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Educational, Scientific and  
Cultural Organization

# Executive Board

Hundred and ninetieth session

# 190 EX/24 Part I

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## IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS

### PART I

#### GENERAL MONITORING

##### SUMMARY

In accordance with paragraph 4 of 189 EX/Decision 13 (I), this document contains an overall report on the three conventions and 11 recommendations of UNESCO that the Committee on Conventions and Recommendations (CR) is required to monitor and an analysis of current trends in monitoring the implementation of each of the instruments.

This item has no financial or administrative implications.

Action expected of the Executive Board: proposed decision in paragraph 39.

1. In 189 EX/Decision 13 (I), the Executive Board requested the Director-General to ensure the implementation of the legal framework adopted at its 177th session on the implementation of the three conventions and 11 recommendations on conventions for whose monitoring the CR Committee was responsible (177 EX/Decision 35, Parts I and II).

2. This document contains, following a brief report on the status of ratification of the three conventions (and the 1962 Protocol), an assessment of the measures taken by the Secretariat within that framework and an analysis of current trends, including difficulties, in the implementation and monitoring of each of these standard-setting instruments.

#### **Status of ratification of the 1960, 1970 and 1989 conventions**

3. At the date of writing, the 1960 Convention against Discrimination in Education had been ratified by 97 States, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property by 122 countries and 17 States had ratified the 1989 Convention on Technical and Vocational Education. In comparison with the document submitted at the last session, one State has ratified the 1960 Convention (and its 1962 Protocol) and another two have ratified the 1970 Convention.

4. The table below shows the number of ratifications per electoral group of UNESCO for these three conventions, together with the percentage of ratifications of these instruments within each of the six electoral groups. A full list of States Parties and non-Parties per electoral group has been posted on the CR activities portal of the UNESCO website.<sup>1</sup>

| Conventions                                 | Number of ratifications per electoral group<br>(percentage of ratifications within each electoral group) |              |                 |                 |                 |                 |
|---|--|--------------|-----------------|-----------------|-----------------|-----------------|
|   | Group I  | Group II     | Group III       | Group IV        | Group V(a)      | Group V(b)      |
| 1960 Convention <sup>2</sup><br>(Total: 97) | 15<br>(55.55 %)  | 22<br>(88 %) | 18<br>(54.54 %) | 11<br>(25 %)    | 21<br>(44.68 %) | 10<br>(52.63 %) |
| 1970 Convention<br>(Total: 122)             | 19<br>(70.37 %)  | 24<br>(96 %) | 23<br>(69.70 %) | 19<br>(43.18 %) | 22<br>(46.80 %) | 15<br>(78.95 %) |
| 1989 Convention<br>(Total: 17)              | 0<br>(0 %)   | 3<br>(12 %)  | 0<br>(0 %)      | 3<br>(6.81 %)   | 5<br>(10.63 %)  | 6<br>(31.57 %)  |

### Specific measures adopted by the Secretariat to apply the new procedures on the monitoring of the implementation of UNESCO conventions and recommendations for whose monitoring the Board is responsible

- **1960 Convention against Discrimination in Education (ED)**

5. Since the launching of the last Consultation in 2006, eight Member States have ratified it (including two in 2010 and one very recently in 2012). A number of Member States are in the process of ratification or are envisaging initiating the process. However, the global level of ratification is still low, limiting the universal application of the Convention. Greater awareness has been raised on the importance of giving effect to this instrument, along with a ratification campaign to make it better known. Some specific difficulties encountered in the ratification process include the federal structure of some countries, which could create difficulties in adhering to the Convention, and the general lack of awareness about this instrument. The Secretariat is seeking concrete and more detailed information on the main obstacles encountered by Member States in the process of ratification within the framework of the Eighth Consultation.<sup>3</sup> This would allow it to be better informed of the obstacles that will have to be overcome.

6. As scheduled in 184 EX/Decision 20 and in line with the multi-stage procedure, the Eighth Consultation has been launched in line with the guidelines for the preparation of reports adopted by 186 EX/Decision 19 (II). Advocacy actions aimed at encouraging States to report within this Consultation are being carried out. The deadline for submission of national reports has recently been extended. The results of the Consultation will be submitted to the Executive Board at its 192nd session (2013).

<sup>1</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=46874&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=46874&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>2</sup> The 1962 Protocol instituting a Conciliation and Good Offices Commission to be Responsible for seeking the Settlement of any Disputes which may arise between States Parties to the Convention against Discrimination in Education has been ratified by 33 States, distributed by electoral group as follows: Group I: 12 (44.44 %); Group II: 0 (0 %); Group III: 7 (21.21 %); Group IV: 4 (9.09 %); Group V(a): 7 (14.89 %); Group V(b): 4 (21.05 %). Following a postal vote, the Commission members elected Mr Francesco Margiotta-Broglio (Italy) and Mr Klaus Hübner (Germany) Chairperson and Vice-Chairperson respectively of the Commission. To date, the Commission has never been called upon to use its good offices or exercise its conciliatory functions. For more information on the Commission:

<sup>3</sup> [http://portal.unesco.org/en/ev.php-URL\\_ID=23762&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=23762&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to%20education/monitoring/8eme-consultation-of-member-states-on-their-implementation/>

7. As reported in document 189 EX/13, the first phase of the creation of a global database on the right to education and legal frameworks has been completed. The second phase involving the integration of the content is now under development. This database will contain information by countries on the ratification and reporting status of UNESCO Conventions and other United Nations treaties related to the right education as well as domestic legal frameworks including constitutional, legislative and administrative frameworks, policies and case law.

8. Moreover, the French version of the publication *Implementing the Right to Education, A Compendium of practical examples based on the Seventh Consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education* was prepared and widely disseminated to National Commissions, Ministries, Permanent Delegations, NGOs and various partners. This publication sets out concrete actions taken at national level within the framework of UNESCO's normative action and the realization of the right to education in the context of EFA. The Spanish version is under preparation.

9. Monitoring has continued to be strengthened within the collaboration with the United Nations system. States are encouraged to ratify the Convention through the Universal Periodic Review and examination of reports by the human rights treaty bodies.

- **Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, Paris, 1970)**

10. For more than 40 years, the 1970 Convention has been the international legal foundation for combating trafficking in cultural property. At UNESCO's request, it has been supplemented by the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, which has closed some private international-law loopholes in the 1970 Convention, such as the restitution of stolen cultural property even if not inventoried, fair compensation, due diligence and good faith.

Analysis of current trends and difficulties in implementation and monitoring

11. Owing to the booming art market, damage to heritage during armed conflicts, misuse of cultural property for money laundering and other criminal activities, and the use made of the heritage by poor local communities, myriad challenges arise in regard to the 1970 Convention. In addition to the Convention's universality, the major challenges include combating trafficking in undiscovered archaeological cultural property and the passing of national laws that address the issue on the basis of international standards, the compilation and updating of inventories, the upkeep of databases of stolen works, the training of police and customs officers, the introduction of export certificates, the conduct of awareness-raising campaigns and the formulation of ethical rules.

12. For UNESCO and its partners, the main goal is still for all countries to agree on this legal foundation and, complementarily, to become Parties to the UNIDROIT Convention. At present, it is difficult to analyse the reasons for some States' non-ratification of the conventions. In regard to the 1970 Convention, only a small number of States have submitted a report permitting in-depth analysis of the obstacles to its ratification (48 States replied to the last consultation in 2011).

13. Furthermore, the Convention does not explicitly provide for the establishment of bodies to monitor its implementation regularly. States Parties – and States not Parties that might contribute as observers – therefore do not have a framework for dialogue in which to discuss problems arising in the implementation of this treaty and their proposals for improving its application.

Action taken by the Sector to boost ratification

14. One of the Secretariat's constant aims has been to raise the number of ratifications. Priority action has therefore been taken to conduct more legal and practical training and awareness-raising

workshops in regions in which trafficking is rife and ratifications low. Twelve States have thus become Parties to the Convention in five years.

15. In order to continue the efforts made under document 35 C/5 and to improve the implementation and effectiveness of the Convention in States, the Director-General has decided to increase the number of training workshops in 2012, in particular in Latin America, Africa and South-East Europe, by allocating \$150,000 for that purpose from the Emergency Fund. The aim of those seminars is to provide participants with all available information and tools for combating cultural-property trafficking, and the requisite knowledge to become local trainers.

#### Specific measures for implementing the Convention-monitoring procedure

16. At the request of States and experts meeting in March 2011 on the occasion of the fortieth anniversary of the 1970 Convention, the Director-General convened, on 20 and 21 June 2012 at UNESCO Headquarters, a meeting of States Parties to the Convention for an in-depth assessment of the impact of measures taken by those States in order to optimize its implementation, appraise its effectiveness with particular regard to new trends in cultural-property trafficking and formulate strategies primarily to improve its application.

17. Against that background, the Secretariat compiled a working document (C70/12/2.MSP/6), through which States Parties examined Convention-monitoring options that were likely to improve its implementation (revision of the text in full or in part, procedure to be followed should States Parties opt for revision, legal implications of treaty revision, procedure to be followed in the event of the adoption of an additional instrument – such as a protocol – to the Convention, review of provisions enshrined in other conventions and consideration of issues relating to the lack of, and the desirability of establishing, such Convention-monitoring bodies).

- **1989 Convention on Technical and Vocational Education (ED)**

18. Pursuant to 187 EX/Decision 20 (IV), UNESCO's normative instruments on TVET were discussed during the 3rd International Congress on TVET (Shanghai, China, 14-16 May 2012). The participants recommended that the relevance and currency of the 1989 Convention and the 2001 Revised Recommendation be considered, with a view to the possible development of new or revised flexible texts adapted to a changing world and able to address the needs of all Member States (see also document 190 EX/25 Part III).

- **1960 Recommendation against Discrimination in Education (ED)**

19. (See paragraphs 5 to 9 above.)

- **1966 Recommendation concerning the Status of Teachers and 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel (ED)**

20. The eleventh session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) (Geneva, 8-12 October) will discuss matters relating to these Recommendations. Working groups were organized according to pertinent issues, such as: teacher education policies and quality assurance standards; social dialogue in education; national good practices and trends; terms and conditions of employment; higher-education governance; university staff teaching qualifications and entry into the profession; violence and insecurity; impact of economic recession on education and teachers; and allegations.

21. In accordance with Article 75 of the 1997 Recommendation and set out in document 189 EX/13 Part I, a study was undertaken on the state of academic freedom and institutional autonomy within the context of the 1997 Recommendation. The study seeks to get first-hand perspectives on the state of academic freedom and its protection at institutional and national

levels, examining what policies and mechanisms are put in place to protect this freedom, how academic freedom is threatened or curtailed, and finally what recourse may be available to the members of the academic community to complain and seek redress concerning such violations. Information was collected through a questionnaire developed by UNESCO and the International Association of Universities, and answered by two different groups; higher education institutions, and UNESCO National Commissions and Permanent Delegations.

22. The study, available upon request, provided interesting results: 68% of higher-education institutions specifically mention academic freedom in their governing statutes and 60% have a policy and process in place to protect academic freedom; 81% of government respondents stated that their countries had laws stipulating how academic freedom should be protected, while 63% reported the existence of a national mechanism to monitor academic freedom; 74% similarly reported the existence of a national mechanism to respond to grievances. In terms of awareness of the 1997 Recommendation, 52% of respondents from higher education institutions, and 82% from National Commissions and Permanent Delegations, claimed familiarity with this Recommendation. This shows that communications on the part of UNESCO and national Ministries, as well as NGOs, have been quite successful. At the same time, there is clearly scope to make the Recommendations even more known and to ensure implementation.

- **1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (ED)**

23. UNESCO has joined the International Contact Group on Citizenship and Human Rights Education, set up under the initiative of the Council of Europe, with an aim to ensure close cooperation among international initiatives in the field of citizenship and human rights education. The member agencies<sup>4</sup> (as of March 2012) met for the first time in March 2012 to exchange information on recent developments, and discussed future cooperation. The group is approaching other regional and international intergovernmental entities working in the related area to ensure geographically-balanced representation. The Group is launching a website and newsletters.

- **1974 Recommendation on the Status of Scientific Researchers (SHS)**

24. Pursuant to the decision adopted by the Board at the last session (189 EX/Decision 13 (III)), the Secretariat submits at the 190th session an expanded and consolidated report on the application of the 1974 Recommendation (see document 190 EX/13 Part III).

- **1976 Recommendation on the Development of Adult Education (ED)**

25. Pursuant to the plan of action adopted by 189 EX/Decision 13 (II), an expert group has been set up by the UNESCO Institute for Lifelong Learning (UIL). The group is composed of six representatives of governmental and non-governmental representatives from Member States reflecting a broad spectrum of policy and practice of adult learning and education in all regions. The first meeting of the expert group is planned for 10 and 11 July 2012; participants will undertake a “preliminary study” to explore and clarify the technical and legal aspects relating to the desirability of revising the 1976 Recommendation.

26. Member States have been asked in November 2011 by way of a reporting template to produce national reports on the development of adult education in order to provide data for the Global Report on Adult Learning and Education (GRALE 2012) which is instrumental for the monitoring of the Recommendation as recognized by 36 C/Resolution 13. The National

<sup>4</sup> The United Nations High Commissioner for Human Rights (OHCHR), UNESCO, the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR), the European Commission, the European Union Agency for Fundamental Rights (FRA), the Arab League Educational, Cultural and Scientific Organization (ALECSO), the Organization of American States (OAS) and the Council of Europe.

CONFINTEA VI Progress Reports are intended to provide a clear picture of the complex situation in adult education. In compiling their reports, countries were encouraged to take into account the wide range of actors and stakeholders including non-governmental organizations, trade unions, social movements, faith-based organizations, social partners and bilateral and multilateral development agencies and other private actors. Member States have been asked to complete and send their reports to UIL by end of March 2012. By mid-May, reports from more than 100 Member States from all regions were received.

27. The draft “UNESCO Guidelines for Recognition, Validation and Accreditation of Non-formal and Informal Learning” were finalized based on previous consultation with Member States and peer review results from field offices and education institutes/centres. The guidelines will be disseminated to Member States in summer 2012.

28. On the occasion of its sixtieth anniversary in May 2012, UIL offered six CONFINTEA fellowships and four CONFINTEA scholarships for study at the Institute. These fellowships and scholarships are available for a period of study of one month. While the fellowship programme is tailored for key personnel from Member States to improve adult education at the national level by supporting the implementation of the CONFINTEA VI follow-up, the scholarship programme is open for students and fellows from all Member States who have working command of English.

- **1978 Revised Recommendation concerning the International Standardization of Educational Statistics (UIS)**

29. The UIS has begun to provide training and other support to assist countries in adapting their education data reporting systems to the new ISCED in time for the first international surveys foreseen in 2014. In late April/early May 2012, regional workshops at which the revised classification was presented took place in Bangkok for countries in East Asia and in South and West Asia. Workshops have been scheduled in early October and November respectively for countries in the Arab States and in South and East Africa. Further regions will be targeted in 2013. In addition the UIS teams of regional and cluster statistical advisers based in the field have been providing in-country support to statisticians and national counterparts as part of their regular work with countries.

30. The UIS is developing an Operational Manual to provide additional guidance and examples to countries. It is expected that the manual will be published in the second half of 2012. Eurostat and OECD are also producing similar materials for the surveys that are undertaken by their respective member states.

31. The UIS has consulted all Spanish- and Portuguese-speaking countries regarding the terms used in the Spanish version of ISCED 2011 to describe ISCED levels 6 (Bachelor) and 7 (Master) following concerns raised by some Member States that the term proposed for ISCED level 6 – *Licenciatura* – was the title of a degree which can be awarded at both levels. As a result of the consultation two new terms have been agreed upon – *Grado en Educación Terciaria o Equivalente* and *Maestría, Especialización o Equivalente* – for ISCED levels 6 and 7 respectively. The Spanish text of the classification will be amended accordingly.

32. In parallel with activities to support the implementation of ISCED 2011 work has begun on a revision of the ISCED 1997 fields of education (which were not revised for ISCED 2011). A new Technical Advisory Panel was established to guide the revision and held its first meeting in Montreal in May 2012. Members of the new panel are classifications or education experts nominated by partner agencies (the European Union, OECD and ILO) or bodies (the United Nations Expert Group on Classifications) as well as experts from developing regions (Asia, Africa and Latin America). A first draft of the revised classification will be reviewed by members of the Panel as well as the United Nations Expert Group and experts from developing regions in July/August 2012. Assuming positive feedback from these experts, a second version will be developed for global consultation in the fourth quarter of 2012 in which all Member States will have

an opportunity to contribute. The aim is to submit a final version to the General Conference at its 37th session for adoption.

- **1980 Recommendation concerning the Status of the Artist (CLT)**

33. At its 36th session, the General Conference invited the Director-General to transmit to it at its 38th session (2015) the next consolidated rapport on the implementation of this Recommendation (36 C/Resolution 103). In pursuance of this resolution, the Secretariat plans to hold during the current biennium the second consultation of Member States on the application of this Recommendation on their territory.

34. It should be noted, however, that as the 1980 Recommendation has not been included in Major Programme IV of document 36 C/5, a budget has not been allocated for the implementation and effective monitoring of the Recommendation during the current biennium.

- **1993 Recommendation on the Recognition of Studies and Qualifications in Higher Education (ED)**

35. Since 1975, UNESCO has initiated five regional and one interregional conventions on mutual recognition of degrees, diplomas and studies. These regional conventions are legally binding instruments which aim at promoting and facilitating academic mobility. UNESCO assesses the implementation of the 1993 Recommendation primarily through monitoring the implementation of the regional and interregional conventions.

- Asia-Pacific (“Tokyo Convention”, 2011): the eleventh session of the Regional Committee on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific in conjunction with an Expert Seminar on the National Information Centres was co-organized by UNESCO Bangkok, Korean Council of University Education (KCUE) and Ministry of Education, Science and Technology of the Republic of Korea (Seoul, 23-24 May 2012). A working group on drafting a subsidiary text to the Convention on criteria and procedures for the evaluation of higher education qualifications will meet in China in October 2012.
- Africa (“Arusha Convention”, 1983): pursuant to 36 C/Resolution 14, discussions are under way for the organization of the International Conference of States to examine and adopt the revised text of the Convention. The ICS is expected to take place in 2013.
- Europe and North America (“Lisbon Convention”, 1997): an anniversary conference celebrating 15 years of the Convention took place (Toledo, Spain, 19-20 June 2012). In addition to reflecting on the impact that the implementation of the Convention and its subsidiary texts has had over the last decade and a half, the conference aims to stress the political relevance of the Convention and to also look to the future within and beyond the Europe region and provide an opportunity for a dialogue on recognition in a global context. The nineteenth Joint Meeting of the ENIC Network (European Network of Information Centres) and the NARIC Network (National Academic Recognition Information Centres) hosted by Spain took place also in Toledo (17-19 June 2012).

36. As requested at the eleventh session of the Regional Committee on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific, a feasibility study is being undertaken to explore a possible future global convention. The study will also include inputs from each of the Regional Convention Bureaux, which will be presented and analysed at a meeting of regional experts in China in October 2012. The results of the feasibility study will be submitted to the Executive Board for consideration and follow-up in due course.

- **2001 Revised Recommendation concerning Technical and Vocational Education (ED)**

37. (See paragraph 18 above.)

- **2003 Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace (CI)**

38. UNESCO undertook several measures aiming at facilitating its implementation by Member States into national policies, legislation and strategies during the first part of 2012. Despite limited financial resources, the Organization continued to raise awareness on these issues at the international level: (i) On May 2012, UNESCO, together with OECD and ISOC, launched a study titled “The economic aspects of local content creation and local Internet infrastructure” during the WSIS Forum 2012 (Geneva, Switzerland). UNESCO, ISOC and OECD will be distributing this study; (ii) UNESCO, together with EURid, is working on the *World Report on International Domain Names (IDN) Deployment – 2012* to be presented at the Internet Governance Forum (Baku, Azerbaijan, November 2012) and at the WSIS+10 Review Forum (February 2013); (iii) UNESCO, in cooperation with EURid, is contributing to the Broadband Commission Report planned for July 2012. This contribution will include the first findings of the world report on IDN deployment 2012; (iv) In March 2012, a new publication *Net.LANG. Towards the Multilingual Cyberspace* was published by the World Network for Linguistic Diversity (MAAYA) and C&F Editions (France). UNESCO provided a financial support for this publication which promotes the 2003 Recommendation, includes a foreword by the Director-General and provides guidance for policy and decision makers, researchers and practitioners on creating truly multilingual cyberspace.

#### **Action expected of the Executive Board**

39. In the light of the foregoing, the Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1, 165 EX/Decision 6.2, 32 C/Resolution 77, 170 EX/Decision 6.2, 171 EX/Decision 27, 174 EX/Decision 21, 175 EX/Decision 28, 176 EX/Decision 33, 177 EX/Decisions 35 (I) and (II), 34 C/Resolution 87, 180 EX/Decision 31, 181 EX/Decision 27, 182 EX/Decision 31, 184 EX/Decision 20, 185 EX/Decision 23 (I), 186 EX/Decision 19 (I), 187 EX/Decision 20 (I) and 189 EX/Decision 13 (I) relating to the first aspect of the terms of reference of the Committee on Conventions and Recommendations (CR), which concerns the implementation of standard-setting instruments,
2. Having examined document 190 EX/24 Part I and the report of the Committee on Conventions and Recommendations thereon (190 EX/...),
3. Urges Member States once again to fulfil their legal obligations under Article VIII of the Constitution of UNESCO regarding periodic reports on the action taken on conventions and recommendations;
4. Requests the Director-General to ensure the implementation of the new legal framework by the programme sectors and the UNESCO Institute of Statistics (UIS), which have responsibility for the conventions and recommendations monitored by the Committee on Conventions and Recommendations;
5. Decides to continue consideration of this item at its 191st session.





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# Executive Board

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## IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS

### PART II

#### APPLICATION OF THE 1966 RECOMMENDATION CONCERNING THE STATUS OF TEACHERS AND THE 1997 RECOMMENDATION CONCERNING THE STATUS OF HIGHER-EDUCATION TEACHING PERSONNEL

#### REPORT BY THE DIRECTOR-GENERAL ON ALLEGATIONS RECEIVED BY THE JOINT ILO/UNESCO COMMITTEE OF EXPERTS ON THE APPLICATION OF THE RECOMMENDATIONS CONCERNING TEACHING PERSONNEL (CEART)

##### SUMMARY

In accordance with 154 EX/Decision 4.4 and 157 EX/Decision 6.3, the Director-General hereby submits to the Executive Board the interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) on allegations received by the CEART from teachers' organizations regarding non-observance of the Recommendations (see Annex).

There are no financial or administrative implications.

Action expected of the Executive Board: proposed decision in paragraph 5.

1. The Joint ILO-UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) was established by parallel decisions of the Executive Board of UNESCO and the Governing Body of International Labour Organization (ILO) in 1967. Its mandate is to monitor and promote application of the international Recommendations on teachers (the ILO/UNESCO Recommendation concerning the Status of Teachers, 1966, and the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997), and to report thereon to the Executive Board of UNESCO and to the Governing Body of the ILO. As part

of its mandate, the CEART examines communications in the form of allegations from international and national teachers' organizations that provisions of one or both standards are not being applied in Member States. It meets every three years in either Paris or Geneva for its work, including consideration of such cases. Its procedures also allow for the preparation of interim reports on cases between the regular meetings so as to ensure a more timely response in the treatment of allegations and their resolution in support of constituents in member States based on principles of social dialogue.

2. The interim report (CEART/INT/2011/1) presented in the Annex contains the CEART's examination of the case from Japan since the last review of these allegations at its Tenth session held at UNESCO (Paris, 28 September-2 October 2009). The Executive Board examined the relevant parts of the report of the Tenth Session that concerned allegations presented by teachers' organizations at its 185th session in 2010 (185 EX/23 Part III B).

3. The interim report examines further information and developments in the case concerning Japan that remains under consideration by the CEART since its fact-finding mission to Japan in April 2008 and the review of new developments in 2009. The matters under consideration concern teacher assessment, competence and disciplinary measures and merit assessment; forms of social dialogue, notably consultation and negotiation, used to decide on these questions - matters which are central to policies and practice on education and the teaching profession. The interim report takes account of information supplied by the Government of Japan, Ministry of Education, Sports, Culture, Science and Technology and, through it, the views of prefecture boards of education, by the All Japan Teachers and Staff Union (ZENKYO) and several of its affiliates at prefecture or municipal level, and by the Japan Teachers' Union (JTU).

4. Accordingly, the attached interim report is submitted for consideration by the Executive Board of UNESCO. The report was also submitted to the Governing Body of ILO.

#### **Proposed draft decision**

5. The Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling 154 EX/Decision 4.4 and 157 EX/Decision 6.3,
2. Having examined document 190 EX/24 Part II and the report of the Committee on Conventions and Recommendations (CR) thereon,
3. Takes note of the CEART's interim report relating to allegations on the non-observance of certain provisions of the ILO-UNESCO 1966 Recommendation in Japan, annexed to document 190 EX/24 Part II;
4. Invites the Director-General to communicate the CEART's interim report to the Government of Japan and to the All Japan Teachers' and Staff Union (ZENKYO) and the Japan Teachers' Union (JTU), and to invite them to take the necessary follow-up action as recommended in that report.

## ANNEX

### FURTHER CONSIDERATION OF THE ALLEGATIONS RECEIVED FROM THE ALL JAPAN TEACHERS AND STAFF UNION (ZENKYO), JAPAN TEACHERS UNION (JTU) AND NAKAMA UNION

#### Background

1. Details of this allegation are set out in the report of the Joint Committee at its Eighth, Ninth and Tenth Sessions (2003, 2006 and 2009) and in its interim reports of 2005 and 2008. In 2008, the Government of Japan through the Ministry of Education, Sports, Culture, Science and Technology (MEXT) and ZENKYO invited the Joint Committee to send a fact-finding mission to receive information on the allegation from ZENKYO and the views of MEXT on the subjects of the allegation. The mission also heard the viewpoints of a wide range of education sector stakeholders, including JTU and other teachers' organizations, prefecture boards of education, national employers' and workers' organizations, representatives of parents' and teachers' associations and independent experts. The 2008 interim report contained a full summary of the Joint Committee's examination of the mission's findings.

2. The report of the Tenth Session discussed the result of the Joint Committee's 2008 fact-finding mission and interim report, including its recommendations concerning possible improvements in the Government's policies regarding the teacher appraisal system, merit assessment, salary determination and consultation and negotiation with teachers' organizations on these matters. The Government of Japan, ZENKYO, the Japan Teachers' Union (JTU or NIKKYOSO) and the Nakama Union submitted additional information and comments on these reports in the period 2008–09.

#### Further developments

3. Since the Tenth Session, the Joint Committee has considered additional communications from the Government dated 19 August 2010, by ZENKYO dated 16 April 2010 and 22 October 2010 and by JTU on 10 March 2010 and 12 July 2011. The ZENKYO submissions included lengthy statements by five of its affiliates, Aichi Prefecture High School Teachers' and Staff Union, Kobe Municipal High School Teachers' and Staff Union, Tokyo Teachers' and Staff Union, Hokkaido Senior High School Teachers' and Staff Union and the All Hokkaido Teachers' and Staff Union. An additional submission dated 5 April 2010 was made by the Kanagawa Prefecture Disabled Children's Schools Teachers and Staffs Union (SINSHOKYOSO).

4. The government communication contained a statement from MEXT that expanded on its previous statements on teacher assessment, competence and disciplinary measures. The Government had previously stated that it continued to encourage local boards of education to follow the "Guidelines on the Personnel Management System for Teachers providing Inadequate Instruction" issued in February 2008 (which was presented to the fact-finding mission). It considered that prefecture and major municipal boards of education continued to properly manage consultations with teachers' organizations on the subject of teacher assessment. When teachers are designated as lacking the ability to perform adequately, local authorities provide training to improve their instruction skills. In the Government's view, this training is not a change in employment status, so standards of procedural fairness in the 1966 Recommendation (paragraph 50) do not apply. Furthermore, the procedures used for a designation do not contravene the spirit of the Recommendation.

5. The government emphasized that under the national legal system "merit assessment" is not subject to negotiation under the Local Public Service Act (article 55, clauses 1 and 3). If an assessment of a teacher results in changes to salaries, hours of work or other working conditions, the teacher has the right to file an administrative appeal.

6. The government considered the views of ILO and UNESCO on the issues under consideration in this case to be important (although it has not specifically endorsed the possibility of using technical advisory services of the ILO and UNESCO to this effect) and that the provisions of the 1966 Recommendation were fully understood by all parties. In respect of previous CEART recommendations, the government had distributed copies of the 2008 and 2009 reports and made additional explanations to the January 2010 conference of the personnel directors of prefectural and municipal boards of education.

7. The government concluded that it is respecting the spirit of the 1966 Recommendation with priority attention to the welfare of children, and that in the spirit of its previous comments that some of the recommendations in the CEART's reports were based on a misunderstanding of the public sector legal regime in Japan, efforts would continue appropriate to Japan's situation and legal system.

8. The ZENKYO communications reported that MEXT had distributed a Japanese translation of CEART documents, including the 2008 interim report and the report of the fact-finding mission to officials of local education boards. ZENKYO has also informed all local education boards about the content of the 2008 interim report with the goal of establishing social dialogue with them. It encourages local affiliates to consult and have dialogue. It is also launching regional campaigns to increase awareness of the 1966 Recommendation and working towards the use of ILO and UNESCO good offices to establish mechanisms for consultation and negotiation. Yet, it considers that a mutually agreed Japanese version of the 1966 Recommendation, as the CEART previously recommended, would enhance consultation and negotiation between education boards and teachers' organizations. ZENKYO has called for the creation of a consultative forum involving all interested parties to achieve a better understanding of relevant provisions of the 1966 Recommendation and begin a process of "good faith consultation".

9. ZENKYO attached to its communication reviews of efforts of its affiliates in several prefectures to resolve workplace problems in collaboration with the local education boards, using principles of the 1966 Recommendation and recommendations of the CEART. These reviews illustrated some of the problems that ZENKYO believes arise when teachers' unions and local education authorities differ on matters of principle and lack social dialogue mechanisms for addressing these issues. While progress was made in some locations, ZENKYO and some of its affiliated unions continue to believe that mutual efforts could be improved, as was cited in Tokyo in regard to the definition and application of principles of consultation and negotiation, and in Hokkaido concerning the alleged lack of meaningful consultation and negotiation on various teacher policies and practices, including continued use of performance based allowances. The communication from SINSHOKYOSO also raised the refusal to dialogue on the continued use of the personnel evaluation system in schools serving disabled children in Kanagawa prefecture, echoing matters raised during the 2008 fact-finding mission.

10. The JTU reported that on 3 June 2011, the Government of Japan presented proposals to implement fundamental changes in employment relations in the public sector in the form of a bill on the labour relations of public employees and related bills on the union-management relations system that would allow public employees at national level to conclude collective agreements, establish a new national public employees office, examine the rights of national public employees in regard to dispute resolution mechanisms; and consider local public employee labour relations in terms of compliance with a new national system. The effect of these proposals, if adopted, on the status of teachers in Japan is still not clear. In the course of deliberations on the legislative proposals, JTU nevertheless expects there to be some improvement in the current reduced scope of bargaining that places many items considered as operational/management issues outside of negotiation, as well as the possibility for improved social dialogue in the form of institutionalized consultation, not just formal hearings, as previously recommended by the CEART.

11. In the meantime, the JTU reported that it had participated with MEXT in an international summit on the teaching profession that had acknowledged the value of social dialogue in matters

concerning recruitment and salary of teachers, as well as union participation in education reforms. With a change in government, the JTU had engaged in more dialogue with senior officials of MEXT. However, conditions for social dialogue by local associations and prefectural boards of education have not improved significantly. The JTU considers that legislative reform is essential in order to establish a stable system for union-management consultations or negotiation at any level, central or local.

## Findings

12. Although the recent communications of the parties do not explicitly refer to all of the issues originally raised to this case, the Joint Committee considers it important to recall the recommendations contained in its 2008 interim report concerning teacher assessment, competence and disciplinary measures and merit assessment, in addition to consultation and negotiation. In this respect, the Joint Committee further recalls the attention it drew in its 2009 report to important provisions of the 1966 Recommendation concerning: adequate protection against arbitrary action affecting teachers' professional standing (paragraph 46); the need for procedural safeguards when disciplinary proceedings do take place (paragraphs 47-52); non-discrimination (paragraph 7); and women teachers with family responsibilities (paragraphs 54-58).

13. The Joint Committee expresses its appreciation for the efforts of the parties in this case, including local education authorities, ZENKYO and its local affiliates, MEXT officials and JTU representatives at national level to engage in social dialogue with each other on the substantive issues note above. Ideally, these procedures should occur on a regular basis, not only when a dispute or difference of opinion arises. Based on the evidence before it, though some progress has been noted at prefectural and municipal level, the Joint Committee concludes that examples of effective social dialogue still are sporadic and hampered by a lack of mutual understanding of the terms of the 1966 Recommendation.

14. Although the government has assured the Joint Committee that the parties understand the meaning of the 1966 Recommendation in terms of Japanese language and culture, both parties use English terminology in ways that are confusing to readers in that language. In addition, the government has cited specific articles of the Local Public Service Act to support its position that matters contained in the allegations are not "potential negotiation items," or administration and management items which are "outside the scope of negotiations". The Joint Committee notes that the government's submission was made prior to a change in the government's approach to national labour relations as indicated above.

15. The Joint Committee has not reviewed an English text of the Local Public Service Act, cited by the Government, and it is not the Joint Committee's role to interpret national legislation on this question. However, the Joint Committee is responsible for monitoring application of the 1966 Recommendation which clearly distinguishes between "negotiation" and "consultation". For example, paragraph 49 of the Recommendation states that "Teachers' organizations should be consulted when the machinery to deal with disciplinary matters is established." The conventional English meaning of the term "consultation" is that management meets with employee organizations and discusses proposed actions openly and meaningfully before acting. If, after this process, the employer and employee representatives do not agree, management can act. Similarly, paragraph 75 of the Recommendation states that "authorities should establish and regularly use recognized means of consultation with teachers' organizations on such matters as educational policy ....". By contrast, paragraph 82 refers to the need for salaries and working conditions to be negotiated between employers of teachers and their organizations, and paragraph 83 of the Recommendation recommends that "Statutory or voluntary machinery should be established whereby the right of teachers to negotiate through their organizations with their employers, either public or private, is assured." Paragraph 84 outlines the steps to be taken should the parties in negotiation not reach agreement. Both the government and ZENKYO use the terms "consultation and negotiation" in tandem, not as proposed in the Recommendation. In this context, the scope of negotiation is one of the main issues that needs to be resolved, so that matters such as the

teacher evaluation system, and merit- or performance-related pay and allowances that directly or indirectly affect terms and conditions of employment are not automatically excluded from the subject of negotiation.

16. The Joint Committee has noted that ZENKYO and the JTU have reported that the Government of Japan is committed to reviewing the principles and institutions governing labour-management relations in the national public service. Both organizations expressed the view that efforts to achieve effective social dialogue in the education sector, both at the national and prefectural levels, will contribute to the success of this review. In its latest report the JTU informed the CEART that the outlines of new policies governing the national public service have been announced. Depending on the outcome of the Parliament's deliberations and the impact on teachers at prefecture and municipal level, reforms along these lines hold promise for a more effective social dialogue climate in relation to the provisions of the 1966 Recommendation, and therefore resolution of the other issues initially raised in this case.

### **Recommendations**

17. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO:

- (a) take note of the situation described above;
- (b) communicate the above findings to the Government of Japan, to ZENKYO and to the JTU, urging the parties to build upon the dialogue already established by enhancing good faith discussions at the national and prefectural levels with the objective of resolving the issues identified in the previous reports of the Joint Committee in a mutually agreeable manner;
- (c) request that the government, ZENKYO and the JTU inform the Joint Committee of developments and progress with regard to these problems so that the Joint Committee can review this information in accordance with approved procedures;
- (d) request that the government, the JTU and ZENKYO inform the Joint Committee of progress in recently announced government policies to govern employment in the national public service and their possible impact on the subjects raised in the Joint Committee's previous reports.



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# Executive Board

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# 190 EX/24 Part III

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## IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS

### PART III

#### APPLICATION OF THE 1989 CONVENTION ON TECHNICAL AND VOCATIONAL EDUCATION AND THE 2001 REVISED RECOMMENDATION CONCERNING TECHNICAL AND VOCATIONAL EDUCATION (TVET)

##### SUMMARY

Pursuant to 187 EX/Decision 20 (IV), the Director-General presents the Secretariat's review of the two standard-setting instruments: the 1989 Convention on Technical and Vocational Education and the 2001 Revised Recommendation concerning Technical and Vocational Education. This review is based on the expert consultation on the content, scope and relevance of the normative instruments held during the Third International Congress on TVET in Shanghai (14-16 May 2012), UNESCO's review of Global Trends and Issues in TVET and other recent developments in this field.

There are no financial or administrative implications.

Action to be taken by the Executive Board: proposed decision in paragraph 24.

## Background

1. UNESCO is responsible for monitoring the implementation of two normative instruments in the field of technical and vocational education and training (TVET): the 1989 Convention on Technical and Vocational Education, and the 2001 Revised Recommendation concerning Technical and Vocational Education.
2. As outlined in the Strategy for TVET (181 EX/Decision 8, and 182 EX/INF.5), UNESCO commissioned an independent study on the impact of the normative instruments, examining in particular why only 17 Member States have ratified the Convention. The Strategy envisaged that based on this study “the Organization may choose to update the Recommendation, decide on the future of the Convention, or prepare a new normative instrument on skills and competencies across the education and training sector”.
3. The independent study found the following reasons for the non-ratification of the 1989 Convention: limited knowledge by country experts of the instrument; absence of an advocacy strategy; and the complexity of governing TVET at national levels necessitating inter-ministerial coordination and involving social partners. Referring to normative work by the International Labour Organization (ILO) and the European Union in related fields, the study reflected upon the utility of international legal instruments and advised the use of ‘soft laws’ to advance the TVET agenda in Member States and to enhance international and regional cooperation.
4. The findings of the independent study were presented to the Executive Board (187 EX/20 Part IV). During the debate on this item, it became evident that some Member States find the instruments to be still relevant. While low ratification rates of the Convention intuitively indicate a lack of appreciation of the relevance of the instruments, the discussion suggested that some Member States may find the Convention to be of guiding value, even though they had not ratified it.
5. By 187 EX/Decision 20 Part IV, the Executive Board requested the Director-General to include in the preparation for the Third International Congress on TVET in May 2012 a discussion on the content, relevance and scope of the 1989 Convention on Technical and Vocational Education and of the 2001 Revised Recommendation concerning Technical and Vocational Education, in order to allow the Organization to review these standard-setting instruments.

## Discussions during the Third International Congress on TVET

6. The Secretariat organized a special session during the Third International Congress on TVET on “Revisiting the UNESCO normative instruments concerning technical and vocational education”. Hyperlinks to the normative instruments (in the six official languages) were sent to selected participants and hard copies of the normative instruments were made available on-site. The session was open to all Congress participants.
7. The two-hour session was attended by 70 participants from 50 countries. The International Congress was a technical meeting of non-representative character (Category IV), and the participants in the special session acted in their capacity as individual experts and not as representatives of Member States.
8. There was a vibrant discussion, during which participants confirmed that the normative instruments would benefit from updating, a view that concurs with the findings of the independent study. As TVET specialists, not necessarily familiar with the different international legal instruments, the participants focused their attention on the content, relevance and scope of the instruments, and especially the 2001 Revised Recommendation.
9. Participants underlined that the Recommendation should give greater attention to the demand for TVET and have a stronger focus on lifelong learning. They suggested revisiting key concepts and policy areas such as ‘TVE’, ‘governance’ and other terminology related to



qualification, certification and validation of prior learning, education for sustainable development and green societies and assessment of learning outcomes.

10. Participants considered that any Revised Recommendation concerning TVET should be brief and flexible in order to address all Member States' needs through an integrated approach in line with other socio-economic policies, particularly youth and employment policies. Although a number of broad principles are universal, participants stressed the importance of regional and national specificities and the diversity of learning settings in TVET.

11. Other sessions of the Congress were also relevant to the future of the normative instruments. These included discussions on the key building blocks of TVET systems and the relevance of international standardization, for example in TVET and labour market statistics. In particular, the agenda included sessions on cross-regional cooperation and dialogue, and on the issue of transparency of TVET qualifications systems and the international recognition of qualifications.

12. The Congress adopted the "Shanghai Consensus", which recommends to the Director-General of UNESCO certain actions, including to "consider the relevance and currency of the Convention on Technical and Vocational Education (1989) and the Revised Recommendation concerning Technical and Vocational Education (2001), with a view to the possible development of new or revised normative instruments adapted to a changing world".

### **Overall review of the normative instruments**

13. The Secretariat's review of the normative instruments concerning TVET takes a broad range of inputs into account, including: recent sessions of the Executive Board; the findings of the independent study; UNESCO's review of current issues and trends in TVET; the special session of the Third International Congress on TVET; and the overall outcomes of the Congress.

14. In sum, the review identifies a gap between the content of the normative instruments and current realities. Rapid demographic and technological changes are taking place and there are deepening concerns relating to youth unemployment, underemployment, sustainable development and peace. More integrated approaches to policy areas such as education, health, training and employment are needed.

15. TVET has become associated with an even wider range of occupations and skills, across economic sectors, in public and private sector organizations, as well as for self-employment. TVET now takes place in more diverse forms and in multiple settings, involving a widening range of stakeholders.

16. There have also been significant developments in national TVET policies, in particular regarding the articulation between education and training and the world of work and the role of TVET in lifelong learning. The recognition of informal, non-formal and formal learning is seen as increasingly important for social and geographical mobility.

17. As well as new agendas (such as "greening TVET" and "youth engagement"), there have also been conceptual developments since the normative instruments were adopted, as evidenced for example in the emergence of new terms such as "technical and vocational skills development", which imply a transversal dimension to TVET.

### **The 2001 Revised Recommendation concerning Technical and Vocational Education**

18. The Revised Recommendation was last revised in 2001, taking into account the trends identified by the Second International Congress on Technical and Vocational Education in 1999, and before that in 1974. Revising it today would allow for a new update of the set of standards and practices that may be helpful for Member States.

19. Following the Third International Congress on TVET in Shanghai (May 2012) and given the increasing prominence of TVET on national and international agendas, there is a strong case and momentum for further revisions to the 2001 Revised Recommendation at this time. The overall weight of professional opinion, including that of the Secretariat, is in favour of revising the 2001 Revised Recommendation.

### **The 1989 Convention on Technical and Vocational Education**

20. It is for the 17 States Parties to the 1989 Convention on Technical and Vocational Education to decide whether to continue to be bound by the Convention. The Convention provides a coherent set of concepts and guidelines for the development of TVET in Member States, in particular for the assumption of public responsibility for the framing of policies and the definition of strategies for TVE, considered to be an integral part of the education system (Article 2); and the promotion of international cooperation (Article 6). A new Convention would ensure consistency with any revisions made to the Revised Recommendation. However, the Secretariat concurs with the independent study and professional opinion expressed during the Third International Congress on TVET that, in the long-term, the form of an international Convention may not be the most appropriate type of a normative instrument for advancing the TVET agenda in Member States. This is due to the rigidity and legally binding nature of a Convention, and the huge variety of conditions of TVET in different countries.

### **The way forward**

21. This is an ideal moment to consider the future of the normative instruments in TVET. In the Secretariat's view, reflecting the weight of professional opinion gathered to date, maintaining the status quo would not be in the interests of the development of TVET in UNESCO's Member States, nor would it strengthen international cooperation. The Secretariat therefore recommends that the Executive Board proposes to the General Conference at its 37th session to agree to revise the 2001 Revised Recommendation based on discussions at the Third International Congress on TVET and other recent developments.

22. The decision on the future of the 1989 Convention would be deferred to a further session of the General Conference. After the adoption of the revisions to the 2001 Revised Recommendation, the Executive Board would resume consideration of whether it is desirable to suspend the monitoring of the 1989 Convention, or to revise the Convention, or to develop and adopt a totally new Convention and to advise the General Conference accordingly. In this regard, while adopting the Revised Recommendation, the General Conference may instruct the Director-General to submit a report on the desirability of these actions, taking into consideration the discussions in the General Conference preceding the adoption of the Revised Recommendation.

23. The Secretariat's recommendation to the Executive Board is based on the following reasons. First is that revising a Recommendation takes a much shorter time than would revising a Convention. Second the voting process is much lighter, requiring a simple majority rather than a two-thirds majority as would have been for a Convention. Third is that a Recommendation goes into force immediately after adoption by the General Conference whereas a Convention would require further time for ratification. Fourth, and most important, is that a recommendation is a more flexible instrument which can more easily facilitate the required transformation of TVET and the necessity for the sub-sector to remain current. Lastly, the revision of the 2001 Revised Recommendation will take into account core principles of the 1989 Convention that are still relevant for the future development of TVET, thus the core substance of the 1989 Convention would not be lost.

### **Proposed decision**

24. Having examined this document, the Executive Board may wish to adopt a decision as follows:

The Executive Board,

1. Recalling 34 C/Resolution 87, 177 EX/Decisions 35 (I) and (II), 184 EX/Decision 20 and 187 EX/Decision 20 (IV),
2. Further recalling 181 EX/Decision 8, in which the Board approved the Strategy for Technical and Vocational Education and Training (TVET), and document 182 EX/INF.5, in which the Strategy was amended,
3. Considering the deliberations of the Executive Board at its 187th session, and the “Shanghai Consensus: Recommendations of the Third International Congress on Technical and Vocational Education and Training ‘Transforming TVET: Building Skills for Work and Life’ (Shanghai, May 2012)”, in which the Congress recommended that the Director-General of UNESCO “consider the relevance and currency of UNESCO’s Convention on Technical and Vocational Education (1989) and the Revised Recommendation concerning Technical and Vocational Education (2001), with a view to the possible development of new or revised normative instruments adapted to a changing world”,
4. Having examined document 190 EX/24 Part III and the report of the Committee of the Conventions and Recommendations on this matter 190 EX/\_\_\_\_\_,
5. Recommends that the Director-General consider partnerships with other organizations concerned, such as the International Labour Organization (ILO), and consult the UNESCO-UNEVOC network on the scope of further revisions to the Revised Recommendation concerning Technical and Vocational Education (2001);
6. Requests the Director-General to submit to the Executive Board, at its 191st session, a preliminary study on the technical and legal aspects relating to the desirability of making further revisions to the 2001 Revised Recommendation concerning Technical and Vocational Education, with a view to submitting the study to the General Conference at its 37th session.



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**IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS**

**PART IV**

**1974 RECOMMENDATION  
ON THE STATUS OF SCIENTIFIC RESEARCHERS**

**SUMMARY**

In accordance with 177 EX/35 (I) and 189 EX/Decision 13 (III), the present document contains an expanded and consolidated report on the monitoring of the Recommendation on the Status of Scientific Researchers (1974).

Financial implications: see paragraph 15.

Action expected of the Executive Board: proposed decision in paragraph 16.

## I. BACKGROUND

1. The present expanded and consolidated Report on the implementation of the 1974 Recommendation on the Status of Scientific Researchers (hereinafter referred to as “the 1974 Recommendation”) is prepared in accordance with 189 EX/Decision 13(III) adopted by the Executive Board in February 2012.
2. At the 189th session, the Executive Board, having considered the initial report on monitoring of the implementation of the 1974 Recommendation (document 189 EX/13 Part III), acknowledged the importance of the 1974 Recommendation, on one hand, and, on the other, underlined the need to improve its effectiveness and monitoring, in line with the outcomes of the 2006 consultations (document 175 EX/14) and 2009 COMEST recommendations, possibly on the basis of the principles expressed in the 1999 Declaration on Science and the Use of Scientific Knowledge and in the 2005 Universal Declaration on Bioethics and Human Rights.
3. In view of the small number of submissions received in response to the monitoring exercise by 15 January 2012, the Executive Board urged Member States to fulfill their legal obligations under Article VIII of UNESCO’s Constitution and to submit reports on the implementation of the 1974 Recommendation on the Status of Scientific Researchers. The Executive Board requested the Director-General to prepare and to submit to it at its 190th session an expanded and consolidated report on the application of the 1974 Recommendation, taking account of national contributions received later than 15 January 2012. The Executive Board finally invited the Director-General to include in such report outline proposals for a consultation process to assess the desirability of review and updating of the 1974 Recommendation, based on consultation with Member States, intergovernmental and international non-governmental organizations, and relevant national and regional bodies, with the active involvement of COMEST.
4. The Assistant Director-General for Social and Human Sciences (ADG/SHS) wrote to all Member States on 8 June requesting their input on matters relating to the implementation of the 1974 Recommendation, to be submitted by 9 July 2012. To facilitate the preparation of submissions and to ensure that information submitted by Member States enables the Secretariat of UNESCO to prepare the expanded report in line with 189 EX/Decision 13 (III), Member States were invited specifically to state their views on the process that might be adopted in due course to assess the desirability of reviewing and updating of the 1974 Recommendation on the Status of Scientific Researchers.
5. In addition to the 18 Member States that replied in January 2012 (Armenia, Austria, Belgium [Francophone and Germanophone Commission for UNESCO], Cyprus, Denmark, Egypt, Finland, Germany, Japan, Kazakhstan, Latvia, Malawi, Monaco, Philippines, Poland, Portugal, Slovakia and the former Yugoslav Republic of Macedonia), 14 further Member States had submitted contributions by or shortly after the deadline of 9 July 2012: Australia, Azerbaijan, Brazil, Canada, China, France, Islamic Republic of Iran, Republic of Korea, Peru, Qatar, Senegal, the United States of America, Uzbekistan and Venezuela (Bolivarian Republic of). Egypt and Denmark also submitted additional inputs with replies to the questionnaire circulated on 8 June 2012. At the time of the drafting of the present document, in total, 32 Member States have expressed their views and opinions in the framework of the consultation process. A number of Member States have, in addition, indicated that they will make submissions at a later date. An analytical document compiling all submissions, including those not reflected in the present report, will be made available on-line in due course.
6. The consultation process included various stakeholders. Some national submissions indicate that they have been prepared in consultation with national scientific communities, including national academies of sciences and ministries entrusted with scientific research.
7. In line with 189 EX/Decision 13 (III), further consultations were held with COMEST. The Extraordinary Session of COMEST (Paris, France, 2-4 July 2012) considered the issue of ethics of

science and the implementation of the 1974 Recommendation and, in conclusion, adopted a “Recommendation on the desirability of reviewing and updating the 1974 Recommendation on the Status of Scientific Researchers”. This statement confirmed the view previously expressed by COMEST that the 1974 Recommendation would be enhanced and made more relevant to contemporary ethical and science policy challenges if it were updated in certain respects, corresponding to major changes in the institutional and social organization of science since 1974.

## **II. Summary of the replies received from Member States and scientific community**

8. *Question 1: To what extent do you judge national legislation in the areas covered by the Recommendation to conform to the principles that it lays down?* The majority of replies received stipulated that the national legislation of the relevant countries conforms to the major principles laid down in the 1974 Recommendation, such as non-discrimination, freedom and autonomy of scientific researchers, respect for their human rights and fundamental freedoms. However several Member States underlined that the status of scientific researches varies greatly in most developing countries due to different scientific, educational, cultural, economic, social and political context prevailing in these countries. In some countries, it was suggested that national laws relevant to the 1974 Recommendation tend to concentrate on the promotion of science and technology as a means of attaining economic growth and pay less attention to the support for creative scientific research for the enhancement of the cultural and material well-being of citizens or scientific research contributing to the solution of global challenges. In line with the 1974 Recommendation, the social role of scientific researchers needs often to be better recognized.

9. *Question 2: To what extent do you judge institutional practices in the areas covered by the Recommendation to conform to the principles it lays down?* The majority of the replies received indicated that institutional practices within the respective countries conform to the principles laid down in the 1974 Recommendation. However several developing countries indicated that their current economic situation may present obstacles to implementing such principles of the 1974 Recommendation as provision of public funding for scientific research, promotion of scientific careers, in particular those of young researchers, in State institutions with payment of benefits, provision of appropriate working schedules, education and training opportunities, and incentives to work in the service of their countries, etc. An opinion was expressed that, taking into consideration the fact that assistance to the developing countries and in particular those in Africa is among the priorities of UNESCO, the Recommendation should make reference to the requirements and special needs of scientific research to be carried by these countries and scientific researchers who work there.

10. *Question 3: To what extent do you regard the Recommendation as an adequate and currently applicable framework for the science ethics and science policy issues that it is designed to address?* The majority of Member States underlined that the 1974 Recommendation, as a component of an overarching and broad ethical framework to guide scientific activity, is adequate and applicable for the science ethics and science policy issues that it is designed to address. At the same time the majority of national submissions judged that the revision of the 1974 Recommendation would be desirable. The following arguments were given in support of revising and updating the text of the Recommendation:

- (i) Over the 38 years that have elapsed since the adoption of the Recommendation, the world has undergone tremendous change. One of the biggest concerns, in the 1950s and 60s, was the need to ensure the status of scientific researchers to guarantee their rights and freedoms and to prevent their utilization for purposes incompatible with universal human values and the survival of humankind, as well as to prevent the involuntary side-effects of technology, in particular with regard to its negative impact on the environment. Today, the role of science in human life has grown substantially, and researchers are expected to act, in support of economic development in particular, as much as to understand the world. At the same time, scientific advances sometimes provoke fears and anxiety, in particular with regard to possible impacts and

consequences of scientific research and technological developments for human beings and society. The emergence of unpredictable and uncertain, but possibly catastrophic, risks has stimulated the development of precautionary approaches that were little recognized in 1974.

- (ii) Research activities have become internationalized and more complex and require greater investments, at the same time as being reshaped in complex ways by digital technologies. Among the current challenges facing scientific communities are new modes of circulation of scientific information, which facilitate new, and in some ways problematic, forms of scientific behaviour, while also changing the conditions of access to scientific information, abolishing certain barriers while creating others.
- (iii) Expansion and globalization have also coincided with growing commercial and security pressures on science, as well as new and sharper forms of competition between institutions. One practical consequence has been a tendency towards contractualization of scientific research, with conditions attached that may conflict with traditional principles of open access and public benefit. It is unclear whether mechanisms for implementation of ethical principles can apply in the same way to privately funded and executed research as to research conducted in whole or in part within the public sector. The values of autonomy and freedom of science, and the welfare and rights of scientists, are not in question – but their contemporary setting and implications may be. Thus, the 1974 Recommendation is felt by some to need revision in order to reflect the variety of situations in which scientific researchers work and to spell out more precisely their social responsibilities. One submission proposed to consider revising the title of the Recommendation from the “Status of Scientific Researchers” to the “Status and Social Responsibility of Scientific Researchers”.
- (iv) Despite its enduring value, the 1974 Recommendation suffers in certain important respects from out-dated language and from an excessively narrow framing that excludes or underplays important issues of contemporary concern, including but not limited to gender, the role of the private sector and of military research, the globalization of science and technology, and the impact of new information technologies. The 1974 Recommendation predates the notion of sustainability as currently emphasized in international thinking on environmental issues. The Recommendation mentions environmental problems, but it is not free from anthropocentrism.
- (v) Revision of the 1974 Recommendation would be desirable. If successfully completed, a revised Recommendation would provide a powerful and relevant statement of science ethics as the basis for science policies that would favour the creation of an institutional order conducive to the realization of article 27(1) of the Universal Declaration of Human Rights.
- (vi) However, no steps taken to review or update the 1974 Recommendation on the Status of Scientific Researchers, including consultation thereon, should have the effect of qualifying or limiting the validity or applicability of the existing text. On the contrary, consistently with the decision taken by the Executive Board at its 189th session, UNESCO Member States should be urged to give due consideration, in their national science policies, to the general principles propounded in the existing 1974 Recommendation.

11. Question 4: *To whom, in your opinion, should any preliminary study of the technical and legal aspects of the desirability of revising the 1974 Recommendation on the Status of Scientific Researchers be entrusted, if so decided by the Executive Board:*

- (a) *To the Secretariat?*

- (b) *To an ad hoc Expert Group or to some other body such as the World Commission on the Ethics of Scientific Knowledge and Technology (COMEST)?*

The majority of replies to this question stipulate that the preparation of a preliminary study should be entrusted to an ad hoc Expert Group, composed of all or several members of COMEST along with representatives of different national commissions for UNESCO or permanent delegations to UNESCO. Several countries expressed their willingness to designate their representatives to such an ad hoc Expert Group. The previous work carried out by COMEST related to the desirability of reviewing the text of the 1974 Recommendation should be duly taken into account and be the basis of work of the ad hoc Working Group.

12. *Question 5: Which stakeholders should be consulted for this preliminary study of the technical and legal aspects of the desirability of revising the 1974 Recommendation?* It was proposed that in consultations regarding the possible updating of the 1974 Recommendation, alongside reference to the 1999 Declaration on Science and the Use of Scientific Knowledge and to the 2005 Universal Declaration on Bioethics and Human Rights, efforts should be made to build on the statements of ethical principles for science developed by relevant intergovernmental bodies, including at regional level, and by science communities through their academies and professional associations. To this end, provision should be made for a broad public consultation preparatory to consideration by the UNESCO Member States of specific proposals for revision of the text of the 1974 Recommendation.

13. *Question 6: Do you believe that this preliminary study should be considered by the Executive Board in 2013, with a view to the inclusion in the agenda of the 37th session of the General Conference of the question of the desirability of revising the 1974 Recommendation?* The majority of the replies to this question were positive. However, one submission indicated that it seems too optimistic to envisage that the process of studying issues relevant to the revision of the 1974 Recommendation might be finalized in 2013, given the need to consult different stakeholders. The ad hoc Working Group should, on this view, have at its disposal at least 18 months to produce a report for the attention of the Executive Board, which would be then transmitted to the General Conference.

14. *Question 7: If a process to review the 1974 Recommendation with a view to revision or updating were implemented, would you prefer it to focus on specific aspects of the text that might be improved or on consideration of the general issues to which a currently relevant normative instrument on science ethics and science policy should respond?* Different views were expressed on this matter. Some Member States proposed a total revision of the Recommendation with focus on the social responsibility of scientists and research ethics as two main issues of the biggest concern at the present stage of scientific development.

15. *Financial implications:* The action called for in this report is covered by existing provision in document 36 C/5. Further monitoring of the implementation of the 1974 Recommendation, including consultation of relevant bodies on issues relevant to Member States' consideration of the desirability of revising or updating it, taking due account of the role of science in the decisions adopted by the United Conference on Sustainable Development (Rio+20), can be ensured on the basis of staff time alone. It is understood that any ad hoc Expert Group established to conduct technical work in this area would function without physical meetings and that its activities would be organized so as to entail no cost to the regular budget of UNESCO. Mobilization of extrabudgetary funding to ensure broader participation, for instance in the context of the 2013 Ordinary Session of COMEST (scheduled in May 2013 in Bratislava, Slovakia), may be considered.



### III. Conclusion

16. Accordingly, the Executive Board may wish to consider adopting the following draft decision:

The Executive Board,

1. Recalling 177 EX/Decision 35 (I), and 189 EX/Decision 13 (III),
2. Having examined document 190 EX/24 Part IV and the report of the Committee on Conventions and Recommendations thereon contained in document 190 EX/...,
3. Expresses gratitude to Member States that submitted their national reports on the application of the 1974 Recommendation on the Status of Scientific Researchers and took part in the preliminary consultations that enabled the Director-General to prepare the expanded and consolidated report on the implementation of the 1974 Recommendation in line with 189 EX/Decision 13 (III);
4. Welcomes the opinions expressed by Member States that the 1974 Recommendation on the Status of Scientific Researchers represents an important element of an overarching and broad ethical framework to guide scientific activity and remains adequate and applicable for the science ethics and science policy, issues that it is designed to address;
5. Takes note of the opinions and views expressed by Member States concerning the desirability of revising and updating the 1974 Recommendation on the Status of Scientific Researchers;
6. Invites the Director-General to establish an ad hoc expert group, the terms of reference of which should include the preparation of a first draft of the preliminary study of the technical and legal aspects relating to the desirability of revising the 1974 Recommendation on the Status of Scientific Researchers;
7. Further invites the Director-General to organize an online consultation involving a broad range of actors and stakeholders concerning the elements of the 1974 Recommendation requiring a possible revision;
8. Requests the Director-General to submit to the Executive Board, at its 191st session, the aforementioned preliminary study, with a view to inscribing the question of a possible revision of the 1974 Recommendation on the agenda of the 37th session of the General Conference.



United Nations  
Educational, Scientific and  
Cultural Organization

# Executive Board

Hundred and ninetieth session

# 190 EX/24 Part IV Add.

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## IMPLEMENTATION OF STANDARD-SETTING INSTRUMENTS

### PART IV

#### 1974 RECOMMENDATION ON THE STATUS OF SCIENTIFIC RESEARCHERS

#### ADDENDUM

After the publication of document 190 EX/24 Part IV, the following Member States replied to the questionnaire concerning the 1974 Recommendation on the Status of Scientific Researchers: Afghanistan, Bosnia and Herzegovina, Cuba, Jordan, Kenya, Republic of Mauritius, Mexico and Russian Federation. Thus the following 40 Member States have expressed their views and opinions in the framework of the consultation process:

- Afghanistan, Armenia, Austria, Australia, Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Canada, China, Cyprus, Cuba, Denmark, Egypt, Finland, France, Germany, Japan, Jordan, Islamic Republic of Iran, Kazakhstan, Kenya, Republic of Korea, Latvia, Malawi, Mauritius, Mexico, Monaco, Peru, Philippines, Poland, Portugal, Qatar, Russian Federation, Senegal, Slovakia, the former Yugoslav Republic of Macedonia, the United States of America, Uzbekistan and Venezuela (Bolivarian Republic of).