposed by the Workers’ group.

Decision

41. **The Governing Body:**

(a) took note of the information presented in document GB.347/LILS/1 and transmitted the draft resolution contained in Appendix III concerning the final Articles of international labour Conventions to the 111th Session (2023) of the International Labour Conference for possible adoption;

(b) decided to defer the discussion on the final Articles of international labour Conventions to a future session of the Governing Body.

(GB.347/LILS/1, paragraph 74, as amended by the Governing Body)

2. Composition of the International Labour Conference and regional meetings (GB.347/LILS/2)

42. **The Employer spokesperson** noted that no clear progress had been made in respect of reducing the number of non-accredited delegations in the period 2018–22, other than a brief drop when arrangements for remote participation had been introduced. Methods to facilitate accreditation for the Caribbean and Pacific Island subregions should be explored. The level of non-accredited delegations was higher at regional meetings than at sessions of the International Labour Conference. However, the data were skewed as a result of the reduced number of complete tripartite delegations at the 10th European Regional Meeting (2017). He noted the overall increase in the participation of women in delegations, recognizing the higher percentage of women in Government delegations than in Employer or Worker delegations, and acknowledged that the Employers’ and Workers’ groups would need to keep the composition of their delegations under review in order to meet short- and long-term goals relating to gender parity. The level of women’s participation in meetings was proportional to their representation in the labour market; the priority therefore should be to work towards increasing the number of women in the workforce. The Employers’ group supported the draft decision.

43. **The Worker spokesperson** highlighted the importance of having complete tripartite delegations at all meetings and noted with satisfaction that, during the period under review, the number of Member States not accredited to the International Labour Conference had been less than half that of the preceding reporting period. Despite an improvement in accreditation levels following the introduction of remote participation, she said that in-person participation was crucial. Efforts should be made to eliminate incomplete delegations and to reduce the number of non-accredited delegations, particularly from the Caribbean subregion. She noted that there appeared to have been a higher level of non-accredited and incomplete delegations at regional meetings – which were key forums for debate and regional priority setting – than at the Conference, and that further efforts were needed in that regard. In particular, she

encouraged Member States to provide information on the steps being taken to remedy the situation. Further efforts were also needed to increase the participation of women in ILO meetings. She recognized the essential role of the Credentials Committee and would like to receive, in the future, information about the results of the measures being taken to achieve gender parity. The Workers' group supported the draft decision.

44. **Speaking on behalf of the Africa group,** a Government representative of Morocco took note of the reduction in the number of non-accredited delegations to the International Labour Conference during the reporting period, which could be partly attributed to the arrangements permitting remote participation. He also noted the progress made in that regard at the 14th African Regional Meeting in 2019. He highlighted the importance of such meetings to enhance the smooth functioning of the ILO's decision-making and policymaking bodies. He also highlighted the vital role of the Credentials Committee and welcomed the efforts to inquire about the reasons that had prevented full tripartite representation. Despite the increase in the overall participation of women in national delegations to the International Labour Conference, further efforts were needed to achieve gender parity. His group supported the draft decision.

45. **A representative of the Director-General** (Legal Adviser) welcoming the comments made, encouraged members to bear in mind when considering scenarios for reconfiguring regional meetings at the 349th Session (October–November 2023) of the Governing Body that the work of the Credentials Committee could not be compressed beyond a certain point since the examination of objections and complaints required sufficient time.

Decision

46. **The Governing Body:**

(a) urged Member States to comply with their constitutional obligation to accredit full tripartite delegations to sessions of the International Labour Conference and regional meetings;

(b) urged all groups to aspire to achieve gender parity among their accredited delegates, advisers and observers to the Conference and regional meetings;

(c) requested the Director-General to:

(i) continue to monitor the situation of Member States which fail to accredit a tripartite delegation to sessions of the International Labour Conference and regional meetings and of those which have not reached the minimum target of 30 per cent of women's participation, with the ultimate goal of gender parity;

(ii) continue providing technical assistance to all groups, as might be needed, to reach gender parity in delegations;

(iii) periodically report to the Governing Body on these matters.

(GB.347/LILS/2, paragraph 35)

3. Improving the Rules governing the appointment of the Director-General (GB.347/LILS/3(Rev.2))

47. **The Worker spokesperson** commended the consultations that had taken place on the review of rules and practices to ensure fairness, transparency and impartiality in the appointment of the Director-General. Public interaction with candidates should be strengthened to increase

the visibility and transparency of the election process. The Workers' group therefore supported the move to webcast interactive events to enable the tripartite constituents, civil society actors and members of the general public from around the world to follow them and agreed that the Governing Body should decide on the detailed arrangements for such events, including their format and duration. They should be conducted according to the normal rules and proceedings for private sittings of the Governing Body. It was important to be transparent about who supported candidates and where their sources of funding originated. Her group agreed that the disclosure of campaign activities would increase transparency in that regard and that oversight of the election process should remain with the Chairperson of the Governing Body.

48. Regarding internal candidates, a compromise seemed to have been reached between allowing all individuals to stand for election while ensuring that internal candidates did not enjoy undue benefits; her group therefore supported the proposal to place internal candidates on special leave with partial salary for a period of no less than three months before the date of the election, with the duration of the leave and the salary level to be determined by the Director-General in consultation with the Officers of the Governing Body. It was similarly appropriate that such provisions would not apply to a Director-General running for reappointment, given that measures were already in place to limit his or her re-election to one additional term. However, conditional resignation would be an intimidating requirement for internal candidates – who, by definition, were highly committed to the Organization – and could be a strong disincentive to standing for election. That said, it was positive that the possibility remained for the elected Director-General to allow an unsuccessful candidate to continue to work for the ILO.

49. She requested clarification as to why internal candidates other than Deputy Directors-General and Assistant Directors-General would be treated differently in the proposed rules. In general, the draft amendments to the Rules governing the appointment of the Director-General were clear and reflected the changes. However, the Office should review the phrasing of the new language in what was now Rule 14, which stated that "[u]nethical practices … that may undermine or improperly influence the integrity of the appointment process are prohibited", suggesting that only unethical practices that might undermine the integrity of the process were prohibited, rather than unethical practices in general. The Workers' group would be ready to express its view on the draft decision once satisfactory clarification had been received on that point and on the issue of whether conditional resignation was truly necessary.

50. **The Employer spokesperson** suggested that the electoral process and its integrity should be reviewed systematically following all elections of the Director-General. He agreed with the Workers' group that holding at least one interactive event with candidates was a good practice that should be continued. He also welcomed the transparency-related measures in Rules 4 and 17 and the requirement in Rule 18 for candidates to refer to one another with respect. The change to what was now Rule 14 could be understood as relating to trivial gifts, although his group would examine it more closely in the light of the point raised by the Workers. While positive changes had been made in terms of ethics and behaviour, clarification would be welcome regarding the investigation and disciplinary process which, under Rule 19, would "apply as in any other case of alleged wrongdoing or misconduct"; it was unclear what other cases of alleged wrongdoing would be comparable with wrongdoing during the appointment process, and applying processes designed to guarantee equity and justice among employees to someone standing for elected office could pose a risk. Furthermore, it was important to know how quickly sanctions or other measures would be applied since, in the context of an election, any delays might render them ineffective.

51. Turning to the issue of internal candidates, he expressed support for Rule 22 on the need for the highest standards of ethical conduct. On the provisions on conditional resignation in Rule 24, he shared the concerns of the Workers' group that such a requirement could be overly strict and discourage internal candidates from standing for election. According to the information provided by the Office, just one other international organization required an advance letter of resignation from internal candidates when appointing their executive head. He likewise expressed reservations with regard to Rule 25, under which a Director-General running for reappointment would not be placed on special leave with partial salary, unlike other internal candidates, observing that it was difficult to strike a balance between the need to treat candidates fairly and to protect the resources of the Organization. It would be interesting to examine more closely how other organizations acted in that respect. On the alignment of the periods of appointment, his group supported the proposed amendments to article 4.6(b) of the Staff Regulations. The Employers would reserve judgement on the draft decision pending further discussion and clarification of the proposed changes, particularly in relation to Rules 19, 24 and 25.

52. **Speaking on behalf of IMEC,** a Government representative of Canada, welcoming the opportunity to improve transparency and fairness in the process of appointing a Director-General and to increase clarity in the Rules, said that her group would be interested to hear the views of the Ethics Officer, the Independent Oversight Advisory Committee and other groups on the proposed changes. IMEC strongly supported the proposals to codify public interactive events involving candidates, align periods of appointment, increase the clarity of the ethical guidelines for candidates and strengthen the rules regarding the status of internal candidates, including the proposals on conditional resignation. The Office should confirm, however, that the regulations would not apply to bilateral discussions and agreements between governments during election processes.

53. If internal candidates were to be placed on special leave for the duration of election campaigns, it should be ensured that those campaigns were not excessively long given the additional strain that elections placed on the Organization; her group believed that past campaigns had been unnecessarily protracted. In that regard, IMEC wished to propose two amendments to Rule 23. The first was to specify that candidates would be placed on special leave with "half salary", rather than "partial salary"; referring the decision on the rate of pay to the Director-General and the Officers of the Governing Body could lead to perceptions of preferential treatment or discrepancies in decisions that would be difficult to reconcile. Setting the rate of pay at 50 per cent of a candidate's salary would strike a balance between no pay, which would place internal candidates in an unduly disadvantageous position, and full pay, which would be financially burdensome for the Organization and blur the boundary between professional status and electoral aspirations. If that amendment was adopted, the words "partial salary" in the language added to article 7.7 of the Staff Regulations should be amended in the same way. The second proposed amendment to Rule 23 concerned the minimum duration of special leave and entailed replacing "three months" with "two months" in order to align with Rule 1, under which candidatures must be received at least two months prior to the date of the election; in the current proposals, the minimum duration of special leave for internal candidates exceeded the minimum duration of the election period itself.

54. **Speaking on behalf of the Africa group,** a Government representative of Algeria said that it was especially important to review the Rules governing the appointment of the Director General given that they had last been modified in 2011. Her group welcomed the proposal regarding organization of interactive events, but considered that the ILO should not bear all expenses arising from participants' participation in such events since they could not

be fully separated from electoral campaigns. She agreed that both internal and external candidates must respect the campaign rules, particularly regarding ethical conduct, respect for fellow candidates and the disclosure of campaign activities and the amount and source of their funding. The process should be monitored by the Governing Body. She asked for further details regarding the information on campaign activities that would be posted on the dedicated ILO web page.

55. Cognizant of the need to guarantee fairness with regard to internal candidates, the Africa group supported the proposals to introduce provisions for special leave with partial salary. In the interest of transparency, however, it would be better for the Governing Body to set the length of leave and level of salary; the Africa group therefore supported the amendments proposed by IMEC. Lastly, her group supported the alignment of the period of appointment of the Deputy Directors-General and Assistant Directors-General with that of the Director-General.

56. **Speaking on behalf of GRULAC,** a Government representative of Colombia highlighted that reviewing the Rules governing the appointment of the Director-General would enhance the credibility, inclusivity and transparency of the electoral process. The continuation of the public events would allow candidates to share their vision for the Organization on an equal footing. While her group agreed that campaign activities should be disclosed, a requirement to disclose the amount and source of campaign funding would reveal differences in the financial resources of candidates with government support owing to differing levels of available resources in developing and developed countries. The new standards of conduct and ethics were welcome, particularly with regard to respect for fellow candidates; candidates could make a declaration committing to adhere to those standards throughout their campaigns.

57. To ensure predictability, the Governing Body should set the salary rate for internal candidates at 50 per cent from the moment that they submitted their candidatures, and consideration should be given to replacing them in their posts upon their declaration of candidature to ensure that the Organization’s financial situation and operations, and therefore the needs of constituents, remained unaffected. Unsuccessful candidates should resign. The periods of appointment of Deputy Directors-General and Assistant Directors-General should end before the new Director-General took office unless the Director-General decided otherwise. Lastly, it would be useful to know whether the Office’s proposals had been reviewed by the Independent Oversight Advisory Committee and the Ethics Officer; if not, the Governing Body should seek their opinions.

58. **Speaking on behalf of the Asia and Pacific group (ASPAG),** a Government representative of Japan agreed that the Rules should mandate at least one public interactive event involving candidates and constituents before elections. The requirement for candidates to pledge to observe the highest ethical principles and standards was appropriate. Internal candidates should be placed on special leave, and the specific arrangements should be clarified. ASPAG supported the amendments proposed by IMEC and requested the Office to implement the Rules fairly and equitably.

59. **A Government representative of India** said that the vital role of the ILO in promoting social justice and decent working conditions meant that a transparent, accountable process for electing its Director-General was vital. The proposed amendments on ethical conduct, the disclosure of campaign activities and funding, and the avoidance of overlap between campaigns and work for the ILO were therefore welcome. There should, however, be greater focus on diversity and inclusivity in the process of appointing the Director-General, with greater gender and regional representation and diversity among candidates. The Rules should

refer explicitly to the need to reflect the diversity of the ILO's membership in the appointment of its Director-General and also ensure transparency and accountability. Rules 8 and 9 of the original Rules, on fairness and transparency in the appointment process, should be retained. On that basis India supported the draft decision.

60. **A Government representative of Switzerland** was authorized to speak in accordance with paragraph 1.8.3 of the Standing Orders on a matter concerning his Government. While Switzerland supported the proposal to place internal candidates on special leave and reduce their salary by half, foreign international civil servants in Switzerland were required to work full-time in order to maintain their diplomatic privileges and immunities. Exceptions could, however, be granted at the request of the international organization concerned. He welcomed the planned prior consultations with the Swiss authorities on the proposed arrangements.

61. **A representative of the Director-General** (Legal Adviser) in response to the request for clarification of the Worker spokesperson, noted that while the proposed amendment to article 4.6 of the Staff Regulations ensured that the contracts of Deputy Directors-General and Assistant Directors-General could never extend beyond the term of the incumbent Director-General, it did not cover other internal candidates, who would have to submit their conditional resignation should their contracts exceed that term. It was true that according to available information, only one United Nations (UN) agency currently required internal candidates to submit conditional resignations. Moreover, there was no precedent for granting special leave for campaigning purposes to an incumbent executive head because it was not possible to run an organization in such circumstances.

62. As suggested by the Worker spokesperson, the wording of Rule 14 would be reviewed as it currently implied that any promises or gifts without distinction were unethical. Regarding investigating alleged wrongdoing during the appointment process, in the absence of specific procedures related to elections of the Director-General, such investigation would have to be undertaken based on the existing accountability framework and established procedures. If there was agreement on IMEC's proposal to replace "partial salary" with "half salary" in Rule 23, the Staff Regulations would be amended to reflect the change. While IMEC's proposal to amend the minimum duration of special leave in Rule 23 to align with Rule 1 had merit, it should be noted that the timeline indicated in Rule 1 for the reception of candidatures had not been observed in the six elections between 1998 and 2022.

63. The Office would welcome the Governing Body's views on the proposal by the Africa group that the ILO should not cover all the expenses of candidates travelling to Geneva for the interactive event(s). As for the request of the Africa group for further details on disclosure of campaign expenses, it was difficult to provide precise information on what information regarding candidates' expenditure would be published as there was no previous experience in these matters; that would depend on the nature and degree of detail of information received. In any event, the Office would exercise discretion and good judgement and consult the Officers of the Governing Body before publishing such information. In response to the request for clarifications by ASPAG, the specific arrangements for special leave for internal candidates would depend on the decision of the Governing Body, but if it decided to set a minimum period of special leave, the Director-General would be required to take a decision on its duration, in consultation with the Officers of the Governing Body.

64. **The Worker spokesperson** recalled that in other settings, successful and unsuccessful candidates often worked together following elections; a requirement for unsuccessful candidates to resign might not be necessary and might also affect their access to unemployment benefits should they be deemed to have become unemployed willingly.

Accordingly, it would be judicious to discuss that provision with the Staff Union. Internal candidates should not be disadvantaged and thus discouraged from applying. The Office's original proposals with regard to the special leave and level of salary granted to internal candidates had been intended to introduce a flexible approach that allowed the arrangements to reflect the amount of time an individual spent campaigning. It must also be borne in mind that candidates would be standing in election to serve the Organization, not just their own personal ambitions. She therefore remained unconvinced by the governments' proposed amendments.

65. **The representative of the Director-General** (Legal Adviser) stated that the Staff Union had been consulted on the proposals but had not commented. The resignation of an unsuccessful internal candidate would not be automatic; it would become effective only if it were accepted by the new Director-General. The proposals had been intended to facilitate the post-election transfer of power.

66. **The Employer spokesperson** said that his group did not consider the proposal on conditional resignation to be viable. The 50 per cent salary deduction for internal candidates was a fair and practical approach given the impracticalities of assessing how much time a candidate had spent campaigning and the fact that the incumbent Director-General might be required to make such a subjective judgement. The length of campaigns should be standardized or a window for campaigning established. There should be no disparity between Rules 1 and 23 in terms of the length of special leave or whether it was the Director-General or the Governing Body who took such decisions; his group believed that it should be the latter. While IMEC's proposed amendment was not objectionable, the wording should be consistent in Rules 1 and 23. Thus, the last clause of Rule 23 could be subamended to read: "for the period determined by the Governing Body in accordance with paragraph 1".

67. **Speaking on behalf of GRULAC,** a Government representative of Colombia enquired anew whether the proposals had been presented to the Independent Oversight Advisory Committee and the Ethics Officer; the changes might be replicated elsewhere in the UN system and an independent opinion was therefore necessary.

68. **The Worker spokesperson** expressed concern at the proposals to set the salary level at 50 per cent for internal candidates without setting a fixed length of special leave. If the Governing Body set the salary level at 50 per cent, the special leave should last two months.

69. **The representative of the Director-General** (Legal Adviser) said that the subamendment proposed by the Employers' group, and the proposal by GRULAC, amounted to placing internal candidates on special leave with partial salary for the whole campaign which would have lasted nine (starting from the opening of candidatures) or six (starting from the closure of candidatures) months during the 2022 campaign. The Ethics Officer had reviewed the proposals. As requested, the Independent Oversight Advisory Committee Chairperson, the Chief Internal Auditor and the Ethics Officer could address the Governing Body once the revised version of the Rules had been prepared.

70. **The Worker spokesperson** expressed reservations about the Governing Body deciding the leave of an internal candidate; such a decision should be taken by the Officers of the Governing Body based on a proposal from the Office.

(The Governing Body resumed consideration of the item after the Office circulated a revised document.)

71. **The representative of the Director-General** (Legal Adviser) said that following feedback from the Governing Body, all expenses relating to candidates' participation in public interactive

events would be borne by the ILO. Rule 14 had been amended to clarify that not all gifts were unethical, and wording had been added to the document to explain that ordinary support by sponsoring governments or groups, such as the hosting of receptions or the payment of some travel costs, was not affected by Rule 14. Inputs from GRULAC, IMEC and the Employers had been combined to draft a proposal that internal candidates would be placed on special leave with half salary for a fixed period running from the close of candidatures to the day of the election, once the candidate had exhausted their annual leave entitlement.

72. Given the opposition of the Employers and Workers, together with certain reservations of the Ethics Officer and Chief Internal Auditor, it was proposed that the concept of conditional resignation be removed from the Rules. Lastly, a footnote had been inserted based on the comments of the Chief Internal Auditor, to indicate that specific guidance could be developed on an investigation and disciplinary process in case of reported or alleged wrongdoing during the process of appointing the Director-General.

73. **The Worker spokesperson** noted that the Legal Adviser had not addressed the matter of residence requirements raised by the Government of Switzerland. Her group could accept the other changes.

74. **The Employer spokesperson** expressed agreement with all the proposed changes, subject only to resolution of the matter raised by Switzerland. Rule 23 read as if an ILO official must first exhaust his or her annual leave entitlement before receiving half pay. That should, however, be at the candidate's discretion, otherwise he or she might be disempowered regarding his or her use of leave.

75. **Speaking on behalf of ASPAG,** a Government representative of Japan said that ASPAG remained flexible, but also recognized the need for clarification. It supported the amendments to Rule 14, although the reasons for the deletion of the last sentence of Rule 19 should be provided. ASPAG was willing to be flexible on Rule 24 in the interests of consensus and would remain similarly flexible on other matters, provided that basic principles such as fairness and transparency prevailed. If the need arose and the majority so preferred, ASPAG would be willing to continue the discussions during the next Governing Body session.

76. **Speaking on behalf of GRULAC,** a Government representative of Colombia supported the provision that internal candidates be granted special leave and half pay for the period indicated in the revised document. The Director-General should be able to extend the contracts of Deputy Directors-General and Assistant Directors-General if he or she so desired. It was important that future elections did not consume as much time as previous elections. GRULAC supported the revised version of the document.

77. **Speaking on behalf of IMEC,** a Government representative of Germany supported the amendments and endorsed the proposal that internal candidates should first exhaust their annual leave entitlement before taking special leave, as that would be consistent with what external candidates would be expected to do. IMEC maintained its firm position that campaign periods should be limited in length to reduce the burden on the Organization; such limits should be taken into account when deciding on the dates for the submission of candidatures.

78. **Speaking on behalf of the Africa group,** a Government representative of Algeria, noting that not all of her group's concerns had been addressed, nevertheless expressed support for the revised draft decision. The Africa group strongly supported a reduction to the length of campaign periods and was in favour of a limit of two or three months, but would support a longer period of up to six months if that was the consensus.

79. **The representative of the Director-General** (Legal Adviser), responding to a question by the Worker spokesperson, explained that the matter concerning the residence permit of an internal candidate placed on special leave had already been included in paragraph 26 of the document that referred to prior consultations with the authorities of the host country. The Swiss Permanent Mission had confirmed that placing internal candidates on special leave with half pay would be tantamount to part-time work, which was possible provided that a specific request was made with proof that the individual concerned had the financial means to subsist in Geneva, was insured and would not undertake any other lucrative activity. The Office did not consider that there was a need to reflect those requirements explicitly in the Rules themselves; the Swiss authorities had given assurances that there would be no problem for internal candidates in that regard, but a reference to the matter had been included in the document for the sake of completeness.

80. Internal candidates would be required to take annual leave, on full pay, before taking special leave on half pay; that should in principle be to the candidate's advantage. The six-month duration of the last election campaign was not standard; it had simply occurred as such. That length of time had been recognized as a possible burden to internal candidates, and one way to reduce that burden would be for them to use up their annual leave entitlement. The alternative would be to set a fixed period between the closing of the candidate list and the election. Regarding the deletion of language from paragraph 19, special rules for dealing with allegations of misconduct by executive heads of UN agencies could be developed in the near future, and so it had been judged prudent to remove the sentence altogether.

81. **Speaking on behalf of ASPAG,** a Government representative of Japan asked how an internal candidate could work on their campaign if he or she was unable to take special leave between declaring his or her candidatures and the closure of candidatures.

82. **The representative of the Director-General** (Legal Adviser) explained that internal candidates who declared their candidature before the closure of candidatures would as a matter of fact have to launch their campaign while working full-time.

83. **The Employer spokesperson** said that internal candidates should be allowed to choose whether and when to use their annual leave entitlement. Otherwise, the Organization would save money while the individual's annual leave entitlement was being exhausted. Moreover, it was not clear whether individuals on half pay could use half their annual leave entitlement to top up their income. The earlier draft had been clearer; to resolve the issue, a footnote could have been inserted to the effect that internal candidates could elect to use their annual leave, even when on special leave, to allow them to draw their full income. He enquired whether the Staff Union had been given the opportunity to comment on the matter and, if not, whether such an opportunity should be afforded.

84. **The Worker spokesperson** suggested that "on the request of the candidate" should be added to Rule 23.

85. **The representative of the Director-General** (Legal Adviser) noted that the reference to annual leave had been added following feedback from the Governing Body. The Staff Union had not yet been consulted on this specific aspect owing to time constraints.

86. **The Employer spokesperson** proposed removing "(after their annual leave credit is exhausted)" from Rule 23. The issue of annual leave could be dealt with administratively.

87. **The Worker spokesperson** said that that including "on the request of the candidate" would have the same effect.

88. **The representative of the Director-General** (Legal Adviser) said that the phrase in brackets could be deleted and wording added to the effect that internal candidates may make use of their annual leave entitlement during the period from the closure of candidatures till the date of the election.

89. **The Employer spokesperson** expressed agreement with that suggestion and proposed that the wording should specify that internal candidates may choose to use their accrued annual leave during the period.

Decision

90. **The Governing Body approved the amendments to Annex III to the Compendium of rules applicable to the Governing Body of the International Labour Office and to articles 4.6 and 7.7 of the Staff Regulations set forth in Appendix I to document GB.347/LILS/3(Rev.2), as amended.**

(GB.347/LILS/3(Rev.2), paragraph 32, as amended by the Governing Body)

International Labour Standards and Human Rights Segment

4. Report on the implementation of the adjustments made to the procedure for the appointment of members of the Committee of Experts on the Application of Conventions and Recommendations (GB.347/LILS/4)

91. **The Employer spokesperson** said that the adjusted procedure represented a clear improvement and he looked forward to receiving information on the process for filling the three new vacancies at a future Governing Body session.

92. **The Worker spokesperson** welcomed the improvements made to the appointment procedure and emphasized the importance of transparency, integrity and impartiality. She supported the draft decision.

93. **Speaking on behalf of the Africa group,** a Government representative of Gabon said that since the Committee of Experts on the Application of Conventions and Recommendations played an important role in the implementation of the ILO’s policy on gender equality, she welcomed the achievement of gender balance. The Office should ensure that it maintained that balance in future selection processes, while retaining competence as the decisive factor, and use the same eight assessment criteria during future processes. Noting the call for candidates to fill the three further vacancies, she invited the Director-General to continue ensuring the complete independence and impartiality of the Committee of Experts. The Africa group supported the draft decision.

94. **Speaking on behalf of GRULAC,** a Government representative of Colombia said that she welcomed the adjustments made to the appointment procedure, which had helped improve transparency and good governance. She also welcomed the high number of candidates from South America, given the high number of cases from that region pending before the Committee of Experts. The gender balance in the Committee was a symbolic achievement, and she was pleased that the call for expressions of interest had been publicized taking into account the geographical spread of the vacancies. She hoped that the Office would continue to make further improvements to the appointment procedure.

95. **Speaking on behalf of IMEC,** a Government representative of Iceland said that her group welcomed and supported the efforts to publicize all vacancies through calls for expression of interest, as that ensured a transparent and timely selection process. She was pleased that the Office had arranged the selection processes with a view to ensuring geographical balance and representation from all legal systems, which was essential to the integrity of the Committee of Experts. IMEC supported the draft decision.

Decision

96. **The Governing Body took note of the information provided.**

(GB.347/LILS/4, paragraph 13)

5. Proposed form for reports requested under article 19, paragraphs (5)(e) and (6)(d) of the ILO Constitution in 2024 (GB.347/LILS/5(Rev.1))

97. **The Worker spokesperson** emphasized the importance of the instruments on employment injury benefits, given the 7,500 avoidable deaths each day as a result of unsafe and unhealthy working conditions. The General Survey would enable the Office to identify obstacles to the ratification and implementation of the relevant instruments, gaps in coverage and vulnerable groups of workers. The proposed form contained in the appendix to the document was clear, concise and comprehensive. Her group therefore supported the draft decision and encouraged the constituents to submit the requested reports for 2024. She noted, however, that there had been various problems with the virtual platform used during the consultations on the proposed form, which should be resolved to ensure full and transparent tripartite consultations on future reports.

98. **The Employer spokesperson** noted with satisfaction that the Office had taken into account the guidance provided by the Governing Body at previous sessions when preparing the proposed form. He highlighted the importance of the instruments in question and emphasized that the proposed form should: cover all provisions of the instruments in question; cover the implementation of the provisions of the relevant instruments both in law and in practice; be limited to the scope of the instruments in question; and distinguish between provisions that were of a legally binding nature and those that were not. His group supported the draft decision.

99. **Speaking on behalf of the Government group**, a Government representative of Germany said that, as General Surveys were a key element of the ILO's standards-related work, her group attached importance to the selection of instruments and the development of the corresponding report form under article 19. Report forms should be concise and focused, and her group welcomed the efforts made to improve the reporting process, including by holding consultations and developing a virtual platform for the submission of comments. Regrettably, there had been serious problems relating to accessing the document through the new platform. Furthermore, the proposed form contained an excessive and disproportionate number of questions, including 12 optional questions that were not based on the selected instruments, and did not employ established practices, such as indicating which instrument and provision related to each question. Many of her group's concerns could have been addressed during the initial consultation process. As they had not been, her group would welcome further discussions on measures to improve the process further, and requested the Office to revise the proposed form.

100. **A representative of the Director-General** (Director, International Labour Standards Department) welcomed the comments made relating to how the consultation process could be improved. In that regard, she noted the problems with accessing the virtual platform, and gave her assurances that the process would be improved in the future. Moreover, she observed that while the Workers' and Employers' groups had participated in the consultation process, it would appear that the process had not worked that well with the Government group. In the light of the comments made by the Government group, a revised report form had been prepared and circulated for consultation.

101. **The Worker spokesperson** said that the form should contain as many questions as were necessary to elicit responses that were sufficiently detailed in order to identify gaps in coverage and barriers to ratification. That said, she said that she understood the concerns expressed by the Government group, and was prepared to consider a revised form.

102. **The Employer spokesperson** expressed surprise that a request was being made to revise the form, given that a consensus had been reached during the consultation period. The Governing Body should adopt the draft decision with the form as proposed and the concerns expressed by the Government group should be taken into account in the future.

103. **A Government representative of the United States of America** said that, in view of the challenges that had arisen during the consultation period, she agreed that a revised version of the proposed form should be circulated for consultation.

104. **The Employer spokesperson** said that he would prefer the Governing Body to make a decision on the basis of the work that had already been carried out.

105. **The Worker spokesperson** said that, in order to ensure a good response to the report form by all constituents, her group could be flexible. However, any further consultations should seek to reach a swift consensus.

106. **The Employer spokesperson** asked whether consultations could take place during the intersessional period and whether a decision could be deferred until the 348th Session (June 2023) or 349th Session (October–November 2023) of the Governing Body.

107. **Speaking on behalf of the Government group**, a Government representative of Germany reiterated that she had spoken on behalf of all 187 Member States in order to keep the discussion as short as possible. She urged the Employers' group to accede to her request for further consultations with a view to reaching consensus.

108. **The representative of the Director-General** (Director, International Labour Standards Department) said that waiting until the 349th Session to take a decision would not give governments enough time to submit their reports for the preparation of the General Survey in 2024. While the decision could in theory be taken at the short 348th Session, immediately following the 111th Session of the Conference, there might be insufficient time for consultations and would be no possibility to hold discussions if consensus could not be reached. She therefore encouraged the Governing Body to consider holding consultations during the current session on the revised version of the proposed form.

109. **The Worker spokesperson** agreed to hold informal consultations with a view to reaching consensus.

110. **The Employer spokesperson** said that his group did not wish to block consensus, and could therefore agree to hold further informal consultations.

111. **A Government representative of Spain** agreed that additional informal consultations would help a consensus to be reached.

112. **The representative of the Director-General** (Director, International Labour Standards Department) said that the Office would circulate a revised version of the proposed form before resuming consideration of the item.

113. **The Employer spokesperson** underscored that proposed amendments should be submitted during consultations and not when the draft decision was being discussed in plenary. Members should make every effort to submit their proposals in a timely manner.

114. Since important questions had been removed from or reformulated in the revised form, he asked the Office to confirm that it adequately covered provisions related to all the instruments being examined as part of the General Survey. In order to ensure that the form was not excessively long, it was preferable to select fewer instruments for the General Survey and ask a sufficient number of questions to adequately cover the selected instruments. On that understanding, his group could support the draft decision contained in the revised document.

115. **The Worker spokesperson** said that since the revised document had been prepared in consultation with all tripartite constituents, her group supported the draft decision.

116. **Speaking on behalf of the Government group,** a Government representative of Germany said that it was important to achieve an appropriate balance between a comprehensive questionnaire that gathered sufficient information to provide a clear picture of law and practice on often complicated technical issues, on the one hand, and a questionnaire that was concise enough for governments to respond in a timely and complete manner, on the other. Since it was more concise and focused, the revised questionnaire would have a higher response rate and yield better results. The Government group supported the draft decision.

117. **The representative of the Director-General** (Director, International Labour Standards Department) said that some questions had been removed and the wording of others changed to ensure that all provisions in the different instruments were covered. The fact that the Governing Body had decided on the topics and Conventions for upcoming surveys should prevent similar problems from arising in the future.

Decision

118. **The Governing Body:**

(a) **requested governments to submit reports for 2024, under article 19 of the ILO Constitution, on: the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12); the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19); the Equality of Treatment (Accident Compensation) Recommendation, 1925 (No. 25); the Social Security (Minimum Standards) Convention, 1952 (No. 102), Part VI; the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121); and the Employment Injury Benefits Recommendation, 1964 (No. 121);**

(b) **approved the report form concerning those instruments, which is appended to document GB.347/LILS/5(Rev.1).**

(GB.347/LILS/5(Rev.1), paragraph 7)

6. Proposals to adapt the current reporting arrangements under article 22 of the ILO Constitution for Members having ratified fundamental Conventions Nos 155 and 187 and proposed report form under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022 (GB.347/LILS/6)

119. **The Worker spokesperson** said that annual follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (the 1998 Declaration) was of great importance for the ILO. Technical assistance to overcome obstacles to the ratification and implementation of both the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) should be a priority in country-level engagement. She was pleased that the report would include information on core health and safety standards. The Office should substantially step up its assistance to countries in response to the reports. The ratification rate of fundamental Conventions Nos 155 and 187 was lower than for Conventions in the other four categories under the Declaration.

120. The report form to be completed by Member States which had not ratified Conventions Nos 55 and 187 was clear, concise and comprehensive and should provide a good basis for targeted technical assistance. However, for the sake of consistency and comprehensiveness, questions on the prospects for ratification should be included in both the electronic questionnaire and the physical report form.

121. The previous week, the Governing Body had approved proposals and a road map for the review of the Global Strategy on Occupational Safety and Health and the promotion of a safe and healthy working environment as a new fundamental principle and right at work, the first pillar of which included support for universal ratification and implementation of the fundamental Conventions on occupational safety and health (OSH) as a priority. The annual review would provide essential information for the implementation of the future strategy. She called on Member States to submit the requested reports for all five fundamental principles and rights at work.

122. Her group agreed with proposals to reflect the change of the reporting cycle to a three-year cycle and welcomed the Office’s efforts to ensure consistency and coherence among OSH instruments, as well as the related governance instruments on labour inspection and other technical instruments concerning conditions of work.

123. She encouraged ratifying Member States to fulfil their constitutional obligation under article 22 of the Constitution, submit reports on time and consult with the national social partners. In addition, she encouraged the Office to continue engaging with constituents to improve the consultation process for report forms under articles 19 and 22, especially regarding the use of the electronic platform.

124. **The Employer spokesperson** recalled with regard to the report form under article 19(5)(e) of the ILO Constitution that during the discussion on document GB.347/INS/3 on the review of annual reports, the Employers had made clear that both the information collected and the Office’s review and analysis thereof needed improvement. The annual review was an important first step in identifying where ILO support was most needed. However, it required more qualitative analysis to grasp the situation at country level and to allow for peer learning and the identification of good practices that could be emulated according to specific national

circumstances. The Employers' previous statement on the subject was fully relevant to the ongoing discussion.

125. On the content of the report form, the Office had not accurately reflected the agreed language concerning question 16 and should clarify that only countries that had not ratified Convention No. 187 were required to reply to that question.

126. His group supported the initiation of the three-year reporting cycle on the fundamental OSH Conventions from 2024 as that would ensure consistency and coherence. However, as table 2 of the document illustrated, reporting arrangements under article 22 had become complex. The inclusion of the new principle of a safe and healthy working environment added a further layer of complexity to the annual reporting on OSH. That increasing complexity should remind the Office to consider simplifying the reporting system and the advantages of consolidating ILO OSH Conventions, especially given the new standard-setting discussion intended for a future International Labour Conference. The Employers supported the draft decision.

127. **Speaking on behalf of the Africa group**, a Government representative of Namibia welcomed the availability of the report form in multiple formats and asked the Office to indicate when the e-questionnaire format would be available. Questions 23 to 26 on prospects for and impediments to ratification were relevant to the ILO's promotional work on the ratification of ILO Conventions and should be available in all formats, not only online.

128. He welcomed the proposal on moving reporting arrangements for the OSH fundamental Conventions from a six-year to a three-year reporting cycle and commended the Office for maintaining the thematic grouping of those Conventions in the reporting arrangements under article 22. There were significant benefits from thematic grouping of Conventions for Governments and supervisory bodies. The Africa group supported the decision point.

129. **Speaking on behalf of GRULAC**, a Government representative of Colombia welcomed the modification of the reporting cycle to include the implementation in law and practice of Conventions Nos 155 and 187, which would enhance follow-up on the recognition of a safe and healthy work environment as a fundamental principle and right at work. That effort should ease the administrative burden on Governments and enable a more comprehensive review by the Committee of Experts on the Application of Conventions and Recommendations.

130. GRULAC supported the decision point in paragraph 11 of the report. However, once the form was approved, it was important that the Office guarantee a user-friendly electronic interface to facilitate the submission of reports. Additionally, once the proposed 2024–29 reporting cycle was adopted, the provisional schedule on the NORMLEX platform should be updated accordingly.

131. **Speaking on behalf of IMEC**, a Government representative of the United States noted that enhanced reporting was a key step in giving effect to this new fundamental principle and right of recognition of a safe and healthy working environment. IMEC supported adjusting to a three-year cycle of reporting. The proposed reporting sequence supported consistency and coherence not only among OSH instruments, but also among the related governance instruments on labour inspection and other technical instruments concerning conditions of work. IMEC would have preferred a more streamlined questionnaire with fewer and more general questions to provide a broader picture on the realization of OSH principles in national legislation. In order to avoid duplication of information, questions should not be too similar or too detailed.

132. She sought clarification about the information to be provided under the follow-up to the Declaration in cases where a country had previously reported on the principle of a safe and

healthy working environment. In order to prevent double reporting, better linkage should be ensured. Further information on the differences between the e-questionnaire and other formats would be welcome. While e-reporting was undeniably efficient, it entailed limitations in the ability to provide comprehensive responses and in the drafting and clearing process. IMEC supported the decision point.

133. **A representative of the Director-General** (Director, International Labour Standards Department) said that with respect to reporting under article 22, the strong support and appreciation expressed for the efforts made to ensure thematic reporting and coherence around thematic reporting was useful feedback.

134. With respect to reporting under the 1998 Declaration, she had noted the questions, comments and suggestions. Those reports would be sent in 2024 for the first time. The Office would take account of all comments relating to the added value of the e-questionnaire versus the Word and PDF formats and consult accordingly. The Office had sought to strike a balance between maximizing the benefits of technology and not overburdening national administrations.

135. The NORMLEX database would be rapidly updated.

136. Regarding the question raised by IMEC as to clarity of information requested, reporting under Article 19 of the OSH Convention would commence in 2024. She would ensure that the report form stated clearly that new information was only required when there were new developments to report.

Decision

137. **The Governing Body:**

(a) **approved the report form on a safe and healthy working environment proposed in the appendix to document GB.347/LILS/6 as the basis for the preparation of reports due under article 19(5)(e) of the ILO Constitution in accordance with the annual follow-up to the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022;**

(b) **approved the adaptations proposed in paragraph 9 of the document to the three-year reporting cycle on fundamental Conventions in accordance with article 22 of the ILO Constitution.**

(GB.347/LILS/6, paragraph 11)