



## **Governing Body**

310th Session, Geneva, March 2011

GB.310/11/1(Rev.)

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### ELEVENTH ITEM ON THE AGENDA

## **Reports of the Committee on Legal Issues and International Labour Standards**

### **First report: Legal issues**

1. The Committee on Legal Issues and International Labour Standards (LILS) met on 18 March 2010. The following members served as Officers:

<i>Chairperson:</i>	Mr G. Corres (Government, Argentina)
<i>Employer Vice-Chairperson:</i>	Mr J. de Regil
<i>Worker Vice-Chairperson:</i>	Ms H. Yacob

### **Constitution of the International Labour Organization: Inclusive language in official texts for the purpose of promoting gender equality** (First item on the agenda)

2. The Committee had before it a document <sup>1</sup> for decision containing revised proposals regarding the adoption of a Conference resolution and an editorial note to the text of the Constitution for the purpose of promoting language in legal texts that is consistent with the principle of gender equality.
3. The Legal Adviser, introducing the document, noted that a correction needed to be made to the French text in order to align it with the English and Spanish versions. In paragraph 2 of the draft resolution <sup>2</sup> the words “généralement acceptées” should be replaced by “pertinentes”.
4. The Worker Vice-Chairperson reiterated the fundamental importance of equality between women and men in the world of work and of gender-inclusive language. She supported the

<sup>1</sup> GB.310/LILS/1.

<sup>2</sup> GB.310/LILS/1, Appendix I.

submission of the draft resolution to the upcoming International Labour Conference and, immediately after its adoption, the introduction of the editor's note, as proposed in paragraph 5(b) of document GB.310/LILS/1. Understanding that the consensus reached was not to pursue a constitutional amendment, she recognized that the draft resolution focused on gender-inclusive language, while avoiding overlap with other texts adopted in the area of gender equality. Noting that the proposed editor's note gave clear visibility to the matter, she suggested that a similar note should be added to the texts of ILO Conventions and Recommendations, both on-line and in future publications.

5. The Employer Vice-Chairperson supported the proposed point for decision in paragraph 5(b) of the document and indicated that the decision of the Committee should specify that the proposed resolution was to be submitted to the International Labour Conference at its 100th Session (June 2011). He supported the addition of the editor's note to the text of the Constitution, as it would give additional visibility to the resolution. Regarding the text of the resolution, he considered that the reference in the last preambular paragraph to ensuring the "equal visibility of women and men" in fact referred to the equal visibility of the terms "women" and "men", and that the text should be changed accordingly.
6. The representative of the Government of Austria, speaking on behalf of the group of industrialized market economy countries (IMEC), welcomed the shortened draft resolution and editorial note, which would constitute a clear, concise and visible statement by the Organization. The IMEC group understood the reference to "appropriate language" in paragraph 1 of the draft resolution to mean that, in the drafting of ILO texts, language and concepts that discriminated on the basis of gender would be avoided and, wherever possible, gender-specific terms would be replaced by gender-inclusive terms. In the view of IMEC there were two equally valid ways of achieving that aim: either a general clause under which the use of one gender included the other, or the introduction of gender-inclusive language in the texts. The IMEC group called for that to be clarified in the text of the resolution by the addition of a second sentence to paragraph 1, which would read as follows: "This can be achieved among others through the use of the principle applied in paragraph 2".
7. Both the Employer and Worker members supported the proposed change to the draft resolution.
8. The representative of the Government of the Bolivarian Republic of Venezuela, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), reiterated the group's support for the fundamental principle of equality between men and women in the world of work. GRULAC supported the option contained in paragraph 5(b). He noted that the non-exclusive nature of the two options presented was intended to ensure that the language of the Constitution and other legal texts of the Organization was consistent with the ILO's commitment to gender equality. He called for gender equality in the use of language to be taken into account when revising existing texts and drafting new ILO instruments.
9. The representative of the Government of the Republic of Korea, speaking on behalf of the Asia and the Pacific group (ASPAG), endorsed the introduction of gender-inclusive language in the Constitution of the International Labour Organization for the purpose of promoting gender equality in the official texts of the ILO. She supported the simplified form of the proposed ILC resolution and editor's note, which was in line with the ILO Action Plan on Gender Equality and the Declaration on Social Justice for a Fair Globalization. ASPAG accordingly supported the point for decision and hoped that other United Nations organizations which had not yet taken steps to address the issue of gender equality in their official texts would follow the example.

10. On behalf of the Government of the Republic of Korea, she sought confirmation that paragraph 1 of the draft resolution implicitly recognized the possibility of a constitutional amendment in the future and that paragraph 2 did not foreclose the possibility of revisiting that option. She asked for clarification that her reading of the two paragraphs was in line with the intent and purpose of the draft text of the resolution.
11. The representative of the Government of Nigeria, speaking on behalf of the Africa group, approved the point for decision in paragraph 5(b) of the document. She emphasized that the proposed resolution and editor's note offered a simpler option than a constitutional amendment and opened the possibility of making ILO documents consistent with the principle of gender equality without rendering them cumbersome.
12. In further statements of support, the representatives of the Governments of Egypt and South Africa supported the proposed approach, which would contribute to strengthening the ILO's message on gender equality and thus constitute an effective means of promoting gender equality. The representative of the Government of Ghana called for adequate implementation of the resolution after its adoption. The representative of the Government of Kenya also expressed support for the point for decision in paragraph 5(b) of the document.
13. The representative of the Government of Spain, endorsing the IMEC statement, stressed that the aim of the proposed resolution was to highlight and give greater effect to the ILO's commitment to gender equality. That commitment needed to be explicitly reflected in legal texts, given the role of language in constructing realities, and also to ensure equal visibility for men and women. She believed that the impact and treatment of the subject in Spanish might contribute to that endeavour. In Spain, public administrative documents were subject not only to legal and economic review, but also to a report on gender impact, which was effective in addressing equity in the use of language. ILO texts should thus be able to use appropriate and inclusive language, with clarity and precision, and to the greatest extent possible. Adjustments in applying that principle should not weaken the commitment of the Organization to gender equality in language. She proposed that the standards review mechanism that was being considered by the Committee under the third item of its agenda should take into account the contents of the draft resolution.
14. The representative of the Government of Brazil, supporting the GRULAC statement and recognizing the important contribution of women in the world of work, emphasized the importance of using language that supported gender equality in ILO legal texts, and particularly the Constitution. His Government supported the point for decision in paragraph 5(b) as the more comprehensive option. However, it considered that the ILO would need to insist in making progress towards a constitutional amendment, since provisions such as articles 3, paragraph 2, and 9, paragraph 3, of the Constitution were anachronistic, discriminatory and deliberately restrictive with regard to the participation of women in the Organization. While amendment procedures might be complex, they were not insurmountable and the Gender Bureau was committed to pursuing those changes.
15. The representative of the Government of Mexico endorsed the statement by GRULAC in favour of the point for decision in paragraph 5(b), as the editor's note would guarantee that gender equality was reflected in the texts of the Organization.
16. The representative of the Government of Canada supported the IMEC statement and the views expressed by the representative of the Government of Spain. In her view, ILO texts should be accessible and meaningful to all persons and the goal of the Organization should be the adoption of gender-neutral language. There were different means of achieving that without making texts cumbersome, such as the use of the term "seafarers" instead of "seamen" in maritime labour standards. The ILO should be committed to avoiding any

gender-discriminatory language in future texts and to revising texts that included such language. For example, it was not acceptable in her view that the Social Security (Minimum Standards) Convention, 1952 (No. 102), defined the term “wife” as a “wife who is maintained by her husband”, or referred only to “the wives and the children of breadwinners”, without envisaging the case of a female breadwinner. Those and other texts would have to be reviewed using appropriate gender-inclusive language.

17. In response to the questions raised, the Legal Adviser recalled the scope of the proposed resolution: paragraph 1 provided guidance to the Organization in drafting future legal documents, while paragraph 2 stated, for existing and future texts, that the use of one gender also included the other gender. He confirmed that the proposed resolution did not in any way prejudice the possibility of amending the Constitution.

18. *The Committee recommends to the Governing Body that it:*

- (a) approve the proposed resolution concerning gender equality and the use of language in legal texts of the ILO, contained in Appendix I to this document, for submission to the 100th Session of the International Labour Conference; and*
- (b) subject to the adoption of the resolution, request the Office to attach the editor’s note, contained in Appendix II to this document, to the Constitution of the International Labour Organization.*

Geneva, 22 March 2011

*Point for decision:* Paragraph 18

## Appendix I

### Draft proposed International Labour Conference resolution

#### ***Resolution concerning gender equality and the use of language in legal texts of the ILO***

The General Conference of the International Labour Organization, meeting at its ...th Session, 20...

Considering that equality for women and men in the world of work is a core value of the International Labour Organization, which is committed to giving it effect in its own functioning under its Constitution and through its constitutional means of action which include international labour standards,

Noting that the principle of gender equality has been repeatedly affirmed by the International Labour Conference, including in the Declaration on Equality of Opportunity and Treatment for Women Workers and the accompanying resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, both adopted by the 60th Session (1975), the resolution concerning the participation of women in ILO meetings, adopted by the 67th Session (1981), the resolution on equal opportunities and equal treatment for men and women in employment, adopted by the 71st Session (1985), the resolution concerning ILO action for women workers, adopted by the 78th Session (1991), the resolution concerning the promotion of gender equality, pay equity and maternity protection adopted by the 92nd Session (2004), and the resolution concerning gender equality at the heart of decent work, adopted by the 98th Session (2009),

Affirming the importance of language in promoting gender equality, including by ensuring the equal visibility of women and men,

1. Resolves that gender equality should be reflected through the use of appropriate language in official legal texts of the Organization. This can be achieved among others through the use of the principle applied in paragraph 2.
2. Further resolves that in the ILO Constitution and other legal texts of the Organization, in accordance with applicable rules of interpretation, the use of one gender includes in its meaning a reference to the other gender unless the context otherwise requires.
3. Requests the Director-General to reproduce the text of this resolution in the *Official Bulletin*, as well as in the Office publications *Constitution of the International Labour Organisation and selected texts*, the *Manual for drafting ILO instruments* and where appropriate in any subsequent compilation of legal texts of the ILO.

## Appendix II

### Draft proposed editor's note

Equality for women and men in the world of work is a core value of the International Labour Organization. The resolution concerning gender equality and the use of language in legal texts of the ILO, adopted by the General Conference at its ...th Session (20...), affirms that gender equality should be reflected through the use of appropriate language in official legal texts of the Organization and that, in the ILO Constitution and other legal texts of the Organization, the use of one gender includes in its meaning a reference to the other gender unless the context requires otherwise.