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GOVERNING BODY
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Eleventh Item on the Agenda

REPORT OF THE COMMITTEE ON STANDING ORDERS AND THE
APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

Questions relating to the Denunciation
of Conventions

27. During the 183rd Session of the Governing Body concern had been voiced by the Workers' group regarding several recent denunciations of Conventions. They expressed the wish that, when denunciations were made for other than purely technical reasons, the governments concerned would supply the Governing Body with an explanation of the situation which had led to the decision, including the observations and comments of the workers' organisations of their country. The Governing Body decided to refer these questions to the present Committee for consideration and report. The Committee noted that the question of denunciations of Conventions had also been discussed in the Conference Committee on the Application of Conventions and Recommendations during the 56th Session of the Conference.

28. The Committee noted that the question to be considered concerned cases of "pure" denunciations, that is, those not accompanied by or following the ratification of a revising Convention. To date, nineteen denunciations of this kind had been registered. While in a number of cases they had been occasioned by inability to attain the standard of protection laid down in the Convention concerned, in several others the government had considered that the provisions in question were no longer adapted to changed conditions resulting from technological and social development.

29. The conditions governing the denunciation of Conventions are defined by a specific article in each Convention. In the earlier Conventions, it was generally provided that denunciation might be effected at any time after the expiration of ten years (in some instances, five years) from the date on which the Convention first came into force. From 1928 onwards it was provided that, if denunciation were not effected within a year from the expiry of the initial period, ratifying States would remain bound for further successive periods fixed at first at five years and then, from 1933 onwards, at ten years, at the expiration of each of which a new opportunity for denunciation would arise.

30. The Committee noted that, apart from the limitations imposed in regard to the time at which a State might denounce ILO Conventions, these instruments left each ratifying State free to take its decision on the matter. Nevertheless, it had become the practice of the Governing Body to inquire into the reasons for denunciations. In a number of instances, governments had themselves taken the initiative, when communicating a denunciation, to explain the reasons for their decision. In other cases - particularly in recent years - the Worker members of the Governing Body had requested the Director-General to obtain similar information from the government concerned. Accordingly, the Director-General had adopted the practice, whenever a denunciation was not accompanied by indications of this kind, to draw the government's attention to the desire expressed by the Worker members to be informed of the reasons underlying any denunciation of a Convention. In certain cases, the government had consulted national employers' and workers' organisations before proceeding to the denunciation of a Convention. On the occasion of a recent denunciation, the Government concerned had stated that, except in respect of one matter on which contemplated changes in national practice would involve departure from the terms of the Convention, it would consider itself still bound by this Convention and would, on a voluntary basis, render the reports provided for by article 22 of the Constitution of the ILO.

31. The Worker members suggested that the Governing Body should endorse the general principle that, before taking any decision to denounce a Convention, governments should consult the representative workers' and employers' organisations. In any case in which the Director-General became aware that denunciation of a Convention was contemplated, he should draw the attention of the government concerned to the desirability of undertaking such consultations. The Employer members supported these suggestions, considering that the consultation of employers' and workers' organisations on any proposal to denounce a Convention would be in conformity with the spirit of Article 23(2) of the ILO Constitution (providing for communication of copies of government reports on ratified Conventions to the representative organisations) and of the resolution on the strengthening of tripartism in the activities of the ILO adopted by the Conference this year. They suggested that any decision on the matter taken by the Governing Body should be brought to the attention of the representative employers' and workers' organisations of member States through the ILO services responsible for relations with these organisations.

32. A Government member pointed out that the Director-General might not become aware of a government's intention to denounce a Convention until the actual denunciation was communicated to him, and that it would then be too late to suggest that organisations of workers and employers be consulted. He thought that it might therefore be more effective to revise the final articles of Conventions so as to introduce a consultation requirement into the article relating to denunciation. It was however noted that this would be a somewhat lengthy and complex procedure, and that as a first step it might be preferable to seek the establishment of a practice of consultation in regard to denunciation, particularly as the total number of denunciations remained relatively small.

33. Another Government member considered that a distinction should be made between internal policy decisions which might make it necessary to denounce a Convention (on which prior consultations with employers' and workers' organisations would be appropriate) and the actual decision to denounce, which was a matter concerning the relations of the member State with the ILO and as such should not be the subject of such consultations. His Government would be opposed to any suggestion that denunciation should be subject to the prior agreement of employers' and workers' organisations, which could only have an inhibiting effect on the ratification of Conventions. The Committee noted, in this connection, that consultation of organisations in no way implied that the government's decision would be dependent upon their consent.

34. The Committee decided to recommend the Governing Body:

- (a) to endorse the general principle that, in any case in which the denunciation of a ratified international labour Convention may be contemplated, it is desirable for the government concerned, before taking a decision on the matter, fully to consult the representative organisations of employers and workers on the problems encountered and the measures to be taken to resolve them;
- (b) to request the Director-General, in any case in which he becomes aware that the denunciation of an international labour Convention is contemplated, to draw the attention of the government concerned to the above-mentioned principle endorsed by the Governing Body;
- (c) to request the Director-General, in any case in which a government communicates to him the denunciation of an international labour Convention without an indication of the reasons which have led to its decision, to request the government concerned to provide such indications, for the information of the Governing Body.