



REPORT VII

# International Labour Conference

EIGHTEENTH SESSION  
GENEVA, 1934

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## PARTIAL REVISION OF THE CONVENTION CONCERNING EMPLOYMENT OF WOMEN DURING THE NIGHT

Item VII on the Agenda



GENEVA  
INTERNATIONAL LABOUR OFFICE

1934

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INTERNATIONAL LABOUR OFFICE

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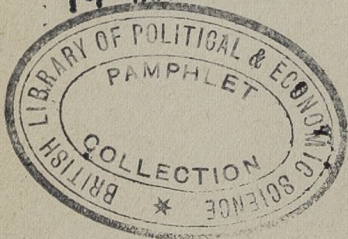
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## CONTENTS

	Page
INTRODUCTION . . . . .	5
CHAPTER I: <i>Observations of the Governments</i> . . . . .	9
CHAPTER II: <i>Conclusions and Draft Amendments</i> . . . . .	20
(a) Scope . . . . .	20
(b) Hours . . . . .	21
(c) Standard Articles . . . . .	23
TEXT OF DRAFT AMENDMENTS PROPOSED BY THE OFFICE . . . . .	25
TEXT OF THE DRAFT CONVENTION CONCERNING EMPLOYMENT OF WOMEN DURING THE NIGHT ADOPTED BY THE FIRST SESSION OF THE INTERNATIONAL LABOUR CONFERENCE (Washington, 1919)	26

## INTRODUCTION

The Governing Body of the International Labour Office at its Sixty-fourth Session in October 1933 decided to place on the Agenda of the Eighteenth (1934) Session of the International Labour Conference the following question :

Partial revision of the Convention concerning the employment of women during the night with a view to :

(a) the insertion in the Convention of an Article specifying that the Convention does not apply to persons holding responsible positions of management and not ordinarily engaged in manual work ;

(b) the insertion in Article 2 of the Convention of a provision to the effect that the competent authorities may, in view of exceptional circumstances affecting the workers in a particular industry or area, and after consultation of the employers' and workers' organisations concerned, decide that for those workers the interval between 11 o'clock in the evening and 6 o'clock in the morning shall be substituted for the interval between 10 o'clock in the evening and 5 o'clock in the morning ;

(c) the substitution for Articles 8-15 of the Convention of the formal Articles inserted in other Conventions submitted to the Eighteenth Session of the Conference.

This will not, of course, be the first occasion on which the revision of this Convention has been before the Conference. Proposals for revision were considered by the Fifteenth (1931) Session, but failed by a narrow margin to obtain the two-thirds majority necessary for the adoption of the Convention. Consideration of the question at that time was complicated by doubts as to whether it was correct to interpret the Convention as applying to women who hold positions of supervision or management and are not ordinary engaged in manual work. In November 1932 the Permanent Court of International Justice gave an Advisory Opinion to the effect that the Convention does apply to women holding such positions. The way was thus made clear for a fresh consideration of the question of revision of this Convention. In pursuance of a decision of the Governing Body at its Sixty-

second Session (April 1933) the International Labour Office asked the Governments of the States Members of the Organisation for their observations on the question of placing the revision of the Convention upon the Agenda of the Conference in 1934, with particular reference to the two points, set out at (a) and (b) above, which had been raised by the British and Belgian Governments respectively and which the Governing Body considered specially worthy of attention. Upon consideration of the matter at its Sixty-fourth Session in the light of the observations of the Governments, the Governing Body decided that the question of revision should be placed on the agenda in the form stated above.

The Conference is therefore called upon to take a decision on this question at its Eighteenth Session in accordance with the procedure laid down by Article 6 (a) of its Standing Orders. It will be observed that this Article is based on a single-discussion procedure and limits the matters in respect of which the Convention may be revised to the particular questions placed by the Governing Body on the Agenda of the Session.

In compliance with the Standing Orders, the International Labour Office has prepared draft amendments for submission to the Conference as a basis for its discussions. These will be found at the end of this report, where also the text of the Convention is reproduced for convenience of reference. In preparation for the work of the Conference, the report reproduces in Chapter I the substance of the observations which were made by Governments in response to the enquiry addressed to them by the Office and which were before the Governing Body when it decided to place the question of revision on the Agenda<sup>1</sup>. This section of the report is followed in Chapter II by an examination of the conclusions which may be drawn from the Governments' statements, leading up to the draft amendments submitted by the Office.

It will be noted that the observations of the Governments do not deal with clause (c), relating to the "formal Articles",

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<sup>1</sup> The observations of the Brazilian and Spanish Governments were not received in time for them to be submitted to the Governing Body at its Sixty-fourth Session, but they have nevertheless been included in this report. Certain passages in the observations of the Governments of Austria, Finland, Germany and Switzerland, relating to matters outside the scope of the question placed on the agenda by the Governing Body, have not been reproduced.

of the question on the Agenda of the Conference. This is a matter which, as is explained in Chapter II, is not peculiar to this Convention but is common to all Conventions. Since, however, the question of revision of the Convention was to be considered, the Governing Body felt that the Conference should be given the opportunity to make the revised Convention conform in regard to these Articles to whatever the Conference might decide would be the most appropriate form for its future Conventions, and for this purpose it was necessary, in accordance with the requirements of the Standing Orders, that the revision of these Articles should be formally included in the question placed on the Agenda.

The complete text of the revised Convention, as it may result from the decisions of the Conference upon the three points submitted to it, will of course have to be drawn up during the Session of the Conference by its Drafting Committee.

## CHAPTER I

### OBSERVATIONS OF THE GOVERNMENTS <sup>1</sup>

This chapter reproduces the substance of the replies received to a request addressed to the Governments of the States Members of the International Labour Organisation by a letter from the International Labour Office dated 23 June 1933, in which the Governments were asked for their observations on the question of the placing of the revision of the Convention concerning the employment of women during the night upon the agenda of the Eighteenth Session of the International Labour Conference, with particular reference to the two following points, considered by the Governing Body of the International Labour Office to be specially worthy of attention:

- (1) Exclusion from the scope of the Convention of women who hold responsible positions of management and are not ordinarily engaged in manual work.
- (2) Insertion in Article 2 of the Convention of a provision to the effect that the competent authorities may, in view of exceptional circumstances affecting the workers in a particular industry or area and after consultation of the employers' and workers' organisations concerned, decide that for those workers the interval between 11 o'clock in the evening and 6 o'clock in the morning shall be substituted for the interval between 10 o'clock in the evening and 5 o'clock in the morning.

#### ALBANIA

Women are not employed at night in Albania and in view of the conditions obtaining in the country it seems unlikely that the practice will be adopted in the national industry for many years to come.

<sup>1</sup> The Convention had been ratified, up to October 1933, by the following 27 States Members: Albania, Austria, Belgium, \*Bulgaria, Chile, \*Columbia, \*Cuba, \*Czechoslovakia, Estonia, \*France, Great Britain, \*Greece, Hungary, India, Irish Free State, Italy, Lithuania, \*Luxemburg, Netherlands, \*Portugal, Rumania, Spain, Switzerland, Union of South Africa, \*Uruguay, \*Venezuela, Yugoslavia.

No observations were received from the Governments of the 10 States marked with an asterisk in the above list.

Observations were received from the Governments of the following 13 States which had not ratified the Convention: Brazil, Canada, China, Denmark, Finland, Germany, Japan, New Zealand, Nicaragua, Norway, Poland, Siam and Sweden.

However, the Government will not fail to take any necessary steps to control the practice should the need ever arise. Furthermore, the Government is ready to welcome and to examine for its own guidance all the decisions which may be taken by the competent organs of the International Labour Organisation, with a view to improving the conditions of employment of women during the night wherever that practice exists.

#### AUSTRIA

The Government would welcome the placing of the question on the agenda of the Conference, and considers that the revision proposed would be thoroughly desirable. It refers to the arguments set out in its letter of 15 December 1930.

In this letter the Government intimated that in its view a distinction should be made in the Convention between women holding posts of supervision or management and working women, so that it may not be difficult or impossible for women to attain to posts of management in industrial undertakings which come within the scope of this Convention. Even in the case of countries such as Austria, in which the question is not for the moment of great practical importance, because at the present time there are no women holding positions of management in industrial undertakings of the kind mentioned in Article 1 of the Convention in which night work is regularly done, it would appear that a distinction between women holding positions of management and working women as regards the prohibition of night work is likely to be of importance for the future. The fact that the number of women students in institutions for higher education in Austria has been steadily rising in recent years makes it justifiable to suppose that in the near future women will attain to positions of management in the industrial undertakings in question in Austria.

The Government also considers it desirable to amend the provisions of Article 2 of the Convention, since their application causes difficulties in practice. The difficulties occur mainly in undertakings working on a two-shift system and are due to special local conditions of various kinds. For example, in large industrial centres where the workers live at some distance from their place of employment, it is generally impossible, owing to transport conditions, to begin the morning shift in two-shift undertakings earlier than 6 a.m. If in such undertakings each shift has a half-hour break which is not reckoned as part of the working-hours, the second shift, if 8-hour shifts are worked, does not end until 11 p.m. If the shifts are arranged in this way it becomes difficult to employ women on the second shift under the Convention as it now stands.

#### BELGIUM

The Government states that it has consulted the employers' and workers' organisations and found that they are unanimously of opinion that it is desirable to amend the Convention by explicitly excluding in the future from its scope women who hold positions of management and are not engaged in manual work.

As regards the amendment of Article 2, the Central Industrial Committee of Belgium and the Federation of Christian Trade

Unions replied in the affirmative. It should be noted that the sole reason which has led the Trade Union Commission to return a negative reply on this point is the persistent disagreement between employers and workers in the textile industry of Verviers. The Trade Union Commission reserves the right to reconsider the question if between now and the next International Labour Conference an understanding has been reached at Verviers between the employers' and workers' federations concerned.

In the circumstances, the Government states that it has no observations to make concerning the inclusion of these proposals in the Agenda of the Conference. The Government also reserves the right to consider in due course whether in its opinion the agreement which might possibly be reached in the textile industry of Verviers would justify a relaxation in the definition of the hours of the night which are compulsorily included in the rest period.

#### BRAZIL

The Government sees no objection to the proposal to revise the Convention so as to exclude from its scope women holding responsible positions of management who are not ordinarily engaged in manual work.

#### CANADA

##### ALBERTA

The Government states that it has no observations to make.

##### BRITISH COLUMBIA

The Government confines itself to pointing out that a law on this subject, adopted in 1921 but not yet brought into force, defines night as the period between 8 p.m. and 7 a.m.

##### MANITOBA

In so far as Manitoba industries are concerned in connection with the employment of women during the night, the Government observes that the Manitoba Factories Act provides that "no woman or girl shall be employed before the hour of seven o'clock in the morning nor after the hour of ten o'clock in the evening".

This legislation has been on the Statutes of Manitoba for a number of years and in 1918 the Minimum Wage Act was passed. Under this Act regulations governing women in industry have been published and these regulations uphold the hours of closing as called for under the Factories Act, and in some instances an improvement is shown. An overtime permit is sometimes granted, but work must not be started before 7 a.m. and must finish by 10 p.m.

##### NOVA SCOTIA

The Government is not opposed to the exclusion from the scope of the Convention of women who hold responsible positions of management.

There should not be any serious objection to the second amendment, as it does not increase the hours of labour, and the Government would be quite favourable to the change with the provision that it only be done after consultation between the employers' and workers' organisations concerned.

#### ONTARIO

The Government reaffirms the opinion it expressed in 1930 that women occupying positions of supervision or management and not ordinarily engaged in manual work should not come within the scope of this Convention, and it therefore favours a revision of the Draft Convention as suggested.

As regards the second question, the Government expressed itself in 1930 as not being in favour of the revision of the Convention for the sole purpose of making in Article 2 the provision necessary for the substitution. Legislation designed to give effect to the Convention has not yet been passed by the Government of the Province of Ontario, although a high standard in regard to the employment of women during the night is being maintained in the Province. Amendments to the Factory, Shop and Office Building Act of Ontario passed since 1930, however, permit women and girls in certain instances to work until a later hour at night than formerly, as follows: in a shop until 11 o'clock in the evening and in a factory until 11 o'clock under the double shift system, which may be operated by permit from the Chief Factory Inspector between the hours of 6 o'clock in the forenoon and 11 o'clock in the afternoon.

Upon reconsideration of the problem in the light of these altered circumstances, namely, that a revision of the Convention will be necessary if women holding responsible positions of management are to be excluded, which exclusion the Government considers desirable, and the fact of the amended legislation of the Province which has proved satisfactory, the Government is favourable to a revision of the Convention in regard to an alternative night period and approves of the suggested amendment.

#### SASKATCHEWAN

The Province of Saskatchewan is largely an agricultural province and has not yet reached a stage of industrial development where the proposed amendments would be of great importance to the wage earners of the province. The Government is of the opinion, however, that women who hold responsible positions of management and are not ordinarily engaged in manual work might be exempt from the Convention. Women occupying or aspiring to managerial, supervisory or confidential positions should be given equal status with men similarly situated.

With reference to the amendment of Article 2, the Government is inclined to the opinion that the amendment gives the Convention more elasticity and would enable certain Governments to overcome difficulties in applying the Convention. It is undoubtedly true that the industrial workers of Saskatchewan would find transportation to and from employment at 6 o'clock in the morning much more adequate than at 5 o'clock in the morning. The Govern-

ment, therefore, is in favour of the adoption of the proposed amendment.

#### CHILE

The Government favours the maintenance of the Convention in the terms approved at the First Session of the Conference, but sees no objection, however, to the completion of Article 2 in the manner proposed.

It is desirable that the Convention which it is proposed to revise should be maintained intact, not merely for reasons of a physiological character, which tell in favour of excluding women from night work — seeing that such work must be considered incompatible with the physical weakness of the female sex — but also for reasons of a moral nature, since a woman ought to devote at least the night hours to her domestic obligations, and since her employment during those hours exposes her to dangers from which she ought to be protected. Moreover, under present conditions and in view of the prevailing unemployment crisis, the exclusion of women from night work in industry creates openings for other workers or offers prospects of an increase in wages.

For the above reasons, the Government considers that the Convention should be maintained in its present form, without excluding from its scope women holding positions of management and not engaged in manual work.

With regard to the proposed change in respect of the hours which, under the provisions of the Convention, must be considered as covered by the term "night", there would be no objection to allowing the competent authority to make the proposed substitution, since this latitude would not substantially modify the provisions of the Convention.

#### CHINA

The Government has no objection to the revision of the Convention in the manner indicated.

#### DENMARK

The Government, while considering the amendments to be an improvement of the Convention, could not hold out any hope that Denmark would be able to ratify the Convention even in the event of the adoption of the modification in question.

#### ESTONIA

The Government sees no objection to the question being placed on the agenda of the Conference in 1934 with in view to revision on the two points suggested.

#### FINLAND

The Government refers to the views expressed by it during the earlier discussions on this question. On this occasion the Government has no other observations to make, except that it still considers the revision of the Convention desirable at least in respect of the points referred to.



In a letter addressed to the International Labour Office on 17 December 1930 the Government said that in view of the fact that in certain countries, including Finland, work on the two-shift system is organised in such a way as to begin at 6 a.m. and end at 11 p.m., and in view of the fact that this arrangement cannot be regarded as inferior from the point of view of the protection of the workers to the system laid down by the Draft Convention under which the night is regarded as beginning at 10 p.m. and ending at 5 a.m., it would be desirable to revise the Draft Convention and to lay down that the term "night" may also comprise the period from 11 p.m. to 6 a.m.

#### GERMANY

The Government approves, in principle, of the revision of the Convention concerning the employment of women during the night being placed on the agenda of the International Labour Conference in 1934. It also approves of the amendments proposed by the British and Belgian Governments.

#### GREAT BRITAIN

The Government regards it as necessary that the Conference should have the earliest opportunity of considering the first point, having regard to the difficulties concerning this point which have for so long been under discussion and to the change made in the situation when the Conference last discussed the matter by the recent advisory opinion of the Permanent Court of International Justice.

As regards the second point, the Government adheres to the view which it expressed when this proposal was previously under consideration, namely, that the latitude proposed is not necessary and it is not aware that any fresh circumstances have arisen to alter the situation materially.

#### HUNGARY

The Government has no objection to the question of the partial revision of the Convention being placed on the agenda of the Conference in 1934.

#### INDIA

The Government states that in 1931 it supported both the proposals referred to. But it is of opinion that the two proposals do not now stand on the same footing. The opposition to the proposal to exempt women holding responsible posts was largely based upon the view, which the Indian law had taken, that such women did not come within the scope of the original Convention. The decision of the Court of International Justice affords strong grounds for asking the Conference to reconsider the matter and the Government considers that the Draft Convention should be framed on the lines of clause (a) of Article 2 of the Washington Hours of Work Convention.

In the case of the proposal to enable the period of night-rest to be varied, no fresh considerations have arisen and the Government is therefore inclined to the view that there is not sufficient

ground for its reconsideration by the Conference. If it is included, it suggests that the Conference might be given the opportunity, for example by the framing of two texts, of giving a final decision separately on the two proposals.

#### IRISH FREE STATE

The Government points out that the legislation in force is more restrictive in the matter of the prohibition of employment of women at night than is required by the Convention, and that consequently it is not possible to avail of all the exceptions permitted by the Convention.

The Government is of opinion that women holding responsible positions of management should be excluded from the scope of the Convention.

As the interval of 11 p.m. to 6 a.m. is equal in point of time to the interval 10 p.m. to 5 a.m. there would appear to be no objection to such a substitution in countries in which the proposed interval would be more convenient. In view, however, of the restrictions imposed by the existing law in this State, no advantage could be taken of the substituted interval, inasmuch as no women of any age may be employed in an industrial undertaking in Saorstát Eireann after 10 p.m.

In general, in the present circumstances of unemployment the Government would not favour any relaxation of the provisions of the Convention that might tend towards the extension of hours.

#### ITALY

The Government has no objection to the question being submitted to the Conference, subject to the understanding that it reserves to itself the fullest liberty of action at the Conference.

#### JAPAN

The Government has no objection to the placing on the agenda of the 1934 Conference of the question of the revision of the Convention as regards the two points considered by the Governing Body to be specially worthy of attention.

#### LITHUANIA

The Government is in full agreement with the principles formulated in the letter communicating the request of the Governing Body.

#### NETHERLANDS

The Government will not oppose the exclusion of women who hold responsible positions of management and are not ordinarily engaged in manual work from the scope of the Convention.

As regards the proposed amendment of Article 2, the Government does not at present consider that such an amendment is desirable. The Government draws attention to certain important objections from the health point of view which would attach to

the proposed change of the period which is to be regarded as night (and more particularly the prolongation of the working day until 11 instead of 10 p.m.), a change which at first sight appears to be of little importance. It is generally recognised that the time of retiring for the night can readily be postponed. When some of the members of the family regularly return home an hour later, the result will be that the night rest of the whole family will also begin an hour later. As the time when the nightly rest of the family ends remains unchanged, the alteration in question will mean that the entire family will be deprived of an hour's sleep. This is known to be most deleterious from the health point of view.

The Government observes that the fact that certain members of the family have to get up very early has practically no effect on the hour of rising of the rest of the family and involves much less disturbance of the nightly rest of the family than a postponement in the hour of retiring. Thus, however, unpleasant it may be for the individual to have to start work at 5 a.m., the results are much less important from the social point of view than a postponement of the time when work ends in the evening.

The undertakings which would be affected usually employ young persons at the same hours as other workers. Experience has shown that if exceptions are made for this class of worker, the result is that the hours of work of all workers are brought into line. A change in the limits of the nightly rest for women will therefore inevitably mean that sooner or later a similar change will be made in the Convention concerning the night work of young persons. Such a change would be equally deleterious for the same reasons.

#### NEW ZEALAND

As it is not the practice in New Zealand for women in industrial undertakings to be employed during the night, the Government is scarcely in a position to make any observations which would be of assistance to the Governing Body in determining whether the question of revising the Convention should be placed on the agenda of the 1934 Conference.

#### NICARAGUA

The Government sees no objection to the question of revision raised by the British Government being placed on the agenda of the Conference and has no observations to make on the subject.

#### NORWAY

The Government is in favour of a revision of the Convention and also of this revision covering the two points considered by the Governing Body to be specially worthy of attention.

#### POLAND

While the Government does not itself put forward any proposal concerning the revision of the Convention, it nevertheless considers that the amendment which is intended to give greater elasticity to Article 2 of the Convention would provide a means of removing the

difficulties to which the application of the Convention gives rise, in view of certain local or technical conditions, and would therefore facilitate its ratification. The Government could therefore support this amendment on the understanding that the possibility of putting back by one hour the period between 10 p.m. and 5 a.m. did not in any way affect the minimum period of eleven consecutive hours which is regarded by the existing Convention as the period of night.

#### RUMANIA

The Government recalls that at the Fifteenth Session of the Conference it expressed the view that amendment of the Convention was not necessary, because it was clear that the Washington Convention referred only to working women, the distinction between working women and women employed in a supervisory capacity being determined by national law. In view of the opinion of the Permanent Court of International Justice and of the proposal that the question of revision should again be placed on the agenda of the Conference, the Government is of opinion that the Conference should be called upon to take a decision on the two points which the Governing Body has considered specially worthy of attention.

#### SIAM

The Government has no observations to offer.

#### SPAIN

The Government sees no objection to the question of revision being taken up again, if that would facilitate, from the point of view of industry, the ratification of a Convention which is of such importance.

As regards the first point, it would be appropriate to adopt a criterion similar to that adopted by the Conference recently for the Conventions on hours of work, and to give to the competent authority in each country the right to make exceptions for persons in positions of management, or in confidential positions, who do not do manual work.

As regards the second point, the hours suggested might be substituted for the hours laid down for the night period, after the competent national authorities had been satisfied as to the existence of exceptional circumstances and subject to consultation with the employers' and workers' organisations concerned.

It is to be understood that this reply is subject to a sufficient majority being obtained for the amendment of the Convention, and to its facilitating ratification of the Convention by the industrial countries.

#### SWEDEN

The Government has no objection to offer to the proposals for the revision of the Convention.

SWITZERLAND

The Government observes that in Switzerland the Convention has always been interpreted as not applying to persons holding positions of management.

The night work of women in industrial undertakings considered as factories has been prohibited in this country for more than half a century under the Federal Factory Act, but the Order to apply that Act of 3 October 1919/7 September 1923, which however merely confirms previous practice, excepts from the application of that Act, irrespective of sex, persons to whom the head of the undertaking has entrusted an important duty in the conduct of the undertaking or who have been empowered by him to represent the firm (Article 3 (d)).

The Federal Act concerning the employment of young persons and women in arts and crafts of 31 March 1932, which was adopted amongst other things in order to apply the night work Conventions, extended the prohibition as regards night work to women employed in small undertakings and in arts and crafts. That Act, as also the Order by which it is applied, merely defines the undertakings which are, or are not, covered thereby; it lays down no rules as to the categories of persons who may be excluded from its scope. However, on the basis of the practice established by the Factory Act, it has always been held, both by the legislator and by the authority responsible for its execution, that it does not apply to persons holding positions of management.

Since the Permanent Court of International Justice has given an interpretation to the Convention in question which invalidates that point of view, the Government is also in favour of revision since, in its opinion, reasons of a practical character arise which render it essential that the exception in question should be allowed. The debates in the Conference will doubtless define the exact meaning of "responsible positions of management" referred to in the British proposal. Since the latter, in its amended form, no longer includes persons holding responsible positions of supervision (the Government could never have agreed to that exception in view of the fact that posts of supervision are found in all grades of the industrial hierarchy and are of a very varying character), it corresponds in principle to the attitude which the Government is obliged to adopt in regard to the question of the limitation of the scope of the application of the Convention in regard to persons. However, the Swiss point of view is at variance with the British proposal on the following point: the Swiss Government considers that if, as a general rule, only persons holding posts of management, who are not ordinarily engaged in manual work, may be excepted from the Convention, the exemption should in exceptional circumstances also apply to persons who, in spite of holding positions of management, also perform manual work.

Up to the present, no need has been found in Switzerland for the suggested amendment to Article 2. However, since in all probability the Convention will be revised, and since the Governing Body considered that point specially worthy of attention, the Swiss Government has no reason to oppose the proposed modification, especially since it would be completely free to apply the new provision or not as it might see fit.

UNION OF SOUTH AFRICA

The Government has no objection to the proposed amendments to the Convention, both of which appear to be reasonable and likely to facilitate its application in those countries which have ratified it.

YUGOSLAVIA

The Government considers that it would be desirable to make the two amendments suggested. It feels that the exclusion of women holding positions of management would conform to the spirit of the Convention, which was drawn up with the object of protecting manual workers, and that such exclusion would also best meet the actual needs of that category of women. It would, however, be necessary to give a list of the positions of management.

The Government is also of opinion that the facility to reckon the period considered as night from one hour later might prove of advantage to workers employed in the particular industry or area, seeing that the new provision would render the application of the Convention more elastic and would in no case shorten the existing period considered as night.

CHAPTER II  
CONCLUSIONS AND DRAFT AMENDMENTS

(a) Scope

It will be seen that among the Governments that have expressed definite views there is almost complete unanimity upon the desirability of revising the Convention so as to exclude from its scope women who occupy responsible positions of management and are not ordinarily engaged in manual work. Only the Government of Chile expresses itself as opposed to the change. Moreover, since the discussions which took place at the Fifteenth (1931) Session of the Conference the extent of the proposed alteration in scope has been limited. The British Government, when it brought the question of alteration of the scope of the Convention again before the Governing Body, omitted all reference to women holding positions of supervision, in order to allay certain apprehensions that had been expressed by workers' representatives. The question as it appears on the agenda of the Conference relates only to the exclusion from the scope of the Convention of women holding positions of *management*. If this revision were approved the Convention would still apply to women holding positions of *supervision*. One Government, that of Yugoslavia, suggests that a list of the posts of management should be given; but the preparation of an internationally applicable list which would be neither too restricted nor too comprehensive would obviously present serious difficulties. The other Governments appear to regard it as unnecessary to attempt to regulate the matter in such detail and to be satisfied with the positive criterion of "holding responsible positions of management" and the negative criterion of "not ordinarily engaged in manual work" as furnishing a sufficiently strict definition. It would seem, therefore, that the Conference should have little difficulty in adopting a revision of the Convention on this point in the manner indicated by the following draft amendment:

Insert a new Article in the following terms:

"This Convention does not apply to persons holding responsible positions of management who are not ordinarily engaged in manual work."

(b) Hours

The proposal to amend the Convention in respect of the interval which must be included in the period of "night" has received less positive support. In the first place, it will be observed that ten Governments of States that have ratified the existing Convention, including some important industrial countries, have not replied at all to the request for their observations. The Belgian Government itself, which initiated the proposal, has felt unable to come to a definite decision and reserves to itself in its observations the right to consider in due course whether any agreement which might be reached between the employers and the workers concerning the conditions in the locality in the special circumstances of which the proposal had its origin would justify a relaxation in the definition of the hours of the night which are compulsorily included in the rest period. Seven Governments — those of Albania, Brazil, the Canadian Provinces of Alberta, British Columbia and Manitoba, New Zealand and Siam — make no specific observations on this question. Six other Governments — those of Estonia, Hungary, Italy, Japan, Nicaragua and Rumania — raise no objection to the question of revision being placed on the Agenda of the Conference; but they give no indication of their attitude towards the proposed revision, and the Italian Government expressly reserves to itself the fullest liberty of action on the matter at the Conference. Perhaps Lithuania also should be included in this group though its reply may be interpreted as being in favour of revision. In the case of nearly one-half of the replies received, therefore, no sufficient indication is available as to whether the Governments would favour revision of the Convention on this point or not.

Seventeen Governments — those of Austria, the Canadian Provinces of Nova Scotia, Ontario and Saskatchewan, Chile, China, Denmark, Finland, Germany, the Irish Free State, Norway, Poland, Spain, Sweden, Switzerland, the Union of South Africa and Yugoslavia — either raise no objection to the revision or express themselves as in favour of it. The replies of the Governments in this group vary considerably, however, in character. The Government of Denmark intimates that even if the Convention should be revised it can hold out no hope that it would be able to ratify the Convention. The Government of the Irish Free State, on the other hand, points out that its legislation is stricter than is required by the existing Convention and that even if the Convention were revised no advantage could be taken of the alternative hours. The Governments of China and Sweden content themselves with stating simply that they have no objection to the revision. Certain other Governments in this group approve of revision in terms that leave some uncertainty as to whether they feel that conditions

in their own countries are such as to require the change in order to facilitate their ratification of the Convention or its more satisfactory application, or whether, on the other hand, they approve of revision as being likely to facilitate ratification and satisfactory application by the Governments of other countries. Three Governments — those of Austria, Finland and the Province of Ontario — clearly base their approval of revision on practical considerations affecting their own countries. The Austrian Government, for example, points out that in large industrial centres where the workers live at some distance from their place of employment it is generally impossible, owing to transport conditions, to begin the morning shift in two-shift undertakings earlier than 6 a.m., so that if each shift is of eight hours and there is a half-hour break not reckoned as part of the working hours, the second shift does not end until 11 p.m., with the result that it becomes difficult to employ women on the second shift under the Convention as it now stands. The same consideration is adduced in the case of Finland, while the Government of the Canadian Province of Ontario states that an amendment to its legislation made in 1930, which permits the operation of double-shift factories between 6 a.m. and 11 p.m., under permit from the chief factory inspector, has proved satisfactory in practice. Two Governments, those of Great Britain and India, are not convinced that a sufficient case has been made for revision. The Netherlands Government calls attention to the undesirable reactions which a change in the hours might have upon the health and comfort of the families of the women workers affected and also to the likelihood of a change in the limits of the nightly rest for women leading to a similar change for young workers.

It will be for the Conference to weigh the advantages and disadvantages to which the Governments have called attention before coming to a decision as to the revision of the Convention on this point. It should, however, be borne in mind that there is no suggestion that the permission to vary the hours should be availed of at all widely. The proposal is that the hours should be alterable only "in *exceptional* circumstances affecting the workers in a *particular industry or area*" and then only "after consultation of the employers' and workers' organisations concerned". The Conference may consider that these conditions would constitute a sufficient safeguard against possible unfortunate reactions. Moreover, the Governing Body may, of course, decide to include this matter as one of the items concerning which information should be given in the annual report that has to be furnished by Governments in compliance with Article 408 of the Treaty of Versailles, so that the circumstances in which and the extent to which advantage is taken of the permission to vary the hours would be brought year by year to the notice of the Conference.

The following draft amendment, which conforms to the wording adopted by the Governing Body in placing the item on the agenda, is therefore submitted as a basis for the discussions of the Conference as to the desirability of the revision of the Convention in this respect :

Insert in Article 2 of the Convention, after the first paragraph, the following proviso :

"Provided that the competent authorities may, where there are exceptional circumstances affecting the workers in a particular industry or area and after consultation with the employers' and workers' organisations concerned, decide that for those workers the interval between eleven o'clock in the evening and six o'clock in the morning shall be substituted for the interval between ten o'clock in the evening and five o'clock in the morning."

#### (c) Standard Articles

The third point in respect of which the revision of this Convention has been placed upon the agenda of the Conference is :

"The substitution for Articles 8 to 15 of the Convention of the formal Articles inserted in other Conventions submitted to the Eighteenth Session of the Conference."

These Articles, as will be seen by reference to the text of the Convention on page 26 are of a general character, relating to matters such as the ratification, coming into force and denunciation of the Convention, which are not peculiar to this Convention but are common save for modifications of detail in certain respects to all Conventions. In 1929 the Conference, after a long discussion, came to the conclusion that these Articles were unsatisfactory, and adopted a modified set of standard Articles for insertion in future Conventions. A further modification was made by the Conference in 1933 and applied to the Conventions adopted in that year.

The question whether or not the form approved by the Conference in 1933 should be adopted as the permanent form under consideration by the Governing Body of the International Labour Office, which will submit proposals on the subject to the Eighteenth Session of the Conference. If it is decided to include the new Articles, with or without modification, in future Conventions, it would be appropriate to include them in the revised version of the Convention on the employment of women during the night. The established custom is for these Articles to be added to the texts of proposed

Draft Conventions by the Drafting Committee of the Conference when it is preparing the definitive text upon which the final vote is taken by the Conference. The most appropriate course would therefore seem to be for the Conference, if it agrees upon the revision of the substance of the Convention in respect to either or both of the points dealt with in the draft amendments proposed above, to adopt a resolution in the following terms :

“ The Conference instructs its Drafting Committee to insert in the text submitted to it for the final vote, in replacement of Articles 8 to 15 of 1919 Convention, standard Articles in conformity with the latest decisions of the Conference relating thereto. ”

## TEXT OF DRAFT AMENDMENTS PROPOSED BY THE OFFICE

*Insert a new Article in the Convention in the following terms :*

“ This Convention does not apply to persons holding responsible positions of management who are not ordinarily engaged in manual work. ”

*Insert in Article 2 of the Convention, after the first paragraph, the following proviso :*

“ Provided that the competent authorities may, where there are exceptional circumstances affecting the workers in a particular industry or area and after consultation with the employers' and workers' organisations concerned, decide that for those workers the interval between eleven o'clock in the evening and six o'clock in the morning shall be substituted for the interval between ten o'clock in the evening and five o'clock in the morning. ”

## TEXTES DES PROJETS D'AMENDEMENTS PROPOSÉS PAR LE BUREAU

*Insérer dans la convention un nouvel article ainsi conçu :*

« La présente convention ne s'applique pas aux personnes qui occupent des postes responsables de direction et n'effectuent pas normalement un travail manuel. »

*Insérer ce qui suit à l'article 2 de la convention, après le premier paragraphe :*

« Toutefois, l'autorité compétente pourra, en cas de circonstances exceptionnelles affectant les travailleurs d'une industrie ou d'une région déterminée et après consultation des organisations patronales et ouvrières intéressées, décider que, pour ces ouvriers, l'intervalle entre onze heures du soir et six heures du matin sera substitué à l'intervalle entre dix heures du soir et cinq heures du matin. »

Text of the Draft Convention<sup>1</sup> concerning Employment of Women during the Night Adopted by the First Session of the International Labour Conference (Washington, 1919)

ARTICLE 1

For the purpose of this Convention, the term " industrial undertaking " includes particularly :

(a) Mines, quarries, and other works for the extraction of minerals from the earth ;

(b) Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed ; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind ;

(c) Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

ARTICLE 2

For the purpose of this Convention, the term " night " signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

In those countries where no Government regulation as yet applies to the employment of women in industrial undertakings during the night, the term " night " may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

ARTICLE 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

<sup>1</sup> The Preamble has been omitted.

ARTICLE 4

Article 3 shall not apply :

- (a) In cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character.
- (b) In cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

ARTICLE 5

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

ARTICLE 6

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

ARTICLE 7

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above Articles, provided that compensatory rest is accorded during the day.

ARTICLE 8

The formal ratifications of this Convention, under the conditions set forth in Part XIII of the Treaty of Versailles of 28 June, 1919, and of the Treaty of St. Germain of 10 September, 1919, shall be communicated to the Secretary-General of the League of Nations for registration.

ARTICLE 9

Each Member of the International Labour Organisation which ratifies this Convention engages to apply it to its colonies, protectorates and possessions which are not fully self-governing :

- (a) Except where owing to the local conditions its provisions are inapplicable ; or
- (b) Subject to such modifications as may be necessary to adapt its provisions to local conditions.

Each Member shall notify to the International Labour Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.

ARTICLE 10

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the Secretariat, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organisation.

ARTICLE 11

This Convention shall come into force at the date on which such notification is issued by the Secretary-General of the League of Nations, but it shall then be binding only upon those Members which have registered their ratifications with the Secretariat. Thereafter this Convention will come into force for any other Member at the date on which its ratification is registered with the Secretariat.

ARTICLE 12

Each Member which ratifies this Convention agrees to bring its provisions into operation not later than 1 July, 1922, and to take such action as may be necessary to make these provisions effective.

ARTICLE 13

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

ARTICLE 14

At least once in ten years, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention, and shall consider the desirability of placing on the agenda of the Conference the question of its revision or modification.

ARTICLE 15

The French and English texts of this Convention shall both be authentic.

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