




International  
Labour  
Organization



# *Gender Equality and Decent Work*

*Selected ILO Conventions  
and Recommendations  
that promote Gender Equality  
as of 2012*



Bureau for Gender Equality &  
International Labour Standards Department

**A GENDER  
EQUALITY  
T O O L**

# **Gender Equality and Decent Work**

**Selected ILO Conventions and Recommendations  
that promote Gender Equality  
as of 2012**

**Bureau for Gender Equality  
and International Labour Standards Department**

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## Preface

### Gender equality and the ILO

Non-discrimination and promoting equality have been fundamental principles underpinning the work of the International Labour Organisation (ILO) since its creation in 1919. These principles are also an integral component of the ILO Decent Work Agenda: to promote decent and productive work for women and men in conditions of freedom, equity, security and human dignity. All workers have the right to decent work, not only those working in the formal economy, but also the self-employed, casual and informal economy workers, as well as those, predominantly women, working in the care economy and private households.

International labour standards (Conventions and Recommendations) are one of the ILO's primary means of action to improve working and living conditions of women and men, and promote equality in the workplace for all workers. ILO standards apply equally to women and men, with some exceptions, in particular those standards addressing issues relating to maternity and women's reproductive role. However, there continues to be a gap between the rights set out in national and international standards and the real situation of workers. These rights must be made effective in practice. A major obstacle preventing workers from exercising their rights is a lack of awareness of their existence. Dissemination of information about these rights is, therefore, a vital step towards improving gender equality. This publication, one element in that dissemination process, brings together in an easily accessible form a range of international labour standards of particular relevance to the promotion of gender equality in the world of work.

While major progress has been achieved in ratification of the fundamental standards promoting equality between women and men and their translation into national law, gender issues also need to be taken into account in the application of other ILO standards. Gender mainstreaming in the application of International Labour Standards:

- helps to ensure that women and men have equal access to benefits derived from these standards;
- recognizes the needs, experiences and interests of both women and men;
- enables stakeholders to manage change;
- demonstrates a willingness to undertake differential measures to respond to the needs and interests of men and women; and
- advocates equality brought about by the implementation in practice of Conventions.

### ILO instruments for promoting gender equality

With respect to discrimination in the world of work, the International Labour Organization has the most comprehensive, dedicated instrument on the subject, namely the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). This Convention is also among the most widely ratified, with 169<sup>1</sup> countries having demonstrated their commitment to the principles embodied in this Convention through ratification. It provides that member States are to declare and pursue proactively a national policy to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination. The prohibited grounds of discrimination enumerated include sex as well as race, colour, religion, political opinion, national extraction and social origin. Another fundamental Convention is the Equal Remuneration Convention, 1951 (No. 100), which specifically addresses the issue of equal remuneration for men and women for work of equal value.<sup>2</sup> Two other Conventions have been acknowledged as

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<sup>1</sup> As of August 2011.

<sup>2</sup> Ratified by 168 member States as of August 2011.

being part of the key package of gender equality Conventions: the Workers with Family Responsibilities Convention, 1981 (No. 156), and the Maternity Protection Convention, 2000 (No. 183).

Two other fundamental Conventions are of particular relevance to gender equality: the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which contain enabling rights to pursue gender equality. The application of these two Conventions is particularly important for the realization of all other rights, including the human rights of women.

The Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) urge immediate action against the worst forms of child labour, and Convention No. 182 specifically provides for member States to take account of the special situation of girls.

Other Conventions with particular implications for gender equality include those on employment promotion, working conditions (Night Work, Home Work and Part-time Work), and specific categories (HIV and AIDS, Domestic Workers, Indigenous and Tribal People, and Migrant Workers).

Since the first publication of this collection of texts in 2006, some important developments have taken place regarding International Labour Standards, which made this update necessary:

- In 2008, the International Labour Conference adopted the *ILO Declaration on Social Justice for a Fair Globalization*, which places gender equality at the core of the Decent Work Agenda. This Declaration clearly spells out that “*gender equality and non-discrimination must be considered to be cross-cutting issues [in the four strategic objectives set out by the Decent Work Agenda: employment promotion, social protection, social dialogue and fundamental principles and rights at work]*”.
- In 2009, gender equality was discussed in depth by member States at the International Labour Conference.<sup>3</sup> The discussions resulted in the adoption of a *Resolution concerning gender equality at the heart of decent work*<sup>4</sup> which gives the ILO a 21st century framework for supporting gender-responsive policies in all its activities and programming.
- In 2010 the HIV and AIDS Recommendation, No. 200, was adopted.
- In 2011 the Domestic Workers Convention, No. 189 and its Recommendation, No. 201 were adopted.
- Also noteworthy in 2011 was the adoption of a *Resolution concerning gender equality and the use of language in legal texts of the ILO*<sup>5</sup>, affirming the importance of language in promoting gender equality, including by ensuring the equal visibility of women and men. By way of this resolution, gender equality should be reflected through the use of appropriate language in official legal texts of the Organization.

The instruments in this publication, as well as all other ILO Conventions and Recommendations, can be found at [www.ilo.org/ilolex/english](http://www.ilo.org/ilolex/english) which also provides detailed information on international labour standards, ratification and the supervisory system.

Further information can be obtained from the Equality Team of the ILO International Labour Standards Department ([egalite@ilo.org](mailto:egalite@ilo.org)) and the ILO Bureau for Gender Equality ([gender@ilo.org](mailto:gender@ilo.org)).

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<sup>3</sup> ILC98, Report VI

<sup>4</sup> ILC98-PR13, 2009, p. 64

<sup>5</sup> ILC100 PR3, 2011

# FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

- Equal Remuneration Convention, 1951, No. 100, and Recommendation No. 90
- Discrimination (Employment & Occupation) Convention, 1958, No. 111, and Recommendation No. 111
- Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87
- Right to Organise and Collective Bargaining Convention, 1949, No. 98
- Minimum Age Convention, 1973, No. 138, and Recommendation No. 146
- Worst Forms of Child Labour Convention, 1999, No. 182, and Recommendation No. 190
- Forced Labour Convention, 1930, No. 29, and Recommendation No. 35
- Abolition of Forced Labour Convention, 1957, No. 105

## MATERNITY PROTECTION, WORK AND FAMILY

- Maternity Protection Convention, 2000, No. 183, and Recommendation No. 191
- Workers with Family Responsibilities Convention, 1981, No. 156, and Recommendation No. 165

## EMPLOYMENT PROMOTION

- Employment Policy Convention, 1964, No. 122, and Recommendation No. 122
- Employment Policy (Supplementary Provision) Recommendation, 1984, No. 16
- Human Resources Development Convention, 1975, No. 142, and revised by Recommendation No. 195, 2004
- Termination of Employment Convention, 1982, No. 158, and Recommendation No. 166
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998, No. 189
- Employment Relationship Recommendation, 2006, No. 198

## SPECIFIC CATEGORIES

- HIV and AIDS Recommendation, 2010, No. 200
- Domestic Workers Convention, 2011, No. 189, and Recommendation No. 201
- Indigenous and Tribal People's Convention, 1989, No. 169
- Migration for Employment Convention (Revised), 1949, No. 97, and Recommendation No. 86
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143, and Recommendation No. 151

## WORKING CONDITIONS

- Night Work (Women) Convention (Revised), 1948, No. 89, Protocol of 1990 to the Night Work (Women) Convention No. 89
- Night Work Convention, 1990, No. 171, and Recommendation No. 178
- Home Work Convention, 1996, No. 177 and Recommendation No. 184
- Part-time Work Convention, 1994, No. 175, and Recommendation No. 182





## Convention No. 100

### **Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and  
Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention, adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

#### *Article 1*

For the purpose of this Convention:

- (a) the term *remuneration* includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- (b) the term *equal remuneration for men and women workers for work of equal value* refers to rates of remuneration established without discrimination based on sex.

#### *Article 2*

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of:

- (a) national laws or regulations;
- (b) legally established or recognised machinery for wage determination;
- (c) collective agreements between employers and workers; or
- (d) a combination of these various means.

#### *Article 3*

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

#### *Article 4*

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

(Final Provisions)

## Recommendation No. 90

### **Recommendation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation, supplementing the Equal Remuneration Convention, 1951,

adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one, the following Recommendation, which may be cited as the Equal Remuneration Recommendation, 1951:

Whereas the Equal Remuneration Convention, 1951, lays down certain general principles concerning equal remuneration for men and women workers for work of equal value;

Whereas the Convention provides that the application of the principle of equal remuneration for men and women workers for work of equal value shall be promoted or ensured by means appropriate to the methods in operation for determining rates of remuneration in the countries concerned;

Whereas it is desirable to indicate certain procedures for the progressive application of the principles laid down in the Convention;

Whereas it is at the same time desirable that all Members should, in applying these principles, have regard to methods of application which have been found satisfactory in certain countries;

The Conference recommends that each Member should, subject to the provisions of Article 2 of the Convention, apply the following provisions and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto:

1. Appropriate action should be taken, after consultation with the workers' organisations concerned or, where such organisations do not exist, with the workers concerned:

- (a) to ensure the application of the principle of equal remuneration for men and women workers for work of equal value to all employees of central Government departments or agencies; and
- (b) to encourage the application of the principle to employees of State, provincial or local Government departments or agencies, where these have jurisdiction over rates of remuneration.

2. Appropriate action should be taken, after consultation with the employers' and workers' organisations concerned, to ensure, as rapidly as practicable, the application of the principle of equal remuneration for men and women workers for work of equal value in all occupations, other than those mentioned in Paragraph 1, in which rates of remuneration are subject to statutory regulation or public control, particularly as regards:

- (a) the establishment of minimum or other wage rates in industries and services where such rates are determined under public authority;

- (b) industries and undertakings operated under public ownership or control; and
- (c) where appropriate, work executed under the terms of public contracts.

3.

(1) Where appropriate in the light of the methods in operation for the determination of rates of remuneration, provision should be made by legal enactment for the general application of the principle of equal remuneration for men and women workers for work of equal value.

(2) The competent public authority should take all necessary and appropriate measures to ensure that employers and workers are fully informed as to such legal requirements and, where appropriate, advised on their application.

4. When, after consultation with the organisations of workers and employers concerned, where such exist, it is not deemed feasible to implement immediately the principle of equal remuneration for men and women workers for work of equal value, in respect of employment covered by Paragraph 1, 2 or 3, appropriate provision should be made or caused to be made, as soon as possible, for its progressive application, by such measures as:

- (a) decreasing the differentials between rates of remuneration for men and rates of remuneration for women for work of equal value;
- (b) where a system of increments is in force, providing equal increments for men and women workers performing work of equal value.

5. Where appropriate for the purpose of facilitating the determination of rates or remuneration in accordance with the principle of equal remuneration for men and women workers for work of equal value, each Member should, in agreement with the employers' and workers' organisations concerned, establish or encourage the establishment of methods for objective appraisal of the work to be performed, whether by job analysis or by other procedures, with a view to providing a classification of jobs without regard to sex; such methods should be applied in accordance with the provisions of Article 2 of the Convention.

6. In order to facilitate the application of the principle of equal remuneration for men and women workers for work of equal value, appropriate action should be taken, where necessary, to raise the productive efficiency of women workers by such measures as:

- (a) ensuring that workers of both sexes have equal or equivalent facilities for vocational guidance or employment counselling, for vocational training and for placement;
- (b) taking appropriate measures to encourage women to use facilities for vocational guidance or employment counselling, for vocational training and for placement;
- (c) providing welfare and social services which meet the needs of women workers, particularly those with family responsibilities, and financing such services from general public funds or from social security or industrial welfare funds financed by payments made in respect of workers without regard to sex; and
- (d) promoting equality of men and women workers as regards access to occupations and posts without prejudice to the provisions of international regulations and of national laws and regulations concerning the protection of the health and welfare of women.

7. Every effort should be made to promote public understanding of the grounds on which it is considered that the principle of equal remuneration for men and women workers for work of equal value should be implemented.

8. Such investigations as may be desirable to promote the application of the principle should be undertaken.

## Convention No. 111

### Convention concerning Discrimination in Respect of Employment and Occupation, 1958

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and  
Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention, and  
Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and  
Considering further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights,  
adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

#### Article 1

1. For the purpose of this Convention the term *discrimination* includes:
  - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
  - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

#### Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

*Article 3*

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice:

- (a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

*Article 4*

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

*Article 5*

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.

2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

*Article 6*

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

(Final Provisions)

## Recommendation No. 111

### Recommendation concerning Discrimination in Respect of Employment and Occupation, 1958

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and  
Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing the Discrimination (Employment and Occupation) Convention, 1958,  
adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight, the following Recommendation, which may be cited as the Discrimination (Employment and Occupation) Recommendation, 1958:

The Conference recommends that each Member should apply the following provisions:

#### I. DEFINITIONS

1.

(1) For the purpose of this Recommendation the term *discrimination* includes:

- (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

(2) Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof is not deemed to be discrimination.

(3) For the purpose of this Recommendation the terms *employment* and *occupation* include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

#### II. FORMULATION AND APPLICATION OF POLICY

2. Each Member should formulate a national policy for the prevention of discrimination in employment and occupation. This policy should be applied by means of legislative measures, collective agreements between representative employers' and workers' organisations or in any other manner consistent with national conditions and practice, and should have regard to the following principles:



- (a) the promotion of equality of opportunity and treatment in employment and occupation is a matter of public concern;
- (b) all persons should, without discrimination, enjoy equality of opportunity and treatment in respect of:
  - (i) access to vocational guidance and placement services;
  - (ii) access to training and employment of their own choice on the basis of individual suitability for such training or employment;
  - (iii) advancement in accordance with their individual character, experience, ability and diligence;
  - (iv) security of tenure of employment;
  - (v) remuneration for work of equal value;
  - (vi) conditions of work including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (c) government agencies should apply non-discriminatory employment policies in all their activities;
- (d) employers should not practise or countenance discrimination in engaging or training any person for employment, in advancing or retaining such person in employment, or in fixing terms and conditions of employment; nor should any person or organisation obstruct or interfere, either directly or indirectly, with employers in pursuing this principle;
- (e) in collective negotiations and industrial relations the parties should respect the principle of equality of opportunity and treatment in employment and occupation, and should ensure that collective agreements contain no provisions of a discriminatory character in respect of access to, training for, advancement in or retention of employment or in respect of the terms and conditions of employment;
- (f) employers' and workers' organisations should not practise or countenance discrimination in respect of admission, retention of membership or participation in their affairs.

### 3. Each Member should:

- (a) ensure application of the principles of non-discrimination:
  - (i) in respect of employment under the direct control of a national authority;
  - (ii) in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (b) promote their observance, where practicable and necessary, in respect of other employment and other vocational guidance, vocational training and placement services by such methods as:
  - (i) encouraging state, provincial or local government departments or agencies and industries and undertakings operated under public ownership or control to ensure the application of the principles;
  - (ii) making eligibility for contracts involving the expenditure of public funds dependent on observance of the principles;
  - (iii) making eligibility for grants to training establishments and for a licence to operate a private employment agency or a private vocational guidance office dependent on observance of the principles.

4. Appropriate agencies, to be assisted where practicable by advisory committees composed of representatives of employers' and workers' organisations, where such exist, and of other interested bodies, should be established for the purpose of promoting application of the policy in all fields of public and private employment, and in particular:

- (a) to take all practicable measures to foster public understanding and acceptance of the principles of non-discrimination;

- (b) to receive, examine and investigate complaints that the policy is not being observed and, if necessary by conciliation, to secure the correction of any practices regarded as in conflict with the policy; and
- (c) to consider further any complaints which cannot be effectively settled by conciliation and to render opinions or issue decisions concerning the manner in which discriminatory practices revealed should be corrected.

5. Each Member should repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy.

6. Application of the policy should not adversely affect special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status are generally recognised to require special protection or assistance.

7. Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State should not be deemed to be discrimination, provided that the individual concerned has the right to appeal to a competent body established in accordance with national practice.

8. With respect to immigrant workers of foreign nationality and the members of their families, regard should be had to the provisions of the Migration for Employment Convention (Revised), 1949, relating to equality of treatment and the provisions of the Migration for Employment Recommendation (Revised), 1949, relating to the lifting of restrictions on access to employment.

9. There should be continuing co-operation between the competent authorities, representatives of employers and workers and appropriate bodies to consider what further positive measures may be necessary in the light of national conditions to put the principles of non-discrimination into effect.

### III. CO-ORDINATION OF MEASURES FOR THE PREVENTION OF DISCRIMINATION IN ALL FIELDS

10. The authorities responsible for action against discrimination in employment and occupation should co-operate closely and continuously with the authorities responsible for action against discrimination in other fields in order that measures taken in all fields may be co-ordinated.

**Convention No. 87****Convention concerning Freedom of Association  
and Protection of the Right to Organise, 1948**

The General Conference of the International Labour Organisation,  
Having been convened at San Francisco by the Governing Body of the International Labour Office,  
and having met in its Thirty-first Session on 17 June 1948;  
Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of  
association and protection of the right to organise, which is the seventh item on the agenda  
of the session;  
Considering that the Preamble to the Constitution of the International Labour Organisation  
declares “recognition of the principle of freedom of association” to be a means of improving  
conditions of labour and of establishing peace;  
Considering that the Declaration of Philadelphia reaffirms that “freedom of expression and of  
association are essential to sustained progress”;  
Considering that the International Labour Conference, at its Thirtieth Session, unanimously  
adopted the principles which should form the basis for international regulation;  
Considering that the General Assembly of the United Nations, at its Second Session, endorsed  
these principles and requested the International Labour Organisation to continue every effort  
in order that it may be possible to adopt one or several international Conventions;  
adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following  
Convention, which may be cited as the Freedom of Association and Protection of the Right to  
Organise Convention, 1948:

**PART I. FREEDOM OF ASSOCIATION***Article 1*

Each Member of the International Labour Organisation for which this Convention is in force  
undertakes to give effect to the following provisions.

*Article 2*

Workers and employers, without distinction whatsoever, shall have the right to establish and,  
subject only to the rules of the organisation concerned, to join organisations of their own choosing  
without previous authorisation.

*Article 3*

1. Workers’ and employers’ organisations shall have the right to draw up their constitutions  
and rules, to elect their representatives in full freedom, to organise their administration and activ-  
ities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right  
or impede the lawful exercise thereof.

*Article 4*

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

*Article 5*

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

*Article 6*

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

*Article 7*

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

*Article 8*

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

*Article 9*

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

*Article 10*

In this Convention the term *organisation* means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

## PART II. PROTECTION OF THE RIGHT TO ORGANISE

*Article 11*

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

(Miscellaneous Provisions)

(Final Provisions)

**Convention No. 98****Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and  
Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention,  
adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

*Article 1*

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to:
  - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
  - (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

*Article 2*

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

*Article 3*

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

*Article 4*

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

*Article 5*

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

*Article 6*

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

(Final Provisions)

**Convention No. 138****Convention concerning Minimum Age for Admission to Employment, 1973**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and  
Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and  
Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and  
Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and  
Having determined that these proposals shall take the form of an international Convention, adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

*Article 1*

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

*Article 2*

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisa-

tions of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement:

- (a) that its reason for doing so subsists; or
- (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

#### *Article 3*

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

#### *Article 4*

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

#### *Article 5*

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.



4. Any Member which has limited the scope of application of this Convention in pursuance of this Article:

- (a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
- (b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

#### *Article 6*

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of:

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

#### *Article 7*

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is:

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

#### *Article 8*

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

*Article 9*

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

*Article 10*

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.

2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.

3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.

4. When the obligations of this Convention are accepted:
- (a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
  - (b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,
  - (c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
  - (d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,
  - (e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,
  - (f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is

specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention:

- (a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,
- (b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,
- (c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof, if and when this Convention shall have come into force.

(Final Provisions)

**Recommendation No. 146**

R146

**Recommendation concerning Minimum Age  
for Admission to Employment, 1973**

The General Conference of the International Labour Organisation,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met in its Fifty-eighth Session on 6 June 1973, and  
 Recognising that the effective abolition of child labour and the progressive raising of the minimum  
 age for admission to employment constitute only one aspect of the protection and advance-  
 ment of children and young persons, and  
 Noting the concern of the whole United Nations system with such protection and advancement, and  
 Having adopted the Minimum Age Convention, 1973, and  
 Desirous to define further certain elements of policy which are the concern of the International  
 Labour Organisation, and  
 Having decided upon the adoption of certain proposals regarding minimum age for admission to  
 employment, which is the fourth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of a Recommendation supplementing  
 the Minimum Age Convention, 1973,  
 adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the  
 following Recommendation, which may be cited as the Minimum Age Recommendation, 1973:

**I. NATIONAL POLICY**

1. To ensure the success of the national policy provided for in Article 1 of the Minimum Age Convention, 1973, high priority should be given to planning for and meeting the needs of children and youth in national development policies and programmes and to the progressive extension of the inter-related measures necessary to provide the best possible conditions of physical and mental growth for children and young persons.

2. In this connection special attention should be given to such areas of planning and policy as the following:

- (a) firm national commitment to full employment, in accordance with the Employment Policy Convention and Recommendation, 1964, and the taking of measures designed to promote employment-oriented development in rural and urban areas;
- (b) the progressive extension of other economic and social measures to alleviate poverty wherever it exists and to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children;
- (c) the development and progressive extension, without any discrimination, of social security and family welfare measures aimed at ensuring child maintenance, including children's allowances;
- (d) the development and progressive extension of adequate facilities for education and vocational orientation and training appropriate in form and content to the needs of the children and young persons concerned;

(e) the development and progressive extension of appropriate facilities for the protection and welfare of children and young persons, including employed young persons, and for the promotion of their development.

3. Particular account should as necessary be taken of the needs of children and young persons who do not have families or do not live with their own families and of migrant children and young persons who live and travel with their families. Measures taken to that end should include the provision of fellowships and vocational training.

4. Full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively ensured up to an age at least equal to that specified for admission to employment in accordance with Article 2 of the Minimum Age Convention, 1973.

5.

(1) Consideration should be given to measures such as preparatory training, not involving hazards, for types of employment or work in respect of which the minimum age prescribed in accordance with Article 3 of the Minimum Age Convention, 1973, is higher than the age of completion of compulsory full-time schooling.

(2) Analogous measures should be envisaged where the professional exigencies of a particular occupation include a minimum age for admission which is higher than the age of completion of compulsory full-time schooling.

## II. MINIMUM AGE

6. The minimum age should be fixed at the same level for all sectors of economic activity.

7.

(1) Members should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the Minimum Age Convention, 1973.

(2) Where the minimum age for employment or work covered by Article 2 of the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.

8. Where it is not immediately feasible to fix a minimum age for all employment in agriculture and in related activities in rural areas, a minimum age should be fixed at least for employment on plantations and in the other agricultural undertakings referred to in Article 5, paragraph 3, of the Minimum Age Convention, 1973.

## III. HAZARDOUS EMPLOYMENT OR WORK

9. Where the minimum age for admission to types of employment or work which are likely to jeopardise the health, safety or morals of young persons is still below 18 years, immediate steps should be taken to raise it to that level.

10.

(1) In determining the types of employment or work to which Article 3 of the Minimum Age Convention, 1973, applies, full account should be taken of relevant international labour standards, such as those concerning dangerous substances, agents or processes (including ionising radiations), the lifting of heavy weights and underground work.

(2) The list of the types of employment or work in question should be re-examined periodically and revised as necessary, particularly in the light of advancing scientific and technological knowledge.

11. Where, by reference to Article 5 of the Minimum Age Convention, 1973, a minimum age is not immediately fixed for certain branches of economic activity or types of undertakings, appropriate minimum age provisions should be made applicable therein to types of employment or work presenting hazards for young persons.

#### IV. CONDITIONS OF EMPLOYMENT

12.

(1) Measures should be taken to ensure that the conditions in which children and young persons under the age of 18 years are employed or work reach and are maintained at a satisfactory standard. These conditions should be supervised closely.

(2) Measures should likewise be taken to safeguard and supervise the conditions in which children and young persons undergo vocational orientation and training within undertakings, training institutions and schools for vocational or technical education and to formulate standards for their protection and development.

13.

(1) In connection with the application of the preceding Paragraph, as well as in giving effect to Article 7, paragraph 3, of the Minimum Age Convention, 1973, special attention should be given to:

- (a) the provision of fair remuneration and its protection, bearing in mind the principle of equal pay for equal work;
- (b) the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training (including the time needed for homework related thereto), for rest during the day and for leisure activities;
- (c) the granting, without possibility of exception save in genuine emergency, of a minimum consecutive period of 12 hours' night rest, and of customary weekly rest days;
- (d) the granting of an annual holiday with pay of at least four weeks and, in any case, not shorter than that granted to adults;
- (e) coverage by social security schemes, including employment injury, medical care and sickness benefit schemes, whatever the conditions of employment or work may be;
- (f) the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision.

(2) Subparagraph (1) of this Paragraph applies to young seafarers in so far as they are not covered in respect of the matters dealt with therein by international labour Conventions or Recommendations specifically concerned with maritime employment.

#### V. ENFORCEMENT

14.

(1) Measures to ensure the effective application of the Minimum Age Convention, 1973, and of this Recommendation should include:

- (a) the strengthening as necessary of labour inspection and related services, for instance by the special training of inspectors to detect abuses in the employment or work of children and young persons and to correct such abuses; and
- (b) the strengthening of services for the improvement and inspection of training in undertakings.

(2) Emphasis should be placed on the role which can be played by inspectors in supplying information and advice on effective means of complying with relevant provisions as well as in securing their enforcement.

(3) Labour inspection and inspection of training in undertakings should be closely co-ordinated to provide the greatest economic efficiency and, generally, the labour administration services should work in close co-operation with the services responsible for the education, training, welfare and guidance of children and young persons.

15. Special attention should be paid:

- (a) to the enforcement of provisions concerning employment in hazardous types of employment or work; and

- (b) in so far as education or training is compulsory, to the prevention of the employment or work of children and young persons during the hours when instruction is available.

16. The following measures should be taken to facilitate the verification of ages:

- (a) the public authorities should maintain an effective system of birth registration, which should include the issue of birth certificates;
- (b) employers should be required to keep and to make available to the competent authority registers or other documents indicating the names and ages or dates of birth, duly certified wherever possible, not only of children and young persons employed by them but also of those receiving vocational orientation or training in their undertakings;
- (c) children and young persons working in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make the checking of employers' records impracticable should be issued licences or other documents indicating their eligibility for such work.

**Convention No. 182**

C182

## **Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 87th Session on 1 June 1999, and  
Considering the need to adopt new instruments for the prohibition and elimination of the worst  
forms of child labour, as the main priority for national and international action, including  
international cooperation and assistance, to complement the Convention and the Recommen-  
dation concerning Minimum Age for Admission to Employment, 1973, which remain funda-  
mental instruments on child labour, and  
Considering that the effective elimination of the worst forms of child labour requires immediate  
and comprehensive action, taking into account the importance of free basic education and the  
need to remove the children concerned from all such work and to provide for their rehabilita-  
tion and social integration while addressing the needs of their families, and  
Recalling the resolution concerning the elimination of child labour adopted by the International  
Labour Conference at its 83rd Session in 1996, and  
Recognizing that child labour is to a great extent caused by poverty and that the long-term solution  
lies in sustained economic growth leading to social progress, in particular poverty alleviation  
and universal education, and  
Recalling the Convention on the Rights of the Child adopted by the United Nations General  
Assembly on 20 November 1989, and  
Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up,  
adopted by the International Labour Conference at its 86th Session in 1998, and  
Recalling that some of the worst forms of child labour are covered by other international instruments,  
in particular the Forced Labour Convention, 1930, and the United Nations Supplementary  
Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar  
to Slavery, 1956, and  
Having decided upon the adoption of certain proposals with regard to child labour, which is the  
fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention;  
adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the  
following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

### *Article 1*

Each Member which ratifies this Convention shall take immediate and effective measures to  
secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.



*Article 2*

For the purposes of this Convention, the term *child* shall apply to all persons under the age of 18.

*Article 3*

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

*Article 4*

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

*Article 5*

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

*Article 6*

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.

2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

*Article 7*

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.

2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (a) prevent the engagement of children in the worst forms of child labour;

- (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
- (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
- (d) identify and reach out to children at special risk; and
- (e) take account of the special situation of girls.

3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

C182

*Article 8*

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

(Final Provisions)

**Recommendation No. 190****R190****Recommendation concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-seventh Session on 1 June 1999, and  
Having adopted the Worst Forms of Child Labour Convention, 1999, and  
Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;  
adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.

1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as “the Convention”), and should be applied in conjunction with them.

**I. PROGRAMMES OF ACTION**

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers’ and workers’ organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

- (a) identifying and denouncing the worst forms of child labour;
- (b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;
- (c) giving special attention to:
  - (i) younger children;
  - (ii) the girl child;
  - (iii) the problem of hidden work situations, in which girls are at special risk;
  - (iv) other groups of children with special vulnerabilities or needs;
- (d) identifying, reaching out to and working with communities where children are at special risk;
- (e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

## II. HAZARDOUS WORK

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, under water, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

## III. IMPLEMENTATION

5.

(1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.

6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:

- (a) gathering and exchanging information concerning criminal offences, including those involving international networks;
- (b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;
- (c) registering perpetrators of such offences.

12. Members should provide that the following worst forms of child labour are criminal offences:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.

13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

- (a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;
- (b) involving and training employers' and workers' organizations and civic organizations;
- (c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;
- (d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;
- (e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;
- (f) encouraging the development of policies by undertakings to promote the aims of the Convention;
- (g) monitoring and giving publicity to best practices on the elimination of child labour;
- (h) giving publicity to legal or other provisions on child labour in the different languages or dialects;
- (i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;
- (j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;
- (k) as far as possible, taking into account in national programmes of action:
  - (i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and
  - (ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:

- (a) mobilizing resources for national or international programmes;
- (b) mutual legal assistance;
- (c) technical assistance including the exchange of information;
- (d) support for social and economic development, poverty eradication programmes and universal education.

**Convention No. 29****Convention concerning Forced or Compulsory Labour,  
1930**

C29

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Fourteenth Session on 10 June 1930, and  
Having decided upon the adoption of certain proposals with regard to forced or compulsory labour,  
which is included in the first item on the agenda of the Session, and  
Having determined that these proposals shall take the form of an international Convention,  
adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the follow-  
ing Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by  
the Members of the International Labour Organisation in accordance with the provisions of the  
Constitution of the International Labour Organisation:

*Article 1*

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

*Article 2*

1. For the purposes of this Convention the term *forced or compulsory labour* shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term *forced or compulsory labour* shall not include:
  - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
  - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
  - (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

- (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
- (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

#### *Article 3*

For the purposes of this Convention the term *competent authority* shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

#### *Article 4*

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

#### *Article 5*

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.
2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

(Articles 6-26: Transitional Provisions)

(Final Provisions)



**Recommendation No. 35****Recommendation concerning Indirect Compulsion to Labour, 1930**

R35

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and  
Having decided upon the adoption of certain proposals with regard to indirect compulsion to labour, which is included in the first item on the agenda of the Session, and  
Having determined that these proposals should take the form of a Recommendation,  
adopts this twenty-eighth day of June of the year one thousand nine hundred thirty, the following Recommendation, which may be cited as the Forced Labour (Indirect Compulsion) Recommendation, 1930, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:  
Having adopted a Convention concerning forced or compulsory labour, and  
Desiring to supplement this Convention by a statement of the principles which appear best fitted to guide the policy of the Members in endeavouring to avoid any indirect compulsion to labour which would lay too heavy a burden upon the populations of territories to which the Convention may apply,  
The Conference recommends that each Member should take the following principles into consideration:

**I**

The amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the population, are factors which should be taken into consideration in deciding questions connected with the economic development of territories in a primitive stage of development, and, in particular, when deciding upon:

- (a) increases in the number and extent of industrial, mining and agricultural undertakings in such territories;
- (b) the non-indigenous settlement, if any, which is to be permitted;
- (c) the granting of forest or other concessions, with or without the character of monopolies.

**II**

The desirability of avoiding indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, and particularly such means as:

- (a) imposing such taxation upon populations as would have the effect of compelling them to seek wage-earning employment with private undertakings;

- (b) imposing such restrictions on the possession, occupation, or use of land as would have the effect of rendering difficult the gaining of a living by independent cultivation;
- (c) extending abusively the generally accepted meaning of vagrancy;
- (d) adopting such pass laws as would have the effect of placing workers in the service of others in a position of advantage as compared with that of other workers.

### III

The desirability of avoiding any restrictions on the voluntary flow of labour from one form of employment to another or from one district to another which might have the indirect effect of compelling workers to take employment in particular industries or districts, except where such restrictions are considered necessary in the interest of the population or of the workers concerned.

**Convention No. 105****Convention concerning the Abolition of Forced Labour, 1957**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5 June 1957, and

Having considered the question of forced labour, which is the fourth item on the agenda of the session, and

Having noted the provisions of the Forced Labour Convention, 1930, and

Having noted that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and

Having noted that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and

Having decided upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-seven the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

*Article 1*

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour:

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) as a method of mobilising and using labour for purposes of economic development;
- (c) as a means of labour discipline;
- (d) as a punishment for having participated in strikes;
- (e) as a means of racial, social, national or religious discrimination.

*Article 2*

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

(Final Provisions)

## FUNDAMENTAL PRINCIPLES AND RIGHTS

- Equal Remuneration Convention, 1951, No. 100, and Recommendation No. 90
- Discrimination (Employment & Occupation) Convention, 1958, No. 111, and Recommendation No. 111
- Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87
- Right to Organise and Collective Bargaining Convention, 1949, No. 98
- Minimum Age Convention, 1973, No. 138, and Recommendation No. 146
- Worst Forms of Child Labour Convention, 1999, No. 182, and Recommendation No. 190
- Forced Labour Convention, 1930, No. 29, and Recommendation No. 35
- Abolition of Forced Labour Convention, 1957, No. 105

## MATERNITY PROTECTION, WORK AND FAMILY

- Maternity Protection Convention, 2000, No. 183, and Recommendation No. 191
- Workers with Family Responsibilities Convention, 1981, No. 156, and Recommendation No. 165

## EMPLOYMENT PROMOTION

- Employment Policy Convention, 1964, No. 122, and Recommendation No. 122
- Employment Policy (Supplementary Provision) Recommendation, 1984, No. 16
- Human Resources Development Convention, 1975, No. 142, and revised by Recommendation No. 195, 2004
- Termination of Employment Convention, 1982, No. 158, and Recommendation No. 166
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998, No. 189
- Employment Relationship Recommendation, 2006, No. 198

## SPECIFIC CATEGORIES

- HIV and AIDS Recommendation, 2010, No. 200
- Domestic Workers Convention, 2011, No. 189, and Recommendation No. 201
- Indigenous and Tribal People's Convention, 1989, No. 169
- Migration for Employment Convention (Revised), 1949, No. 97, and Recommendation No. 86
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143, and Recommendation No. 151

## WORKING CONDITIONS

- Night Work (Women) Convention (Revised), 1948, No. 89, Protocol of 1990 to the Night Work (Women) Convention No. 89
- Night Work Convention, 1990, No. 171, and Recommendation No. 178
- Home Work Convention, 1996, No. 177 and Recommendation No. 184
- Part-time Work Convention, 1994, No. 175, and Recommendation No. 182



## Convention 183

### Convention concerning the Revision of the Maternity Protection Convention (Revised), 2000

The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 88th Session on 30 May 2000, and  
 Noting the need to revise the Maternity Protection Convention (Revised), 1952, and the Maternity Protection Recommendation, 1952, in order to further promote equality of all women in the workforce and the health and safety of the mother and child, and in order to recognize the diversity in economic and social development of Members, as well as the diversity of enterprises, and the development of the protection of maternity in national law and practice, and  
 Noting the provisions of the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979), the United Nations Convention on the Rights of the Child (1989), the Beijing Declaration and Platform for Action (1995), the International Labour Organization's Declaration on Equality of Opportunity and Treatment for Women Workers (1975), the International Labour Organization's Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998), as well as the international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, in particular the Convention concerning Workers with Family Responsibilities, 1981, and  
 Taking into account the circumstances of women workers and the need to provide protection for pregnancy, which are the shared responsibility of government and society, and  
 Having decided upon the adoption of certain proposals with regard to the revision of the Maternity Protection Convention (Revised), 1952, and Recommendation, 1952, which is the fourth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of an international Convention;  
 adopts this fifteenth day of June of the year two thousand the following Convention, which may be cited as the Maternity Protection Convention, 2000.

#### SCOPE

##### *Article 1*

For the purposes of this Convention, the term *woman* applies to any female person without discrimination whatsoever and the term *child* applies to any child without discrimination whatsoever.

##### *Article 2*

1. This Convention applies to all employed women, including those in atypical forms of dependent work.
2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope

of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

## HEALTH PROTECTION

### *Article 3*

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

## MATERNITY LEAVE

### *Article 4*

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.

2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.

3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.

4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.

5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

## LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

### *Article 5*

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

## BENEFITS

### *Article 6*

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.

2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.

3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.

5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.

6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:

- (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
- (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

#### *Article 7*

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.

2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

## EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

#### *Article 8*

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.



2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

*Article 9*

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 – access to employment.

2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:

- (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
- (b) where there is a recognized or significant risk to the health of the woman and child.

C183

## BREASTFEEDING MOTHERS

*Article 10*

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

## PERIODIC REVIEW

*Article 11*

Each Member shall examine periodically, in consultation with the representative organizations of employers and workers, the appropriateness of extending the period of leave referred to in Article 4 or of increasing the amount or the rate of the cash benefits referred to in Article 6.

## IMPLEMENTATION

*Article 12*

This Convention shall be implemented by means of laws or regulations, except in so far as effect is given to it by other means such as collective agreements, arbitration awards, court decisions, or in any other manner consistent with national practice.

(Final Provisions)

**Recommendation No. 191****Recommendation concerning the Revision of the Maternity Protection Recommendation, 2000**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 88th Session on 30 May 2000, and Having decided upon the adoption of certain  
proposals with regard to maternity protection, which is the fourth item on the agenda of the  
session, and

Having determined that these proposals shall take the form of a Recommendation supplementing  
the Maternity Protection Convention, 2000 (hereinafter referred to as “the Convention”),

adopts this fifteenth day of June of the year two thousand the following Recommendation,  
which may be cited as the Maternity Protection Recommendation, 2000.

**R191****MATERNITY LEAVE**

1.

(1) Members should endeavour to extend the period of maternity leave referred to in Article 4 of the Convention to at least 18 weeks.

(2) Provision should be made for an extension of the maternity leave in the event of multiple births.

(3) To the extent possible, measures should be taken to ensure that the woman is entitled to choose freely the time at which she takes any non-compulsory portion of her maternity leave, before or after childbirth.

**BENEFITS**

2. Where practicable, and after consultation with the representative organizations of employers and workers, the cash benefits to which a woman is entitled during leave referred to in Articles 4 and 5 of the Convention should be raised to the full amount of the woman’s previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.

3. To the extent possible, the medical benefits provided for in Article 6, paragraph 7, of the Convention should include:

- (a) care given in a doctor’s office, at home or in a hospital or other medical establishment by a general practitioner or a specialist;
- (b) maternity care given by a qualified midwife or by another maternity service at home or in a hospital or other medical establishment;
- (c) maintenance in a hospital or other medical establishment;
- (d) any necessary pharmaceutical and medical supplies, examinations and tests prescribed by a medical practitioner or other qualified person; and
- (e) dental and surgical care.

## FINANCING OF BENEFITS

4. Any contribution due under compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.

## EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

5. A woman should be entitled to return to her former position or an equivalent position paid at the same rate at the end of her leave referred to in Article 5 of the Convention. The period of leave referred to in Articles 4 and 5 of the Convention should be considered as a period of service for the determination of her rights.

## HEALTH PROTECTION

6.

(1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.

(2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:

- (a) elimination of risk;
- (b) an adaptation of her conditions of work;
- (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
- (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.

(3) Measures referred to in subparagraph (2) should in particular be taken in respect of:

- (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
- (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
- (c) work requiring special equilibrium;
- (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.

(4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.

(5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.

(6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

## BREASTFEEDING MOTHERS

(7) On production of a medical certificate or other appropriate certification as determined by national law and practice, the frequency and length of nursing breaks should be adapted to particular needs.

(8) Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.

(9) Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.

### RELATED TYPES OF LEAVE

10.

(1) In the case of the death of the mother before the expiry of postnatal leave, the employed father of the child should be entitled to take leave of a duration equal to the unexpired portion of the postnatal maternity leave.

(2) In the case of sickness or hospitalization of the mother after childbirth and before the expiry of postnatal leave, and where the mother cannot look after the child, the employed father of the child should be entitled to leave of a duration equal to the unexpired portion of the postnatal maternity leave, in accordance with national law and practice, to look after the child.

(3) The employed mother or the employed father of the child should be entitled to parental leave during a period following the expiry of maternity leave.

(4) The period during which parental leave might be granted, the length of the leave and other modalities, including the payment of parental benefits and the use and distribution of parental leave between the employed parents, should be determined by national laws or regulations or in any manner consistent with national practice.

(5) Where national law and practice provide for adoption, adoptive parents should have access to the system of protection offered by the Convention, especially regarding leave, benefits and employment protection.

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**Convention No. 156****Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, 1981**

- The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-seventh Session on 3 June 1981, and
- Noting the Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organisation which recognises that “all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”, and
- Noting the terms of the Declaration on Equality of Opportunity and Treatment for Women Workers and of the resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, adopted by the International Labour Conference in 1975, and
- Noting the provisions of international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, namely the Equal Remuneration Convention and Recommendation, 1951, the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and Part VIII of the Human Resources Development Recommendation, 1975, and
- Recalling that the Discrimination (Employment and Occupation) Convention, 1958, does not expressly cover distinctions made on the basis of family responsibilities, and considering that supplementary standards are necessary in this respect, and
- Noting the terms of the Employment (Women with Family Responsibilities) Recommendation, 1965, and considering the changes which have taken place since its adoption, and
- Noting that instruments on equality of opportunity and treatment for men and women have also been adopted by the United Nations and other specialised agencies, and recalling, in particular, the fourteenth paragraph of the Preamble of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, to the effect that States Parties are “aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women”, and
- Recognising that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies, and
- Recognising the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, and
- Considering that many of the problems facing all workers are aggravated in the case of workers with family responsibilities and recognising the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general, and
- Having decided upon the adoption of certain proposals with regard to equal opportunities and equal treatment for men and women workers: workers with family responsibilities, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, adopts this twenty-third day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Workers with Family Responsibilities Convention, 1981:

#### *Article 1*

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

3. For the purposes of this Convention, the terms dependent child and other member of the immediate family who clearly needs care or support mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention.

4. The workers covered by virtue of paragraphs 1 and 2 of this Article are hereinafter referred to as *workers with family responsibilities*.

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#### *Article 2*

This Convention applies to all branches of economic activity and all categories of workers.

#### *Article 3*

1. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

2. For the purposes of paragraph 1 of this Article, the term *discrimination* means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

#### *Article 4*

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken:

- (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) to take account of their needs in terms and conditions of employment and in social security.

#### *Article 5*

All measures compatible with national conditions and possibilities shall further be taken:

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

*Article 6*

The competent authorities and bodies in each country shall take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

*Article 7*

All measures compatible with national conditions and possibilities, including measures in the field of vocational guidance and training, shall be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

*Article 8*

Family responsibilities shall not, as such, constitute a valid reason for termination of employment.

*Article 9*

The provisions of this Convention may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.

*Article 10*

1. The provisions of this Convention may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken shall apply in any case to all the workers covered by Article 1, paragraph 1.

2. Each Member which ratifies this Convention shall indicate in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation in what respect, if any, it intends to make use of the faculty given by paragraph 1 of this Article, and shall state in subsequent reports the extent to which effect has been given or is proposed to be given to the Convention in that respect.

*Article 11*

Employers' and workers' organisations shall have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Convention.

(Final Provisions)

**Recommendation No. 165****Recommendation concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, 1981**

The General Conference of the International Labour Organisation,  
 Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-seventh Session on 3 June 1981, and  
 Noting the Declaration of Philadelphia concerning the Aims and Purposes of the International Labour Organisation which recognises that all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and  
 Noting the terms of the Declaration on Equality of Opportunity and Treatment for Women Workers and of the resolution concerning a plan of action with a view to promoting equality of opportunity and treatment for women workers, adopted by the International Labour Conference in 1975, and  
 Noting the provisions of international labour Conventions and Recommendations aimed at ensuring equality of opportunity and treatment for men and women workers, namely the Equal Remuneration Convention and Recommendation, 1951, the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and Part VIII of the Human Resources Development Recommendation, 1975, and  
 Recalling that the Discrimination (Employment and Occupation) Convention, 1958, does not expressly cover distinctions made on the basis of family responsibilities, and considering that supplementary standards are necessary in this respect, and  
 Noting the terms of the Employment (Women with Family Responsibilities) Recommendation, 1965, and considering the changes which have taken place since its adoption, and  
 Noting that instruments on equality of opportunity and treatment for men and women have also been adopted by the United Nations and other specialised agencies, and recalling, in particular, the fourteenth paragraph of the Preamble of the United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, to the effect that States Parties are aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women, and  
 Recognising that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies, and  
 Recognising the need to create effective equality of opportunity and treatment as between men and women workers with family responsibilities and between such workers and other workers, and  
 Considering that many of the problems facing all workers are aggravated in the case of workers with family responsibilities and recognising the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general, and  
 Having decided upon the adoption of certain proposals with regard to equal opportunities and equal treatment for men and women workers: workers with family responsibilities, which is the fifth item on the agenda of the session, and

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Having determined that these proposals shall take the form of a Recommendation, adopts this twenty-third day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Workers with Family Responsibilities Recommendation, 1981:

## I. DEFINITION, SCOPE AND MEANS OF IMPLEMENTATION

1.

(1) This Recommendation applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.

(2) The provision of this Recommendation should also be applied to men and women workers with responsibilities in relation to other members of their immediate family who need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating or advancing in economic activity.

(3) For the purposes of this Recommendation, the terms *dependent child* and *other member of the immediate family who needs care or support* mean persons defined as such in each country by one of the means referred to in Paragraph 3 of this Recommendation.

(4) The workers covered by virtue of subparagraphs (1) and (2) of this Paragraph are hereinafter referred to as workers with family responsibilities.

2. This Recommendation applies to all branches of economic activity and all categories of workers.

3. The provisions of this Recommendation may be applied by laws or regulations, collective agreements, works rules, arbitration awards, court decisions or a combination of these methods, or in any other manner consistent with national practice which may be appropriate, account being taken of national conditions.

4. The provisions of this Recommendation may be applied by stages if necessary, account being taken of national conditions: Provided that such measures of implementation as are taken should apply in any case to all the workers covered by Paragraph 1, subparagraph (1).

5. Employers' and workers' organisations should have the right to participate, in a manner appropriate to national conditions and practice, in devising and applying measures designed to give effect to the provisions of this Recommendation.

## II. NATIONAL POLICY

6. With a view to creating effective equality of opportunity and treatment for men and women workers, each Member should make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

7. Within the framework of a national policy to promote equality of opportunity and treatment for men and women workers, measures should be adopted and applied with a view to preventing direct or indirect discrimination on the basis of marital status or family responsibilities.

8.

(1) For the purposes of Paragraphs 6 and 7 above, the term *discrimination* means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

(2) During a transitional period special measures aimed at achieving effective equality between men and women workers should not be regarded as discriminatory.

9. With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities should be taken:

- (a) to enable workers with family responsibilities to exercise their right to vocational training and to free choice of employment;
- (b) to take account of their needs in terms and conditions of employment and in social security; and
- (c) to develop or promote child-care, family and other community services, public or private, responding to their needs.

10. The competent authorities and bodies in each country should take appropriate measures to promote information and education which engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

11. The competent authorities and bodies in each country should take appropriate measures:

- (a) to undertake or promote such research as may be necessary into the various aspects of the employment of workers with family responsibilities with a view to providing objective information on which sound policies and measures may be based; and
- (b) to promote such education as will encourage the sharing of family responsibilities between men and women and enable workers with family responsibilities better to meet their employment and family responsibilities.

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### III. TRAINING AND EMPLOYMENT

12. All measures compatible with national conditions and possibilities should be taken to enable workers with family responsibilities to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to those responsibilities.

13. In accordance with national policy and practice, vocational training facilities and, where possible, paid educational leave arrangements to use such facilities should be made available to workers with family responsibilities.

14. Such services as may be necessary to enable workers with family responsibilities to enter or re-enter employment should be available, within the framework of existing services for all workers or, in default thereof, along lines appropriate to national conditions; they should include, free of charge to the workers, vocational guidance, counselling, information and placement services which are staffed by suitably trained personnel and are able to respond adequately to the special needs of workers with family responsibilities.

15. Workers with family responsibilities should enjoy equality of opportunity and treatment with other workers in relation to preparation for employment, access to employment, advancement within employment and employment security.

16. Marital status, family situation or family responsibilities should not, as such, constitute valid reasons for refusal or termination of employment.

### IV. TERMS AND CONDITIONS OF EMPLOYMENT

17. All measures compatible with national conditions and possibilities and with the legitimate interests of other workers should be taken to ensure that terms and conditions of employment are such as to enable workers with family responsibilities to reconcile their employment and family responsibilities.

18. Particular attention should be given to general measures for improving working conditions and the quality of working life, including measures aiming at:

- (a) the progressive reduction of daily hours of work and the reduction of overtime, and

- (b) more flexible arrangements as regards working schedules, rest periods and holidays, account being taken of the stage of development and the particular needs of the country and of different sectors of activity.

19. Whenever practicable and appropriate, the special needs of workers, including those arising from family responsibilities, should be taken into account in shift-work arrangements and assignments to night work.

20. Family responsibilities and considerations such as the place of employment of the spouse and the possibilities of educating children should be taken into account when transferring workers from one locality to another.

21.

(1) With a view to protecting part-time workers, temporary workers and homeworkers, many of whom have family responsibilities, the terms and conditions on which these types of employment are performed should be adequately regulated and supervised.

(2) The terms and conditions of employment, including social security coverage, of part-time workers and temporary workers should be, to the extent possible, equivalent to those of full-time and permanent workers respectively; in appropriate cases, their entitlement may be calculated on a pro rata basis.

(3) Part-time workers should be given the option to obtain or return to full-time employment when a vacancy exists and when the circumstances which determined assignment to part-time employment no longer exist.

22.

(1) Either parent should have the possibility, within a period immediately following maternity leave, of obtaining leave of absence (parental leave), without relinquishing employment and with rights resulting from employment being safeguarded.

(2) The length of the period following maternity leave and the duration and conditions of the leave of absence referred to in subparagraph (1) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.

(3) The leave of absence referred to in subparagraph (1) of this Paragraph may be introduced gradually.

23.

(1) It should be possible for a worker, man or woman, with family responsibilities in relation to a dependent child to obtain leave of absence in the case of its illness.

(2) It should be possible for a worker with family responsibilities to obtain leave of absence in the case of the illness of another member of the worker's immediate family who needs that worker's care or support.

(3) The duration and conditions of the leave of absence referred to in subparagraphs (1) and (2) of this Paragraph should be determined in each country by one of the means referred to in Paragraph 3 of this Recommendation.

## V. CHILD-CARE AND FAMILY SERVICES AND FACILITIES

24. With a view to determining the scope and character of the child-care and family services and facilities needed to assist workers with family responsibilities to meet their employment and family responsibilities, the competent authorities should, in co-operation with the public and private organisations concerned, in particular employers' and workers' organisations, and within the scope of their resources for collecting information, take such measures as may be necessary and appropriate:

- (a) to collect and publish adequate statistics on the number of workers with family responsibilities engaged in or seeking employment and on the number and age of their children and of other dependants requiring care; and

(b) to ascertain, through systematic surveys conducted more particularly in local communities, the needs and preferences for child-care and family services and facilities.

25. The competent authorities should, in co-operation with the public and private organisations concerned, take appropriate steps to ensure that child-care and family services and facilities meet the needs and preferences so revealed; to this end they should, taking account of national and local circumstances and possibilities, in particular:

(a) encourage and facilitate the establishment, particularly in local communities, of plans for the systematic development of child-care and family services and facilities, and

(b) themselves organise or encourage and facilitate the provision of adequate and appropriate child-care and family services and facilities, free of charge or at a reasonable charge in accordance with the workers' ability to pay, developed along flexible lines and meeting the needs of children of different ages, of other dependants requiring care and of workers with family responsibilities.

26.

(1) Child-care and family services and facilities of all types should comply with standards laid down and supervised by the competent authorities.

(2) Such standards should prescribe in particular the equipment and hygienic and technical requirements of the services and facilities provided and the number and qualifications of the staff.

(3) The competent authorities should provide or help to ensure the provision of adequate training at various levels for the personnel needed to staff child-care and family services and facilities.

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## VI. SOCIAL SECURITY

27. Social security benefits, tax relief, or other appropriate measures consistent with national policy should, when necessary, be available to workers with family responsibilities.

28. During the leave of absence referred to in Paragraphs 22 and 23, the workers concerned may, in conformity with national conditions and practice, and by one of the means referred to in Paragraph 3 of this Recommendation, be protected by social security.

29. A worker should not be excluded from social security coverage by reference to the occupational activity of his or her spouse and entitlement to benefits arising from that activity.

30.

(1) The family responsibilities of a worker should be an element to be taken into account in determining whether employment offered is suitable in the sense that refusal of the offer may lead to loss or suspension of unemployment benefit.

(2) In particular, where the employment offered involves moving to another locality, the considerations to be taken into account should include the place of employment of the spouse and the possibilities of educating children.

31. In applying Paragraphs 27 to 30 of this Recommendation, a Member whose economy is insufficiently developed may take account of the national resources and social security arrangements available.

## VII. HELP IN EXERCISE OF FAMILY RESPONSIBILITIES

32. The competent authorities and bodies in each country should promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers.

33. All measures compatible with national conditions and possibilities should be taken to develop home-help and home-care services which are adequately regulated and supervised and which can provide workers with family responsibilities, as necessary, with qualified assistance at a reasonable charge in accordance with their ability to pay.

34. Since many measures designed to improve the conditions of workers in general can have a favourable impact on those of workers with family responsibilities, the competent authorities and bodies in each country should promote such public and private action as is possible to make the provision of services in the community, such as public transport, supply of water and energy in or near workers' housing and housing with labour-saving layout, responsive to the needs of workers.

#### VIII. EFFECT ON EXISTING RECOMMENDATIONS

35. This Recommendation supersedes the Employment (Women with Family Responsibilities) Recommendation, 1965.

## FUNDAMENTAL PRINCIPLES AND RIGHTS

- Equal Remuneration Convention, 1951, No. 100, and Recommendation No. 90
- Discrimination (Employment & Occupation) Convention, 1958, No. 111, and Recommendation No. 111
- Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87
- Right to Organise and Collective Bargaining Convention, 1949, No. 98
- Minimum Age Convention, 1973, No. 138, and Recommendation No. 146
- Worst Forms of Child Labour Convention, 1999, No. 182, and Recommendation No. 190
- Forced Labour Convention, 1930, No. 29, and Recommendation No. 35
- Abolition of Forced Labour Convention, 1957, No. 105

## MATERNITY PROTECTION, WORK AND FAMILY

- Maternity Protection Convention, 2000, No. 183, and Recommendation No. 191
- Workers with Family Responsibilities Convention, 1981, No. 156, and Recommendation No. 165

## EMPLOYMENT PROMOTION

- Employment Policy Convention, 1964, No. 122, and Recommendation No. 122
- Employment Policy (Supplementary Provision) Recommendation, 1984, No. 16
- Human Resources Development Convention, 1975, No. 142, and revised by Recommendation No. 195, 2004
- Termination of Employment Convention, 1982, No. 158, and Recommendation No. 166
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998, No. 189
- Employment Relationship Recommendation, 2006, No. 198

## SPECIFIC CATEGORIES

- HIV and AIDS Recommendation, 2010, No. 200
- Domestic Workers Convention, 2011, No. 189, and Recommendation No. 201
- Indigenous and Tribal People's Convention, 1989, No. 169
- Migration for Employment Convention (Revised), 1949, No. 97, and Recommendation No. 86
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143, and Recommendation No. 151

## WORKING CONDITIONS

- Night Work (Women) Convention (Revised), 1948, No. 89, Protocol of 1990 to the Night Work (Women) Convention No. 89
- Night Work Convention, 1990, No. 171, and Recommendation No. 178
- Home Work Convention, 1996, No. 177 and Recommendation No. 184
- Part-time Work Convention, 1994, No. 175, and Recommendation No. 182



## Convention No. 122

### Convention concerning Employment Policy, 1964

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Forty-eighth Session on 17 June 1964, and  
Considering that the Declaration of Philadelphia recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve full employment and the raising of standards of living, and that the Preamble to the Constitution of the International Labour Organisation provides for the prevention of unemployment and the provision of an adequate living wage, and  
Considering further that under the terms of the Declaration of Philadelphia it is the responsibility of the International Labour Organisation to examine and consider the bearing of economic and financial policies upon employment policy in the light of the fundamental objective that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”, and  
Considering that the Universal Declaration of Human Rights provides that “everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”, and  
Noting the terms of existing international labour Conventions and Recommendations of direct relevance to employment policy, and in particular of the Employment Service Convention and Recommendation, 1948, the Vocational Guidance Recommendation, 1949, the Vocational Training Recommendation, 1962, and the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and  
Considering that these instruments should be placed in the wider framework of an international programme for economic expansion on the basis of full, productive and freely chosen employment, and  
Having decided upon the adoption of certain proposals with regard to employment policy, which are included in the eighth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention,  
adopts this ninth day of July of the year one thousand nine hundred and sixty-four the following Convention, which may be cited as the Employment Policy Convention, 1964:

#### *Article 1*

1. With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.

2. The said policy shall aim at ensuring that:

- (a) there is work for all who are available for and seeking work;



- (b) such work is as productive as possible;
- (c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.

3. The said policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices.

*Article 2*

Each Member shall, by such methods and to such extent as may be appropriate under national conditions:

- (a) decide on and keep under review, within the framework of a co-ordinated economic and social policy, the measures to be adopted for attaining the objectives specified in Article 1;
- (b) take such steps as may be needed, including when appropriate the establishment of programmes, for the application of these measures.

*Article 3*

In the application of this Convention, representatives of the persons affected by the measures to be taken, and in particular representatives of employers and workers, shall be consulted concerning employment policies, with a view to taking fully into account their experience and views and securing their full co-operation in formulating and enlisting support for such policies.

(Final Provisions)

**Recommendation No. 122****Recommendation concerning Employment Policy,  
1964**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Forty-eighth Session on 17 June 1964, and  
Considering that the Declaration of Philadelphia recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve full employment and the raising of standards of living, and that the Preamble to the Constitution of the International Labour Organisation provides for the prevention of unemployment and the provision of an adequate living wage, and  
Considering further that under the terms of the Declaration of Philadelphia it is the responsibility of the International Labour Organisation to examine and consider the bearing of economic and financial policies upon employment policy in the light of the fundamental objective that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and  
Considering that the Universal Declaration of Human Rights provides that everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment, and  
Noting the terms of existing international labour Conventions and Recommendations of direct relevance to employment policy, and in particular of the Employment Service Convention and Recommendation, 1948, the Vocational Guidance Recommendation, 1949, the Vocational Training Recommendation, 1962, and the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and  
Considering that these instruments should be placed in the wider framework of an international programme for economic expansion on the basis of full, productive and freely chosen employment, and  
Having decided upon the adoption of certain proposals with regard to employment policy, which are included in the eighth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation,  
adopts this ninth day of July of the year one thousand nine hundred and sixty-four, the following Recommendation, which may be cited as the Employment Policy Recommendation, 1964:

**R122****I. OBJECTIVES OF EMPLOYMENT POLICY**

1.

(1) With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member should declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.

(2) The said policy should aim at ensuring that:

- (a) there is work for all who are available for and seeking work;
- (b) such work is as productive as possible;
- (c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.

(3) The said policy should take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and should be pursued by methods that are appropriate to national conditions and practice.

## II. GENERAL PRINCIPLES OF EMPLOYMENT POLICY

2. The aims of employment policy should be clearly and publicly defined, wherever possible in the form of quantitative targets for economic growth and employment.

3. Representatives of employers and workers and their organisations should be consulted in formulating policies for the development and use of human capacities, and their co-operation should be sought in the implementation of such policies, in the spirit of the Consultation (Industrial and National Levels) Recommendation, 1960.

4.

(1) Employment policy should be based on analytical studies of the present and future size and distribution of the labour force, employment, unemployment and underemployment.

(2) Adequate resources should be devoted to the collection of statistical data, to the preparation of analytical studies and to the distribution of the results.

5.

(1) Each Member should recognise the importance of building up the means of production and developing human capacities fully, for example through education, vocational guidance and training, health services and housing, and should seek and maintain an appropriate balance in expenditure for these different purposes.

(2) Each Member should take the necessary measures to assist workers, including young people and other new entrants to the labour force, in finding suitable and productive employment and in adapting themselves to the changing needs of the economy.

(3) In the application of this Paragraph particular account should be taken of the Vocational Guidance Recommendation, 1949, the Vocational Training Recommendation, 1962, and the Employment Service Convention and Recommendation, 1948.

6.

(1) Employment policy should be co-ordinated with, and carried out within the framework of, over-all economic and social policy, including economic planning or programming in countries where these are used as instruments of policy.

(2) Each Member should, in consultation with and having regard to the autonomy and responsibility in certain of the areas concerned of employers and workers and their organisations, examine the relationship between measures of employment policy and other major decisions in the sphere of economic and social policy, with a view to making them mutually reinforcing.

7.

(1) Where there are persons available for and seeking work for whom work is not expected to be available in a reasonably short time, the government should examine and explain in a public statement how their needs will be met.

(2) Each Member should, to the fullest extent permitted by its available resources and level of economic development, adopt measures taking account of international standards in the field of social security and of Paragraph 5 of this Recommendation to help unemployed and underem-

ployed persons during all periods of unemployment to meet their basic needs and those of their dependants and to adapt themselves to opportunities for further useful employment.

### III. GENERAL AND SELECTIVE MEASURES OF EMPLOYMENT POLICY

#### *General Considerations*

8. Employment problems attributable to fluctuations in economic activity, to structural changes and especially to an inadequate level of activity should be dealt with by means of:

- (a) general measures of economic policy; and
- (b) selective measures directly connected with the employment of individual workers or categories of workers.

9. The choice of appropriate measures and their timing should be based on careful study of the causes of unemployment with a view to distinguishing the different types.

#### *General Measures: Long Term*

10. General economic measures should be designed to promote a continuously expanding economy possessing a reasonable degree of stability, which provides the best environment for the success of selective measures of employment policy.

#### *General Measures: Short Term*

11.

(1) Measures of a short-term character should be planned and taken to prevent the emergence of general unemployment or underemployment associated with an inadequate level of economic activity, as well as to counterbalance inflationary pressure associated with a lack of balance in the employment market. At times when these conditions are present or threaten to appear, action should be taken to increase or, where appropriate, to reduce private consumption, private investment and/or government current or investment expenditure.

(2) In view of the importance of the timing of counter-measures, whether against recession, inflation or other imbalances, governments should, in accordance with national constitutional law, be vested with powers permitting such measures to be introduced or varied at short notice.

#### *Selective Measures*

12. Measures should be planned and taken to even out seasonal fluctuations in employment. In particular, appropriate action should be taken to spread the demand for the products and services of workers in seasonal occupations more evenly throughout the year or to create complementary jobs for such workers.

13.

(1) Measures should be planned and taken to prevent the emergence and growth of unemployment or underemployment resulting from structural changes, and to promote and facilitate the adaptation of production and employment to such changes.

(2) For the purpose of this Recommendation the term *structural change* means long-term and substantial change taking the form of shifts in demand, of the emergence of new sources of supply, national or foreign (including supplies of goods from countries with lower costs of production) or of new techniques of production, or of changes in the size of the labour force.

(3) The dual objective of measures of adaptation to structural changes should be:

- (a) to obtain the greatest benefit from economic and technical progress;
- (b) to protect from financial or other hardship groups and individuals whose employment is affected by structural changes.

14.

(1) To this end, and to avoid the loss of production entailed by delays in filling vacancies, Members should establish and adequately finance programmes to help workers to find and fit themselves for new jobs.

(2) Such programmes should include:

- (a) the operation of an effective employment service, taking account of the provisions of the Employment Service Convention and Recommendation, 1948;
- (b) the provision or encouragement of training and retraining facilities designed to enable workers to acquire the qualifications needed for lasting employment in expanding occupations, taking account of the provisions of the Vocational Training Recommendation, 1962;
- (c) the co-ordination of housing policy with employment policy, by the provision of adequate housing and community facilities in places where there are job vacancies, and the provision of removal grants for workers and their dependants by the employer or out of public funds.

15. Special priority should be given to measures designed to remedy the serious, and in some countries growing, problem of unemployment among young people. In the arrangements for young persons envisaged in the Employment Service Convention and Recommendation, 1948, the Vocational Guidance Recommendation, 1949, and the Vocational Training Recommendation, 1962, full account should be taken of the trends of structural change, so as to ensure the development and the use of the capacities of young persons in relation to the changing needs of the economy.

16. Efforts should be made to meet the particular needs of categories of persons who encounter special difficulties as a result of structural change or for other reasons, such as older workers, disabled persons and other workers who may find it particularly difficult to change their places of residence or their occupations.

17. Special attention should be given to the employment and income needs of lagging regions and of areas where structural changes affect large numbers of workers, in order to bring about a better balance of economic activity throughout the country and thus to ensure a productive utilisation of all resources.

18.

(1) When structural changes of exceptional magnitude occur, measures of the kinds provided for in Paragraphs 13 to 17 of this Recommendation may need to be accompanied by measures to avoid large-scale, sudden dislocation and to spread the impact of the change or changes over a reasonable period of time.

(2) In such cases governments, in consultation with all concerned, should give early consideration to the determination of the best means, of a temporary and exceptional nature, to facilitate the adaptation to the structural changes of the industries affected, and should take action accordingly.

19. Appropriate machinery to promote and facilitate the adaptation of production and employment to structural changes, with clearly defined responsibilities in regard to the matters dealt with in Paragraphs 13 to 18 of this Recommendation, should be established.

20.

(1) Employment policy should take account of the common experience that, as a consequence of technological progress and improved productivity, possibilities arise for more leisure and intensified educational activities.

(2) Efforts should be made to take advantage of these possibilities by methods appropriate to national conditions and practice and to conditions in each industry; these methods may include:

- (a) reduction of hours of work without a decrease in wages, within the framework of the Reduction of Hours of Work Recommendation, 1962;
- (b) longer paid holidays;
- (c) later entry into the labour force, combined with more advanced education and training.

#### IV. EMPLOYMENT PROBLEMS ASSOCIATED WITH ECONOMIC UNDERDEVELOPMENT

##### *Investment and Income Policy*

21. In developing countries employment policy should be an essential element of a policy for promoting growth and fair sharing of national incomes.

22. With a view to achieving a rapid expansion of production, investment and employment, Members should seek the views and active participation of employers and workers, and their organisations, in the elaboration and application of national economic development policy, and of the various aspects of social policy, in accordance with the Consultation (Industrial and National Levels) Recommendation, 1960.

23.

(1) In countries where a lack of employment opportunities is associated with a shortage of capital, all appropriate measures should be taken to expand domestic savings and to encourage the inflow of financial resources from other countries and from international agencies, with a view to increasing productive investment without prejudicing the national sovereignty or the economic independence of the recipient countries.

(2) In order to utilise the resources available to these countries rationally and to increase employment therein as far as possible, it would be desirable for them to co-ordinate their investments and other development efforts with those of other countries, especially in the same region.

##### *Promotion of Industrial Employment*

24.

(1) Members should have regard to the paramount need for the establishment of industries, public or private, which are based on available raw materials and power, which correspond to the changing pattern of demand in domestic and foreign markets and which use modern techniques and appropriate research, in order to create additional employment opportunities on a long-term basis.

(2) Members should make every effort to reach a stage of industrial development which ensures, within the framework of a balanced economy, the maximum economic production of finished products, utilising local manpower.

(3) Particular attention should be given to measures promoting efficient and low-cost production, diversification of the economy and balanced regional economic development.

25. Besides promoting modern industrial development, Members should, subject to technical requirements, explore the possibility of expanding employment by:

- (a) producing, or promoting the production of, more goods and services requiring much labour;
- (b) promoting more labour-intensive techniques, in circumstances where these will make for more efficient utilisation of available resources.

26. Measures should be taken:

- (a) to promote fuller utilisation of existing industrial capacity to the extent compatible with the requirements of domestic and export markets, for instance by more extensive introduction of multiple shifts, with due regard to the provision of amenities for workers on night shift and to the need for training a sufficient number of key personnel to permit efficient operation of multiple shifts;
- (b) to create handicrafts and small-scale industries and to assist them to adapt themselves to technological advances and changes in market conditions so that they will be able to provide increasing employment without becoming dependent on such protective measures or special privileges as would impede economic growth; to this end the development of co-operatives should be encouraged and efforts should be made to establish a complementary relationship between small-scale and large-scale industry and to develop new outlets for the products of industry.

*Promotion of Rural Employment*

27.

(1) Within the framework of an integrated national policy, countries in which there is much rural underemployment should place special emphasis on a broadly based programme to promote productive employment in the rural sector by a combination of measures, institutional and technical, relying as fully as possible on the efforts of the persons concerned. Such a programme should be founded on adequate study of the nature, prevalence and regional distribution of rural underemployment.

(2) Major objectives should be to create incentives and social conditions favourable to fuller utilisation of local manpower in rural development, and to improve productivity and quality of output. Means appropriate to local conditions should be determined, where possible, by adequate research and the instigation of multi-purpose pilot projects.

(3) Special attention should be devoted to the need for promoting opportunities for productive employment in agriculture and animal husbandry.

(4) Institutional measures for the promotion of productive employment in the rural section should include agrarian reforms, adapted to the needs of the country, including land reform and improvement of land tenure; reform in methods of land taxation; extension of credit facilities; development of improved marketing facilities; and promotion of co-operative organisation in production and marketing.

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*Population Growth*

28. Countries in which the population is increasing rapidly, and especially those in which it already presses heavily on the economy, should study the economic, social and demographic factors affecting population growth with a view to adopting economic and social policies that make for a better balance between the growth of employment opportunities and the growth of the labour force.

## V. ACTION BY EMPLOYERS AND WORKERS AND THEIR ORGANISATIONS

29.

(1) Employers and workers in the public and private sectors, and their organisations, should take all practicable measures to promote the achievement and maintenance of full, productive and freely chosen employment.

(2) In particular, they should:

- (a) consult one another, and as appropriate the competent public authorities, employment services or similar institutions, as far in advance as possible, with a view to working out mutually satisfactory adjustments to changes in the employment situation;
- (b) study trends in the economic and employment situation, and in technical progress, and propose as appropriate, and in good time, such action by governments and by public and private undertakings as may safeguard within the framework of the general interest the employment security and opportunities of the workers;
- (c) promote wider understanding of the economic background, of the reasons for changes in employment opportunities in specific occupations, industries or regions, and of the necessity of occupational and geographical mobility of manpower;
- (d) strive to create a climate which, without prejudicing national sovereignty, economic independence or freedom of association, will encourage increased investment from both domestic and foreign sources, with positive effects on the economic growth of the country;
- (e) provide or seek the provision of facilities such as training and retraining facilities, and related financial benefits;

- (f) promote wage, benefit and price policies that are in harmony with the objectives of full employment, economic growth, improved standards of living and monetary stability, without endangering the legitimate objectives pursued by employers and workers and their organisations; and
- (g) respect the principle of equality of opportunity and treatment in employment and occupation, taking account of the provisions of the Discrimination (Employment and Occupation) Convention and Recommendation, 1958.

(3) In consultation and co-operation as appropriate with workers' organisations and/or representatives of workers at the level of the undertaking, and having regard to national economic and social conditions, measures should be taken by undertakings to counteract unemployment, to help workers find new jobs, to increase the number of jobs available and to minimise the consequences of unemployment; such measures may include:

- (a) retraining for other jobs within the undertaking;
- (b) transfers within the undertaking;
- (c) careful examination of, and action to overcome, obstacles to increasing shift work;
- (d) the earliest possible notice to workers whose employment is to be terminated, appropriate notification to public authorities, and some form of income protection for workers whose employment has been terminated, taking account of the provisions of the Termination of Employment Recommendation, 1963.

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## VI. INTERNATIONAL ACTION TO PROMOTE EMPLOYMENT OBJECTIVES

30. Members, with the assistance as appropriate of intergovernmental and other international organisations, should co-operate in international action to promote employment objectives, and should, in their internal economic policy, seek to avoid measures which have a detrimental effect on the employment situation and the general economic stability in other countries, including the developing countries.

31. Members should contribute to all efforts to expand international trade as a means of promoting economic growth and expansion of employment opportunities. In particular, they should take all possible measures to diminish unfavourable repercussions on the level of employment of fluctuations in the international terms of trade and of balance-of-payments and liquidity problems.

32.

(1) Industrialised countries should, in their economic policies, including policies for economic co-operation and for expanding demand, take into account the need for increased employment in other countries, in particular in the developing countries.

(2) They should, as rapidly as their circumstances permit, take measures to accommodate increased imports of products, manufactured, processed and semi-processed as well as primary, that can be economically produced in developing countries, thus promoting mutual trade and increased employment in the production of exports.

33. International migration of workers for employment which is consistent with the economic needs of the countries of emigration and immigration, including migration from developing countries to industrialised countries, should be facilitated, taking account of the provisions of the Migration for Employment Convention and Recommendation (Revised), 1949, and the Equality of Treatment (Social Security) Convention, 1962.

34.

(1) In international technical co-operation through multilateral and bilateral channels special attention should be paid to the need to develop active employment policies.



(2) To this end, such co-operation should include:

- (a) advice in regard to employment policy and employment market organisation as essential elements in the field of general development planning and programming; and
- (b) co-operation in the training of qualified local personnel, including technical personnel and management staff.

(3) Technical co-operation programmes relating to training should aim at providing the developing countries with suitable facilities for training within the country or region. They should also include adequate provision for the supply of equipment. As a complementary measure, facilities should also be provided for the training of nationals of developing countries in industrialised countries.

(4) Members should make all efforts to facilitate the release for suitable periods, both from governmental and non-governmental employment, of highly qualified experts in the various fields of employment policy for work in developing countries. Such efforts should include arrangements to make such release attractive to the experts concerned.

(5) In the preparation and implementation of technical co-operation programmes, the active participation of employers' and workers' organisations in the countries concerned should be sought.

35. Members should encourage the international exchange of technological processes with a view to increasing productivity and employment, by means such as licensing and other forms of industrial co-operation.

36. Foreign-owned undertakings should meet their staffing needs by employing and training local staff, including management and supervisory personnel.

37. Arrangements should be made, where appropriate on a regional basis, for periodical discussions and exchange of experience of employment policies, particularly employment policies in developing countries, with the assistance as appropriate of the International Labour Office.

## VII. SUGGESTIONS CONCERNING METHODS OF APPLICATION

38. In applying the provisions of this Recommendation, each Member of the International Labour Organisation and the employers' and workers' organisations concerned should be guided, to the extent possible and desirable, by the suggestions concerning methods of application set forth in the Annex.

## ANNEX

## SUGGESTIONS CONCERNING METHODS OF APPLICATION:

I. GENERAL AND SELECTIVE MEASURES  
OF EMPLOYMENT POLICY

1.

(1) Each Member should:

- (a) make continuing studies of the size and distribution of the labour force and the nature and extent of unemployment and underemployment and trends therein, including, where possible, analyses of:
  - (i) the distribution of the labour force by age, sex, occupational group, qualifications, regions and economic sectors; probable future trends in each of these; and the effects of demographic factors, particularly in developing countries with rapid population growth, and of technological change on such trends;
  - (ii) the volume of productive employment currently available and likely to be available at different dates in the future in different economic sectors, regions and occupational groups, account being taken of projected changes in demand and productivity;
- (b) make vigorous efforts, particularly through censuses and sample surveys, to improve the statistical data needed for such studies;
- (c) undertake and promote the collection and analysis of current indicators of economic activity, and the study of trends in the evolution of new techniques in the different sectors of industry both at home and abroad, particularly as regards automation, with a view, inter alia, to distinguishing short-term fluctuations from longer-term structural changes;
- (d) make short-term forecasts of employment, underemployment and unemployment sufficiently early and in sufficient detail to provide a basis for prompt action to prevent or remedy either unemployment or shortages of labour;
- (e) undertake and promote studies of the methods and results of employment policies in other countries.

(2) Members should make efforts to provide those responsible for collective bargaining with information on the results of studies of the employment situation undertaken in the International Labour Office and elsewhere, including studies of the impact of automation.

2. Attainment of the social objectives of employment policy requires co-ordination of employment policy with other measures of economic and social policy, in particular measures affecting:

- (a) investment, production and economic growth;
- (b) the growth and distribution of incomes;
- (c) social security;
- (d) fiscal and monetary policies, including anti-inflationary and foreign exchange policies; and
- (e) the promotion of freer movement of goods, capital and labour between countries.

3. With a view to promoting stability of production and employment, consideration should be given to the possibility of making more use of fiscal or quasi-fiscal measures designed to exert an automatic stabilising influence and to maintain a satisfactory level of consumer income and investment.

4. Measures designed to stabilise employment may further include:

- (a) fiscal measures in respect of tax rates and investment expenditure;
- (b) stimulation, or restraint, of economic activity by appropriate measures of monetary policy;
- (c) increased, or reduced, expenditure on public works or other public investment of a fundamental nature, for example roads, railways, harbours, schools, training centres and hospitals; Members should plan during periods of high employment to have a number of useful but postponable public works projects ready to be put into operation in times of recession;

(d) measures of a more specific character, such as increased government orders to a particular branch of industry in which recession threatens to provoke a temporary decline in the level of activity.

5. Measures to even out seasonal fluctuations in employment may include:

- (a) the application of new techniques to make it possible for work to be carried out under conditions in which it would have been impracticable without these techniques;
- (b) the training of workers in seasonal occupations for complementary occupations;
- (c) planning to counteract seasonal unemployment or underemployment; special attention should be given to the co-ordination of the activities of the different public authorities and private enterprises concerned with building and construction operations, so as to ensure continuity of activity to meet the employment needs of workers.

6.

(1) The nature of the special difficulties which may be encountered as a result of structural changes by the categories of persons referred to in Paragraph 16 of the Recommendation should be ascertained by the competent authority and appropriate action recommended.

(2) Special measures should be taken to provide suitable work for these groups and to alleviate hardship.

(3) In cases where older or disabled workers face great difficulty in adjusting to structural changes, adequate benefits for such workers should be provided within the framework of the social security system, including, where appropriate, retirement benefits at an age below that normally prescribed.

7.

(1) When structural changes affect large numbers of workers concentrated in a particular area and especially if the competitive strength of the area as a whole is impaired, Members should provide, and should, by the provision of effective incentives and consultation with the representatives of employers and workers, encourage individual enterprises to provide, additional employment in the area, based on comprehensive policies of regional development.

(2) Measures taken to this end may include:

- (a) the diversification of existing undertakings or the promotion of new industries;
- (b) public works or other public investment including the expansion or the setting up of public undertakings;
- (c) information and advice to new industries as to conditions of establishment;
- (d) measures to make the area more attractive to new industries, for example through the redevelopment or improvement of the infrastructure, or through the provision of special loan facilities, temporary subsidies or temporary tax concessions or of physical facilities such as industrial estates;
- (e) preferential consideration in the allocation of government orders;
- (f) appropriate efforts to discourage excessive industrial concentration.

(3) Such measures should have regard to the type of employment which different areas, by reason of their resources, access to markets and other economic factors, are best suited to provide.

(4) The boundaries of areas which are given special treatment should be defined after careful study of the probable repercussions on other, particularly neighbouring, areas.

## II. EMPLOYMENT PROBLEMS ASSOCIATED WITH ECONOMIC UNDERDEVELOPMENT

8. Measures to expand domestic saving and encourage the inflow of financial resources from other countries, with a view to increasing productive investment, may include:

- (a) measures, consistent with the provisions of the Forced Labour Convention, 1930, and the Abolition of Forced Labour Convention, 1957, and taken within the framework of a system of adequate minimum labour standards and in consultation with employers and workers and their organisations, to use available labour, with a minimum complement of scarce resources, to increase the rate of capital formation;
- (b) measures to guide savings and investment from unproductive uses to uses designed to promote economic development and employment;
- (c) measures to expand savings:
  - (i) through the curtailment of non-essential consumption, with due regard to the need for maintaining adequate incentives; and
  - (ii) through savings schemes, including contributory social security schemes and small savings schemes;
- (d) measures to develop local capital markets to facilitate the transformation of savings into productive investment;
- (e) measures to encourage the reinvestment in the country of a reasonable part of the profits from foreign investments, as well as to recover and to prevent the outflow of national capital with a view to directing it to productive investment.

9.

(1) Measures to expand employment by the encouragement of labour-intensive products and techniques may include:

- (a) the promotion of labour-intensive methods of production by means of:
  - (i) work study to increase the efficiency of modern labour-intensive operations;
  - (ii) research and dissemination of information about labour-intensive techniques, particularly in public works and construction;
- (b) tax concessions and preferential treatment in regard to import or other quotas to undertakings concerned;
- (c) full exploration of the technical, economic and organisational possibilities of labour-intensive construction works, such as multi-purpose river valley development projects and the building of railways and highways.

(2) In determining whether a particular product or technique is labour-intensive, attention should be given to the proportions in which capital and labour are employed not merely in the final processes, but in all stages of production, including that of materials, power and other requirements; attention should be given also to the proportions in which increased availability of a product will generate increased demand for labour and capital respectively.

10. Institutional measures for the promotion of productive employment in the rural sector may, in addition to those provided for in Paragraph 27 of the Recommendation, include promotion of community development programmes, consistent with the provisions of the Forced Labour Convention, 1930, and the Abolition of Forced Labour Convention, 1957, to evoke the active participation of the persons concerned, and in particular of employers and workers and their organisations, in planning and carrying out local economic and social development projects, and to encourage the use in such projects of local manpower, materials and financial resources that might otherwise remain idle or unproductively used.

11. Means appropriate to local conditions for the fuller utilisation of local manpower in rural development may include:

- (a) local capital-construction projects, particularly projects conducive to a quick increase in agricultural production, such as small and medium irrigation and drainage works, the construction of storage facilities and feeder roads and the development of local transport;
- (b) land development and settlement;
- (c) more labour-intensive methods of cultivation, expansion of animal husbandry and the diversification of agricultural production;

- (d) the development of other productive activities, such as forestry and fishing;
- (e) the promotion of rural social services such as education, housing and health services;
- (f) the development of viable small-scale industries and handicrafts in rural areas, such as local processing of agricultural products and manufacture of simple consumers' and producers' goods needed in the area.

12.

(1) In pursuance of Paragraph 5 of the Recommendation, and taking account of the provisions of the Vocational Training Recommendation, 1962, developing countries should endeavour to eradicate illiteracy and promote vocational training for workers in all sectors, as well as appropriate professional training for scientific, technical and managerial personnel.

(2) The necessity of training instructors and workers in order to carry out the improvement and modernisation of agriculture should be taken into account.

**Recommendation No. 169****Recommendation concerning Employment Policy  
(Supplementary Provisions) (1984)**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Seventieth Session on 6 June 1984, and

Noting the existing international standards contained in the Employment Policy Convention and Recommendation, 1964, as well as in other international labour instruments relating to certain categories of workers, in particular the Workers with Family Responsibilities Convention and Recommendation, 1981, the Older Workers Recommendation, 1980, the Migration for Employment Convention and Recommendation (Revised), 1949, the Migrant Workers (Supplementary Provisions) Convention, 1975, and the Migrant Workers Recommendation, 1975,

Recalling the responsibility of the International Labour Organisation, resulting from the Declaration of Philadelphia, to examine and consider the bearing of economic and financial policies upon employment policy in the light of the fundamental objective that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity,

Recalling that the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly in 1966, provides for the recognition of inter alia the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and for the taking of appropriate steps to achieve progressively the full realisation of, and to safeguard, this right,

Recalling also the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in 1979,

Recognising, in the light of increasing interdependence within the world economy and of low economic growth rates in recent years, the need to coordinate economic, monetary and social policies at the national and international levels, to strive for the reduction of disparities between developed and developing countries and for the establishment of the new international economic order, in order to make the fullest possible use of resources for development and for the creation of employment opportunities, and thus to combat unemployment and underemployment,

Noting the deterioration of employment opportunities in most industrialised and developing countries and expressing the conviction that poverty, unemployment and inequality of opportunity are unacceptable in terms of humanity and social justice, can provoke social tension and thus create conditions which can endanger peace and prejudice the exercise of the right to work, which includes free choice of employment, just and favourable conditions of work and protection against unemployment,

Considering that the Employment Policy Convention and Recommendation, 1964, should be placed in the wider framework of the Declaration of Principles and Programme of Action adopted in 1976 by the Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour, and of the resolution concerning follow-up to the World Employment Conference adopted by the International Labour Conference in 1979,

Having decided upon the adoption of certain proposals with regard to employment policy which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Employment Policy Convention and Recommendation, 1964:

adopts this twenty-sixth day of June of the year one thousand nine hundred and eighty-four, the following Recommendation, which may be cited as the Employment Policy (Supplementary Provisions) Recommendation, 1984.

## I. GENERAL PRINCIPLES OF EMPLOYMENT POLICY

1. The promotion of full, productive and freely chosen employment provided for in the Employment Policy Convention and Recommendation, 1964, should be regarded as the means of achieving in practice the realisation of the right to work.

2. Full recognition by Members of the right to work should be linked with the implementation of economic and social policies, the purpose of which is the promotion of full, productive and freely chosen employment.

3. The promotion of full, productive and freely chosen employment should be the priority in, and an integral part of, economic and social policies of Members and, where appropriate, their plans for the satisfaction of the basic needs of the population.

4. Members should give special attention to the most efficient means of increasing employment and production and draw up policies and, if appropriate, programmes designed to facilitate the increased production and fair distribution of essential goods and services and the fair distribution of income throughout the country, with a view to satisfying the basic needs of the population in accordance with the Declaration of Principles and Programme of Action of the World Employment Conference.

5. In accordance with national practice, the policies, plans and programmes referred to in Paragraphs 3 and 4 of this Recommendation should be drawn up and implemented in consultation and co-operation with the organisations of employers and workers and other organisations representative of the persons concerned, particularly those in the rural sector covered by the Rural Workers' Organisations Convention and Recommendation, 1975.

6. Economic and financial policies, at both the national and international levels, should reflect the priority to be attached to the goals referred to in Paragraphs 3 and 4 of this Recommendation.

7. The policies, plans and programmes referred to in Paragraphs 3 and 4 of this Recommendation should aim at eliminating any discrimination and ensuring for all workers equal opportunity and treatment in respect of access to employment, conditions of employment, wages and income, vocational guidance and training and career development.

8. Members should take measures to combat effectively illegal employment, that is employment which does not comply with the requirements of national laws, regulations and practice.

9. Members should take measures to enable the progressive transfer of workers from the informal sector, where it exists, to the formal sector to take place.

10. Members should adopt policies and take measures which, while taking account of national law and practice, should:

- (a) facilitate adjustment to structural change at the global, sectoral and enterprise levels and the re-employment of workers who have lost their jobs as a result of structural and technological changes; and
- (b) safeguard the employment or facilitate the re-employment of workers affected in the case of sale, transfer, closure or relocation of a company, establishment or equipment.

11. In accordance with national law and practice, the methods of giving effect to employment policies might include negotiating collective agreements on questions having a bearing on employment such as:

- (a) the promotion and safeguarding of employment;
- (b) the economic and social consequences of restructuring and rationalisation of branches of economic activity and undertakings;
- (c) the reorganisation and reduction of working time;
- (d) the protection of particular groups; and
- (e) information on economic, financial and employment issues.

12. Members should, after consultation with the organisations of employers and workers, take effective measures to encourage multinational enterprises to undertake and promote in particular the employment policies set forth in the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977, and to ensure that negative effects of the investments of multinational enterprises on employment are avoided and that positive effects are encouraged.

13. In view of increasing interdependence within the world economy, Members should, in addition to the measures taken at the national level, strengthen international co-operation in order to ensure the success of the fight against unemployment.

## II. POPULATION POLICY

14.

(1) While ensuring that sufficient employment opportunities exist, development and employment policies might, where appropriate and in accordance with national law and practice, include population policies and programmes designed to ensure promotion of family welfare and family planning through programmes of information and voluntary education on population issues.

(2) Members, particularly developing countries, in collaboration with both national and international non-governmental organisations might:

- (a) pay particular attention in their population policies and programmes to educating actual and potential parents on the benefits of family planning;
- (b) in rural areas, increase the number of health facilities and community centres offering family planning services and the number of trained personnel to provide these services; and
- (c) in urban areas, pay particular attention to the urgent need to develop appropriate infrastructures and improve living conditions, especially in slum areas.

## III. EMPLOYMENT OF YOUTH AND DISADVANTAGED GROUPS AND PERSONS

15. In the context of an overall employment policy, Members should adopt measures to respond to the needs of all categories of persons frequently having difficulties in finding lasting employment, such as certain women, certain young workers, disabled persons, older workers, the long-term unemployed and migrant workers lawfully within their territory. These measures should be consistent with the provisions of international labour Conventions and Recommendations relating to the employment of these groups and with the conditions of employment established under national law and practice.

16. While taking account of national conditions and in accordance with national law and practice, the measures referred to in Paragraph 15 of this Recommendation might include, inter alia:

- (a) general education accessible to all and vocational guidance and training programmes to assist these persons to find work and to improve their employment opportunities and their income;



- (b) the creation of a training system linked with both the educational system and the world of work;
- (c) counselling and employment services to assist individuals to enter the labour market and to help them to find employment which corresponds to their skills and aptitudes;
- (d) programmes which create gainful employment in specific regions, areas or sectors;
- (e) programmes of adjustment to structural change;
- (f) measures of continuing training and retraining;
- (g) measures of vocational rehabilitation;
- (h) assistance for voluntary mobility; and
- (i) programmes for the promotion of self-employment and workers' co-operatives.

17.

(1) Other special measures should be taken for young people. In particular:

- (a) public and private institutions and undertakings should be encouraged to engage and to train young people by means appropriate to national conditions and practice;
- (b) although priority should be given to integrating young persons into regular employment, special programmes might be set up with a view to employing young people on a voluntary basis for the execution of community projects, in particular local projects having a social character, bearing in mind the provisions of the Special Youth Schemes Recommendation, 1970;
- (c) special programmes should be set up in which training and work alternate so as to assist young people in finding their first job;
- (d) training opportunities should be adapted to technical and economic development and the quality of training should be improved;
- (e) measures should be taken to ease the transition from school to work and to promote opportunities for employment on completion of training;
- (f) research on employment prospects should be promoted as a basis for a rational vocational training policy; and
- (g) the safety and health of young workers should be protected.

(2) The measures referred to in subparagraph (1) of this Paragraph should be carefully monitored to ensure that they result in beneficial effects on young people's employment.

(3) These measures should be consistent with the provisions of international labour Conventions and Recommendations relating to the employment of young persons and with the conditions of employment established under national law and practice.

18. Incentives appropriate to national conditions and practice might be provided in order to facilitate the implementation of the measures referred to in Paragraphs 15 to 17 of this Recommendation.

19. In accordance with national law and practice, full and timely consultations should be held on the formulation, application and monitoring of the measures and programmes referred to in Paragraphs 15 to 18 of this Recommendation between the competent authorities and the organisations of employers and workers and other organisations concerned.

#### IV. TECHNOLOGY POLICIES

20. One of the major elements of national development policy should be to facilitate the development of technology as a means of increasing productive potential and achieving the major development objectives of creation of employment opportunities and the satisfaction of basic needs. Technology policies should, taking into account the stage of economic development, contribute to the improvement of working conditions and reduction of working time, and include measures to prevent loss of jobs.

21. Members should:

- (a) encourage research on the selection, adoption and development of new technologies and on their effects on the volume and structure of employment, conditions of employment, training, job content and skill requirements; and
- (b) encourage research on the technologies most appropriate to the specific conditions of countries, by ensuring the involvement of independent research institutes.

22. Members should endeavour to ensure by appropriate measures:

- (a) that the education and training systems, including schemes for retraining, offer workers sufficient opportunities for adjusting to altered employment requirements resulting from technological change;
- (b) that particular attention is given to the best possible use of existing and future skills; and
- (c) that negative effects of technological changes on employment, working and living conditions and on occupational safety and health are eliminated to the extent possible, in particular through the incorporation of ergonomic, safety and health considerations at the design stage of new technologies.

23. Members should, through all methods suited to national conditions and practice, promote the use of appropriate new technologies and assure or improve liaison and consultation between the different units and organisations concerned with these questions and the representative organisations of employers and workers.

24. The organisations of employers and workers concerned and undertakings should be encouraged to assist in the dissemination of general information on technological choices, in the promotion of technological linkages between large-scale and small-scale undertakings and in the setting up of relevant training programmes.

25. In accordance with national practice, Members should encourage employers' and workers' organisations to enter into collective agreements at national, sectoral or undertaking levels on the social consequences of the introduction of new technologies.

26. Members should, as far as possible and in accordance with national law and practice, encourage undertakings, when introducing into their operations technological changes which are liable to have major effects upon workers in the undertaking:

- (a) to associate workers and/or their representatives in the planning, introduction and use of new technologies, that is to inform them of the opportunities offered by and the effects of such new technologies and to consult them in advance with a view to arriving at agreements;
- (b) to promote a better organisation of working time and a better distribution of employment;
- (c) to prevent and mitigate to the greatest extent practicable any adverse effects of the technological changes on workers; and
- (d) to promote investments in technology that would encourage, directly or indirectly, the creation of employment and contribute to a progressive increase in production and the satisfaction of the basic needs of the population.

## V. INFORMAL SECTOR

27.

(1) National employment policy should recognise the importance as a provider of jobs of the informal sector, that is economic activities which are carried on outside the institutionalised economic structures.

(2) Employment promotion programmes should be elaborated and implemented to encourage family work and independent work in individual workshops, both in urban and rural areas.

28. Members should take measures to promote complementary relationships between the formal and informal sectors and to provide greater access of undertakings in the informal sector

to resources, product markets, credit, infrastructure, training facilities, technical expertise and improved technologies.

29.

(1) While taking measures to increase employment opportunities and improve conditions of work in the informal sector, Members should seek to facilitate its progressive integration into the national economy.

(2) Members should take into account that integration of the informal sector into the formal sector may reduce its ability to absorb labour and generate income. Nevertheless, they should seek progressively to extend measures of regulation to the informal sector.

## VI. SMALL UNDERTAKINGS

30. National employment policy should take account of the importance of small undertakings as providers of jobs, and recognise the contribution of local employment creation initiatives to the fight against unemployment and to economic growth. These undertakings, which can take diverse forms, such as small traditional undertakings, co-operatives and associations, offer employment opportunities, especially for workers who have particular difficulties.

31. After consultation and in co-operation with employers' and workers' organisations, Members should take the necessary measures to promote complementary relationships between the undertakings referred to in Paragraph 30 of this Recommendation and other undertakings, to improve working conditions in these undertakings, and to improve their access to product markets, credit, technical expertise and advanced technology.

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## VII. REGIONAL DEVELOPMENT POLICIES

32. In accordance with national law and practice, Members should recognise the importance of balanced regional development as a means of mitigating the social and employment problems created by the unequal distribution of natural resources and the inadequate mobility of the means of production, and of correcting the uneven spread of growth and employment between regions and areas within a country.

33. Measures should be taken, after consultation and in co-operation with the representatives of the populations concerned and in particular with the organisations of employers and workers, with a view to promoting employment in underdeveloped or backward areas, declining industrial and agricultural areas, frontier zones and, in general, parts of the country which have not benefited satisfactorily from national development.

34. Taking account of national conditions and of each Member's plans and programmes, the measures referred to in Paragraph 33 of this Recommendation might include, inter alia:

- (a) creating and developing growth poles and growth centres with good prospects for generating employment;
- (b) developing and intensifying regional potential taking into account the human and natural resources of each region and the need for coherent and balanced regional development;
- (c) expanding the number and size of medium-sized and small towns in order to counterbalance the growth of large cities;
- (d) improving the availability and distribution of and access to essential services required for meeting basic needs;
- (e) encouraging the voluntary mobility of workers within each region and between different regions of the country by appropriate social welfare measures, while making an effort to promote satisfactory living and working conditions in their areas of origin;
- (f) investing in improvements to the regional infrastructures, services and administrative structures, including the allocation of the necessary staff and the provision of training and retraining opportunities; and

- (g) promoting the participation of the community in the definition and implementation of regional development measures.

## VIII. PUBLIC INVESTMENT AND SPECIAL PUBLIC WORKS PROGRAMMES

35. Members might implement economically and socially viable public investment and special public works programmes, particularly with a view to creating and maintaining employment and raising incomes, reducing poverty and better meeting basic needs in areas of widespread unemployment and underemployment. Such programmes should, where possible and appropriate:

- (a) pay special attention to the creation of employment opportunities for disadvantaged groups;
- (b) include rural and urban infrastructure projects as well as the construction of facilities for basic-needs satisfaction in rural, urban and suburban areas, and increased productive investments in sectors such as energy and telecommunications;
- (c) contribute to raising the standard of social services in fields such as education and health;
- (d) be designed and implemented within the framework of development plans where they exist and in consultation with the organisations of employers and workers concerned;
- (e) identify the persons whom the programmes are to benefit, determine the available manpower and define the criteria for project selection;
- (f) ensure that workers are recruited on a voluntary basis;
- (g) ensure that manpower is not diverted from other productive activities;
- (h) provide conditions of employment consistent with national law and practice, and in particular with legal provisions governing access to employment, hours of work, remuneration, holidays with pay, occupational safety and health and compensation for employment injuries; and
- (i) facilitate the vocational training of workers engaged in such programmes as well as the retraining of those who, because of structural changes in production and employment, have to change their jobs.

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## IX. INTERNATIONAL ECONOMIC CO-OPERATION AND EMPLOYMENT

36. Members should promote the expansion of international trade in order to help one another to attain employment growth. To this end, they should co-operate in international bodies which are engaged in facilitating sustainable and mutually beneficial increases in international trade, technical assistance and investment.

37. Bearing in mind their responsibilities in relation to other competent international bodies Members should, with a view to ensuring the effectiveness of employment policies, adopt the following objectives:

- (a) to promote the growth of production and world trade in conditions of economic stability and growing employment, within the context of international co-operation for development and on the basis of equality of rights and mutual advantage;
- (b) to recognise that the interdependence between States, resulting from the increasing integration of the world economy, should help to create a climate in which States can, wherever appropriate, define joint policies designed to promote a fair distribution of the social costs and benefits of structural adjustment as well as a fairer international distribution of income and wealth, in such a way as to enable developing countries to absorb the increase in their labour force, and the developed countries to raise their levels of employment and reduce the adjustment cost for the workers concerned;
- (c) to co-ordinate national policies concerning trade and structural change and adjustment so as to make possible a greater participation of developing countries in world industrial production

within an open and fair world trading system, to stabilise commodity prices at remunerative levels which are acceptable to both producers and consumers, and to encourage investment in the production and processing of commodities in developing countries;

- (d) to encourage the peaceful resolution of disputes among nations and negotiated arms reduction agreements which will achieve security for all nations, as well as the progressive transfer of expenditure on armaments and the reconversion of the armaments industry to the production of essential goods and services, especially those which satisfy the basic needs of the population and the needs of developing countries;
- (e) to seek agreement on concerted action at the international level with a view to improving the international economic system, especially in the financial sphere, so as to promote employment in developed as well as developing countries;
- (f) to increase mutual economic and technical co-operation, especially between countries at different levels of economic development and with different social and economic systems, through exchange of experience and the development of complementary capacities, particularly in the fields of employment and human resources and the choice, development and transfer of technology in accordance with mutually accepted law and practice concerning private property rights;
- (g) to create conditions for sustained, non-inflationary growth of the world economy, and for the establishment of an improved international monetary system which would lead to the establishment of the new international economic order; and
- (h) to ensure greater stability in exchange rates, a reduction of the debt burden of developing countries, the provision of long-term, low-cost financial assistance to developing countries and the adoption of adjustment policies which promote employment and the satisfaction of basic needs.

38. Members should:

- (a) promote the transfer of technologies with a view to enabling developing countries to adopt, on fair and reasonable commercial terms, those which are most appropriate for the promotion of employment and the satisfaction of basic needs; and
- (b) take appropriate measures for the creation and maintenance of employment and for the provision of training and retraining opportunities. Such measures might include the establishment of national, regional or international readjustment funds for the purpose of assisting in the positive adjustment of industries and workers affected by changes in the world economy.

## X. INTERNATIONAL MIGRATION AND EMPLOYMENT

39. Members, taking account of international labour Conventions and Recommendations on migrant workers, should, where international migration takes place, adopt policies designed:

- (a) to create more employment opportunities and better conditions of work in countries of emigration so as to reduce the need to migrate to find employment; and
- (b) to ensure that international migration takes place under conditions designed to promote full, productive and freely chosen employment.

40. Members which habitually or repeatedly admit significant numbers of foreign workers with a view to employment should, when such workers come from developing countries, endeavour to co-operate more fully in the development of such countries, by appropriate intensified capital movements, the expansion of trade, the transfer of technical knowledge and assistance in the vocational training of local workers, in order to establish an effective alternative to migration for employment and to assist the countries in question in improving their economic and employment situation.

41. Members which habitually or repeatedly experience significant outflows of their nationals for the purpose of employment abroad should, provided that such measures are not inconsistent with the right of everyone to leave any country including his own, take measures by means of

legislation, agreements with employers' and workers' organisations, or in any other manner consistent with national conditions and practice, to prevent malpractices at the stage of recruitment or departure liable to result in illegal entry to, or stay or employment in, another country.

42. Developing emigration countries, in order to facilitate the voluntary return of their nationals who possess scarce skills, should:

- (a) provide the necessary incentives; and
- (b) enlist the co-operation of the countries employing their nationals as well as of the International Labour Office and other international or regional bodies concerned with the matter.

43. Members, both countries of employment and countries of origin, should take appropriate measures to:

- (a) prevent abuse in the recruitment of labour for work abroad;
- (b) prevent the exploitation of migrant workers; and
- (c) ensure the full exercise of the rights to freedom of association and to organise and bargain collectively.

44. Members, both countries of employment and countries of origin, should, when it is necessary, taking fully into account existing international labour Conventions and Recommendations on migrant workers, conclude bilateral and multilateral agreements covering issues such as right of entry and stay, the protection of rights resulting from employment, the promotion of education and training opportunities for migrant workers, social security, and assistance to workers and members of their families wishing to return to their country of origin.

**Convention No. 142****Convention concerning Vocational Guidance  
and Vocational Training in the Development of Human  
Resources, 1975**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Sixtieth Session on 4 June 1970, and  
Having decided upon the adoption of certain proposals with regard to human resources develop-  
ment: vocational guidance and vocational training, which is the sixth item on the agenda of  
the session, and  
Having determined that these proposals shall take the form of an international Convention,  
adopts this twenty-third day of June of the year one thousand nine hundred and seventy-five  
the following Convention, which may be cited as the Human Resources Development Conven-  
tion, 1975:

C142

*Article 1*

1. Each Member shall adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.
2. These policies and programmes shall take due account of :
  - (a) employment needs, opportunities and problems, both regional and national;
  - (b) the stage and level of economic, social and cultural development; and
  - (c) the mutual relationships between human resources development and other economic, social and cultural objectives.
3. The policies and programmes shall be pursued by methods that are appropriate to national conditions.
4. The policies and programmes shall be designed to improve the ability of the individual to understand and, individually or collectively, to influence the working and social environment.
5. The policies and programmes shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society.

*Article 2*

With the above ends in view, each Member shall establish and develop open, flexible and complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, whether these activities take place within the system of formal education or outside it.

*Article 3*

1. Each Member shall gradually extend its systems of vocational guidance, including continuing employment information, with a view to ensuring that comprehensive information and the broadest possible guidance are available to all children, young persons and adults, including appropriate programmes for all handicapped and disabled persons.

2. Such information and guidance shall cover the choice of an occupation, vocational training and related educational opportunities, the employment situation and employment prospects, promotion prospects, conditions of work, safety and hygiene at work, and other aspects of working life in the various sectors of economic, social and cultural activity and at all levels of responsibility.

3. The information and guidance shall be supplemented by information on general aspects of collective agreements and of the rights and obligations of all concerned under labour law; this information shall be provided in accordance with national law and practice, taking into account the respective functions and tasks of the workers' and employers' organisations concerned.

*Article 4*

Each Member shall gradually extend, adapt and harmonise its vocational training systems to meet the needs for vocational training throughout life of both young persons and adults in all sectors of the economy and branches of economic activity and at all levels of skill and responsibility.

*Article 5*

Policies and programmes of vocational guidance and vocational training shall be formulated and implemented in co-operation with employers' and workers' organisations and, as appropriate and in accordance with national law and practice, with other interested bodies.

(Final Provisions)



**Recommendation No. 195****Human Resources Development Recommendation,  
2004**

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 92nd Session on 1 June 2004, and

Recognizing that education, training and lifelong learning contribute significantly to promoting the interests of individuals, enterprises, the economy and society as a whole, especially considering the critical challenge of attaining full employment, poverty eradication, social inclusion and sustained economic growth in the global economy, and

Calling on governments, employers and workers to renew their commitment to lifelong learning: governments by investing and creating the conditions to enhance education and training at all levels; enterprises by training their employees; and individuals by making use of the education, training and lifelong learning opportunities, and

Recognizing that education, training and lifelong learning are fundamental and should form an integral part of, and be consistent with, comprehensive economic, fiscal, social and labour market policies and programmes that are important for sustainable economic growth and employment creation and social development, and

Recognizing that many developing countries need support in the design, funding and implementation of appropriate education and training policies to attain human development, economic and employment growth, and poverty eradication, and

Recognizing that education, training and lifelong learning are contributing factors to personal development, access to culture and active citizenship, and Recalling that the realization of decent work for workers everywhere is a primary objective of the International Labour Organization, and Noting the rights and principles embodied in the relevant instruments of the International Labour Organization, and in particular:

- (a) the Human Resources Development Convention, 1975; the Employment Policy Convention and Recommendation, 1964; the Employment Policy (Supplementary Provisions) Recommendation, 1984; and the Paid Educational Leave Convention and Recommendation, 1974;
- (b) the ILO Declaration on Fundamental Principles and Rights at Work;
- (c) the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;
- (d) the conclusions concerning human resources training and development, adopted at the 88th Session (2000) of the International Labour Conference, and Having decided upon the adoption of certain proposals with regard to human resources development and training, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this seventeenth day of June of the year two thousand and four the following Recommendation, which may be cited as the Human Resources Development Recommendation, 2004.

## I. OBJECTIVE, SCOPE AND DEFINITIONS

1. Members should, based on social dialogue, formulate, apply and review national human resources development, education, training and lifelong learning policies which are consistent with economic, fiscal and social policies.

2. For the purpose of this Recommendation:

- (a) the term *lifelong learning* encompasses all learning activities undertaken throughout life for the development of competencies and qualifications;
- (b) the term *competencies* covers the knowledge, skills and know-how applied and mastered in a specific context;
- (c) the term *qualifications* means a formal expression of the vocational or professional abilities of a worker which is recognized at international, national or sectoral levels;
- (d) the term *employability* relates to portable competencies and qualifications that enhance an individual's capacity to make use of the education and training opportunities available in order to secure and retain decent work, to progress within the enterprise and between jobs, and to cope with changing technology and labour market conditions.

3. Members should identify human resources development, education, training and lifelong learning policies which:

- (a) facilitate lifelong learning and employability as part of a range of policy measures designed to create decent jobs, as well as to achieve sustainable economic and social development;
- (b) give equal consideration to economic and social objectives, emphasize sustainable economic development in the context of the globalizing economy and the knowledge- and skills-based society, as well as the development of competencies, promotion of decent work, job retention, social development, social inclusion and poverty reduction;
- (c) stress the importance of innovation, competitiveness, productivity, growth of the economy, the creation of decent jobs and the employability of people, considering that innovation creates new employment opportunities and also requires new approaches to education and training to meet the demand for new skills;
- (d) address the challenge of transforming activities in the informal economy into decent work fully integrated into mainstream economic life; policies and programmes should be developed with the aim of creating decent jobs and opportunities for education and training, as well as validating prior learning and skills gained to assist workers and employers to move into the formal economy;
- (e) promote and sustain public and private investment in the infrastructure needed for the use of information and communication technology in education and training, as well as in the training of teachers and trainers, using local, national and international collaborative networks;
- (f) reduce inequality in the participation in education and training.

4. Members should:

- (a) recognize that education and training are a right for all and, in cooperation with the social partners, work towards ensuring access for all to lifelong learning;
- (b) recognize that the realization of lifelong learning should be based on the explicit commitment: by governments by investing and creating the conditions to enhance education and training at all levels; by enterprises in training their employees; and by individuals in developing their competencies and careers.

## II. DEVELOPMENT AND IMPLEMENTATION OF EDUCATION AND TRAINING POLICIES

5. Members should:

- (a) define, with the involvement of the social partners, a national strategy for education and training, as well as establish a guiding framework for training policies at national, regional, local, and sectoral and enterprise levels;

- (b) develop supportive social and other policies, and create an economic environment and incentives, to encourage enterprises to invest in education and training, individuals to develop their competencies and careers, and to enable and motivate all to participate in education and training programmes;
- (c) facilitate the development of an education and training delivery system consistent with national conditions and practices;
- (d) assume the primary responsibility for investing in quality education and pre-employment training, recognizing that qualified teachers and trainers working under decent conditions, are of fundamental importance;
- (e) develop a national qualifications framework to facilitate lifelong learning, assist enterprises and employment agencies to match skill demand with supply, guide individuals in their choice of training and career and facilitate the recognition of prior learning and previously acquired skills, competencies and experience; this framework should be responsive to changing technology and trends in the labour market and recognize regional and local differences, without losing transparency at the national level;
- (f) strengthen social dialogue and collective bargaining on training at international, national, regional, local, and sectoral and enterprise levels as a basic principle for systems development, programme relevance, quality and cost-effectiveness;
- (g) promote equal opportunities for women and men in education, training and lifelong learning;
- (h) promote access to education, training and lifelong learning for people with nationally identified special needs, such as youth, low-skilled people, people with disabilities, migrants, older workers, indigenous people, ethnic minority groups and the socially excluded; and for workers in small and medium-sized enterprises, in the informal economy, in the rural sector and in self-employment;
- (i) provide support to the social partners to enable them to participate in social dialogue on training;
- (j) support and assist individuals through education, training and lifelong learning, and other policies and programmes, to develop and apply entrepreneurial skills to create decent work for themselves and others.

6.

(1) Members should establish, maintain and improve a coordinated education and training system within the concept of lifelong learning, taking into account the primary responsibility of government for education and pre-employment training and for training the unemployed, as well as recognizing the role of the social partners in further training, in particular the vital role of employers in providing work experience opportunities.

(2) Education and pre-employment training include compulsory basic education incorporating basic knowledge, literacy and numeracy skills and the appropriate use of information and communication technology.

7. Members should consider benchmarks in relation to comparable countries, regions and sectors when making decisions about investment in education and training.

### III. EDUCATION AND PRE-EMPLOYMENT TRAINING

8. Members should:

- (a) recognize their responsibility for education and pre-employment training and, in cooperation with the social partners, improve access for all to enhance employability and to facilitate social inclusion;
- (b) develop approaches for non-formal education and training, especially for adults who were denied education and training opportunities when young;
- (c) encourage the use of new information and communication technology in learning and training, to the extent possible;

- (d) ensure provision of vocational, labour market and career information and guidance and employment counselling, supplemented by information on the rights and obligations of all concerned under labour-related laws and other forms of labour regulation;
- (e) ensure that education and pre-employment training programmes are relevant and that their quality is maintained;
- (f) ensure that vocational education and training systems are developed and strengthened to provide appropriate opportunities for the development and certification of skills relevant to the labour market.

#### IV. DEVELOPMENT OF COMPETENCIES

9. Members should:

- (a) promote, with the involvement of the social partners, the ongoing identification of trends in the competencies needed by individuals, enterprises, the economy and society as a whole;
- (b) recognize the role of the social partners, enterprises and workers in training;
- (c) support initiatives by the social partners in the field of training in bipartite dialogue, including collective bargaining;
- (d) provide positive measures to stimulate investment and participation in training;
- (e) recognize workplace learning, including formal and non-formal learning, and work experience;
- (f) promote the expansion of workplace learning and training through:
  - (i) the utilization of high-performance work practices that improve skills;
  - (ii) the organization of on- and off-the-job training with public and private training providers, and making greater use of information and communication technology; and
  - (iii) the use of new forms of learning together with appropriate social policies and measures to facilitate participation in training;
- (g) urge private and public employers to adopt best practices in human resources development;
- (h) develop equal opportunity strategies, measures and programmes to promote and implement training for women, as well as for specific groups and economic sectors, and for people with special needs, with the objective of reducing inequalities;
- (i) promote equal opportunities for, and access to, career guidance and skill upgrading for all workers, as well as support for retraining employees whose jobs are at risk;
- (j) call upon multinational enterprises to provide training for all levels of their employees in home and host countries, to meet the needs of the enterprises and contribute to the development of the country;
- (k) promote the development of equitable training policies and opportunities for all public sector employees, recognizing the role of the social partners in this sector;
- (l) promote supportive policies to enable individuals to balance their work, family and lifelong learning interests.

#### V. TRAINING FOR DECENT WORK AND SOCIAL INCLUSION

10. Members should recognize:

- (a) the primary responsibility of government for the training of the unemployed, those seeking to enter or re-enter the labour market and people with special needs, to develop and enhance their employability to secure decent work, in the private and public sectors, through such measures as incentives and assistance;
- (b) the role of the social partners to support, through human resources development policies and other measures, the integration of the unemployed and people with special needs in jobs;

- (c) the role of local authorities and communities and other interested parties in implementing programmes for people with special needs.

## VI. FRAMEWORK FOR RECOGNITION AND CERTIFICATION OF SKILLS

11.

(1) Measures should be adopted, in consultation with the social partners and using a national qualifications framework, to promote the development, implementation and financing of a transparent mechanism for the assessment, certification and recognition of skills, including prior learning and previous experience, irrespective of the countries where they were acquired and whether acquired formally or informally.

(2) Such an assessment methodology should be objective, non-discriminatory and linked to standards.

(3) The national framework should include a credible system of certification which will ensure that skills are portable and recognized across sectors, industries, enterprises and educational institutions.

12. Special provisions should be designed to ensure recognition and certification of skills and qualifications for migrant workers.

## VII. TRAINING PROVIDERS

13. Members should, in cooperation with the social partners, promote diversity of training provision to meet the different needs of individuals and enterprises and to ensure high-quality standards, recognition and portability of competencies and qualifications within a national quality assurance framework.

14. Members should:

- (a) develop a framework for the certification of qualifications of training providers;
- (b) identify the roles of government and the social partners in promoting the expansion and diversification of training;
- (c) include quality assurance in the public system and promote its development within the private training market and evaluate the outcomes of education and training;
- (d) develop quality standards for trainers and create the opportunities for trainers to meet such standards.

## VIII. CAREER GUIDANCE AND TRAINING SUPPORT SERVICES

15. Members should:

- (a) assure and facilitate, throughout an individual's life, participation in, and access to, vocational and career information and guidance, job placement services and job search techniques and training support services;
- (b) promote and facilitate the use of information and communication technology, as well as traditional best practices in career information and guidance and training support services;
- (c) identify, in consultation with the social partners, roles and responsibilities of employment services, training providers and other relevant service providers with respect to vocational and career information and guidance;
- (d) provide information and guidance on entrepreneurship, promote entrepreneurial skills, and raise awareness among educators and trainers of the important role of enterprises, among others, in creating growth and decent jobs.

## IX. RESEARCH IN HUMAN RESOURCES DEVELOPMENT, EDUCATION, TRAINING AND LIFELONG LEARNING

16. Members should evaluate the impact of their education, training and lifelong learning policies on the progress made towards achieving broader human development goals, such as the creation of decent jobs and poverty eradication.

17. Members should develop their national capacity, as well as facilitate and assist in developing that of the social partners, to analyse trends in labour markets and human resources development and training.

18. Members should:

- (a) collect information, disaggregated by gender, age, and other specific socio-economic characteristics, on educational levels, qualifications, training activities, and employment and incomes, especially when organizing regular surveys of the population, so that trends can be established and comparative analysis undertaken to guide policy development;
- (b) establish databases and quantitative and qualitative indicators, disaggregated by gender, age and other characteristics, on the national training system and gather data on training in the private sector, taking into account the impact of data collection on enterprises;
- (c) collect information on competencies and emerging trends in the labour market from a variety of sources, including longitudinal studies, and not confined to traditional occupational classifications.

19. Members should, in consultation with the social partners, and taking into account the impact of data collection on enterprises, support and facilitate research on human resources development and training, which could include:

- (a) learning and training methodologies, including the use of information and communication technology in training;
- (b) skills recognition and qualifications frameworks;
- (c) policies, strategies and frameworks for human resources development and training;
- (d) investment in training, as well as the effectiveness and impact of training;
- (e) identifying, measuring and forecasting the trends in supply and demand for competencies and qualifications in the labour market;
- (f) identifying and overcoming barriers to accessing training and education;
- (g) identifying and overcoming gender bias in the assessment of competencies;
- (h) preparing, publishing and disseminating reports and documentation on policies, surveys and available data.

20. Members should use the information obtained through research to guide planning, implementation and evaluation of programmes.

## X. INTERNATIONAL AND TECHNICAL COOPERATION

21. International and technical cooperation in human resources development, education, training and lifelong learning should:

- (a) develop mechanisms that mitigate the adverse impact on developing countries of the loss of skilled people through migration, including strategies to strengthen the human resources development systems in the countries of origin, recognizing that creating enabling conditions for economic growth, investment, creation of decent jobs and human development will have a positive effect on retaining skilled labour;
- (b) promote greater opportunities for women and men to obtain decent work;
- (c) promote national capacity building to reform and develop training policies and programmes, including developing the capacity for social dialogue and partnership building in training;

- (d) promote the development of entrepreneurship and decent employment and share experiences on international best practices;
- (e) strengthen the capacity of the social partners to contribute to dynamic lifelong learning policies, in particular in relation to the new dimensions of regional economic integration, migration and the emerging multicultural society;
- (f) promote recognition and portability of skills, competencies and qualifications nationally and internationally;
- (g) increase technical and financial assistance for developing countries and promote, at the level of the international financial institutions and funding agencies, coherent policies and programmes which place education, training and lifelong learning at the centre of development policies;
- (h) taking into account the specific problems of the indebted developing countries, explore and apply innovative approaches to provide additional resources for human resources development;
- (i) promote cooperation between and among governments, the social partners, the private sector and international organizations on all other issues and strategies encompassed in this instrument.

**Convention No. 158****Convention concerning Termination of Employment  
at the Initiative of the Employer, 1982**

The General Conference of the International Labour Organisation,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met in its Sixty-eighth Session on 2 June 1982, and  
 Noting the existing international standards contained in the Termination of Employment Recommendation, 1963, and  
 Noting that since the adoption of the Termination of Employment Recommendation, 1963, significant developments have occurred in the law and practice of many member States on the questions covered by that Recommendation, and  
 Considering that these developments have made it appropriate to adopt new international standards on the subject, particularly having regard to the serious problems in this field resulting from the economic difficulties and technological changes experienced in recent years in many countries,  
 Having decided upon the adoption of certain proposals with regard to termination of employment at the initiative of the employer, which is the fifth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of an international Convention;  
 adopts this twenty-second day of June of the year one thousand nine hundred and eighty-two the following Convention, which may be cited as the Termination of Employment Convention, 1982:

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**PART I. METHODS OF IMPLEMENTATION, SCOPE  
AND DEFINITIONS***Article 1*

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or court decisions or in such other manner as may be consistent with national practice, be given effect by laws or regulations.

*Article 2*

1. This Convention applies to all branches of economic activity and to all employed persons.
2. A Member may exclude the following categories of employed persons from all or some of the provisions of this Convention:
  - (a) workers engaged under a contract of employment for a specified period of time or a specified task;
  - (b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;
  - (c) workers engaged on a casual basis for a short period.



3. Adequate safeguards shall be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from this Convention.

4. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or certain provisions thereof categories of employed persons whose terms and conditions of employment are governed by special arrangements which as a whole provide protection that is at least equivalent to the protection afforded under the Convention.

5. In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Convention or certain provisions thereof other limited categories of employed persons in respect of which special problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.

6. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraphs 4 and 5 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice regarding the categories excluded, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

#### *Article 3*

For the purpose of this Convention the terms *termination* and *termination of employment* mean termination of employment at the initiative of the employer.

## PART II. STANDARDS OF GENERAL APPLICATION

### DIVISION A. JUSTIFICATION FOR TERMINATION

#### *article 4*

The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

#### *Article 5*

The following, *inter alia*, shall not constitute valid reasons for termination:

- (a) union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
- (b) seeking office as, or acting or having acted in the capacity of, a workers' representative;
- (c) the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- (d) race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- (e) absence from work during maternity leave.

#### *Article 6*

1. Temporary absence from work because of illness or injury shall not constitute a valid reason for termination.

2. The definition of what constitutes temporary absence from work, the extent to which medical certification shall be required and possible limitations to the application of paragraph 1 of this Article shall be determined in accordance with the methods of implementation referred to in Article 1 of this Convention.

## DIVISION B. PROCEDURE PRIOR TO OR AT THE TIME OF TERMINATION

### *article 7*

The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

## DIVISION C. PROCEDURE OF APPEAL AGAINST TERMINATION

### *article 8*

1. A worker who considers that his employment has been unjustifiably terminated shall be entitled to appeal against that termination to an impartial body, such as a court, labour tribunal, arbitration committee or arbitrator.

2. Where termination has been authorised by a competent authority the application of paragraph 1 of this Article may be varied according to national law and practice.

3. A worker may be deemed to have waived his right to appeal against the termination of his employment if he has not exercised that right within a reasonable period of time after termination.

### *Article 9*

1. The bodies referred to in Article 8 of this Convention shall be empowered to examine the reasons given for the termination and the other circumstances relating to the case and to render a decision on whether the termination was justified.

2. In order for the worker not to have to bear alone the burden of proving that the termination was not justified, the methods of implementation referred to in Article 1 of this Convention shall provide for one or the other or both of the following possibilities:

- (a) the burden of proving the existence of a valid reason for the termination as defined in Article 4 of this Convention shall rest on the employer;
- (b) the bodies referred to in Article 8 of this Convention shall be empowered to reach a conclusion on the reason for the termination having regard to the evidence provided by the parties and according to procedures provided for by national law and practice.

3. In cases of termination stated to be for reasons based on the operational requirements of the undertaking, establishment or service, the bodies referred to in Article 8 of this Convention shall be empowered to determine whether the termination was indeed for these reasons, but the extent to which they shall also be empowered to decide whether these reasons are sufficient to justify that termination shall be determined by the methods of implementation referred to in Article 1 of this Convention.

### *Article 10*

If the bodies referred to in Article 8 of this Convention find that termination is unjustified and if they are not empowered or do not find it practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.

## DIVISION D. PERIOD OF NOTICE

*article 11*

A worker whose employment is to be terminated shall be entitled to a reasonable period of notice or compensation in lieu thereof, unless he is guilty of serious misconduct, that is, misconduct of such a nature that it would be unreasonable to require the employer to continue his employment during the notice period.

## DIVISION E. SEVERANCE ALLOWANCE AND OTHER INCOME PROTECTION

*article 12*

1. A worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to:

- (a) a severance allowance or other separation benefits, the amount of which shall be based inter alia on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or
- (b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age or invalidity benefits, under the normal conditions to which such benefits are subject; or
- (c) a combination of such allowance and benefits.

2. A worker who does not fulfil the qualifying conditions for unemployment insurance or assistance under a scheme of general scope need not be paid any allowance or benefit referred to in paragraph 1, subparagraph (a), of this Article solely because he is not receiving an unemployment benefit under paragraph 1, subparagraph (b).

3. Provision may be made by the methods of implementation referred to in Article 1 of this Convention for loss of entitlement to the allowance or benefits referred to in paragraph 1, subparagraph (a), of this Article in the event of termination for serious misconduct.

### PART III. SUPPLEMENTARY PROVISIONS CONCERNING TERMINATIONS OF EMPLOYMENT FOR ECONOMIC, TECHNOLOGICAL, STRUCTURAL OR SIMILAR REASONS

## DIVISION A. CONSULTATION OF WORKERS' REPRESENTATIVES

*article 13*

1. When the employer contemplates terminations for reasons of an economic, technological, structural or similar nature, the employer shall:

- (a) provide the workers' representatives concerned in good time with relevant information including the reasons for the terminations contemplated, the number and categories of workers likely to be affected and the period over which the terminations are intended to be carried out;
- (b) give, in accordance with national law and practice, the workers' representatives concerned, as early as possible, an opportunity for consultation on measures to be taken to avert or to minimise the terminations and measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.

2. The applicability of paragraph 1 of this Article may be limited by the methods of implementation referred to in Article 1 of this Convention to cases in which the number of workers whose termination of employment is contemplated is at least a specified number or percentage of the workforce.

3. For the purposes of this Article the term *the workers' representatives concerned* means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

#### DIVISION B. NOTIFICATION TO THE COMPETENT AUTHORITY

##### *article 14*

1. When the employer contemplates terminations for reasons of an economic, technological, structural or similar nature, he shall notify, in accordance with national law and practice, the competent authority thereof as early as possible, giving relevant information, including a written statement of the reasons for the terminations, the number and categories of workers likely to be affected and the period over which the terminations are intended to be carried out.

2. National laws or regulations may limit the applicability of paragraph 1 of this Article to cases in which the number of workers whose termination of employment is contemplated is at least a specified number or percentage of the workforce.

3. The employer shall notify the competent authority of the terminations referred to in paragraph 1 of this Article a minimum period of time before carrying out the terminations, such period to be specified by national laws or regulations.

(Final Provisions)

**Recommendation No. 166****Recommendation concerning Termination of Employment  
at the Initiative of the Employer, 1982**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Sixty-eighth Session on 2 June 1982, and  
Having decided upon the adoption of certain proposals with regard to termination of employment  
at the initiative of the employer, which is the fifth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing  
the Termination of Employment Convention, 1982;  
adopts this twenty-second day of June of the year one thousand nine hundred and eighty-two, the  
following Recommendation, which may be cited as the Termination of Employment Recommendation,  
1982:

**I. METHODS OF IMPLEMENTATION, SCOPE  
AND DEFINITIONS**

1. The provisions of this Recommendation may be applied by national laws or regulations, collective agreements, works rules, arbitration awards or court decisions or in such other manner consistent with national practice as may be appropriate under national conditions.

2.

(1) This Recommendation applies to all branches of economic activity and to all employed persons.

(2) A Member may exclude the following categories of employed persons from all or some of the provisions of this Recommendation:

- (a) workers engaged under a contract of employment for a specified period of time or a specified task;
- (b) workers serving a period of probation or a qualifying period of employment, determined in advance and of reasonable duration;
- (c) workers engaged on a casual basis for a short period.

(3) In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Recommendation or certain provisions thereof categories of employed persons whose terms and conditions of employment are governed by special arrangements, which as a whole provide protection that is at least equivalent to the protection afforded under the Recommendation.

(4) In so far as necessary, measures may be taken by the competent authority or through the appropriate machinery in a country, after consultation with the organisations of employers and workers concerned, where such exist, to exclude from the application of this Recommendation or certain provisions thereof other limited categories of employed persons in respect of which special

problems of a substantial nature arise in the light of the particular conditions of employment of the workers concerned or the size or nature of the undertaking that employs them.

3.

(1) Adequate safeguards should be provided against recourse to contracts of employment for a specified period of time the aim of which is to avoid the protection resulting from the Termination of Employment Convention, 1982, and this Recommendation.

(2) To this end, for example, provision may be made for one or more of the following:

- (a) limiting recourse to contracts for a specified period of time to cases in which, owing either to the nature of the work to be effected or to the circumstances under which it is to be effected or to the interests of the worker, the employment relationship cannot be of indeterminate duration;
- (b) deeming contracts for a specified period of time, other than in the cases referred to in clause (a) of this subparagraph, to be contracts of employment of indeterminate duration;
- (c) deeming contracts for a specified period of time, when renewed on one or more occasions, other than in the cases mentioned in clause (a) of this subparagraph, to be contracts of employment of indeterminate duration.

4. For the purpose of this Recommendation the terms *termination* and *termination of employment* mean termination of employment at the initiative of the employer.

## II. STANDARDS OF GENERAL APPLICATION

### *Justification for Termination*

5. In addition to the grounds referred to in Article 5 of the Termination of Employment Convention, 1982, the following should not constitute valid reasons for termination:

- (a) age, subject to national law and practice regarding retirement;
- (b) absence from work due to compulsory military service or other civic obligations, in accordance with national law and practice.

6.

(1) Temporary absence from work because of illness or injury should not constitute a valid reason for termination.

(2) The definition of what constitutes temporary absence from work, the extent to which medical certification should be required and possible limitations to the application of subparagraph (1) of this Paragraph should be determined in accordance with the methods of implementation referred to in Paragraph 1 of this Recommendation.

### *Procedure Prior to or at the Time of Termination*

7. The employment of a worker should not be terminated for misconduct of a kind that under national law or practice would justify termination only if repeated on one or more occasions, unless the employer has given the worker appropriate written warning.

8. The employment of a worker should not be terminated for unsatisfactory performance, unless the employer has given the worker appropriate instructions and written warning and the worker continues to perform his duties unsatisfactorily after a reasonable period of time for improvement has elapsed.

9. A worker should be entitled to be assisted by another person when defending himself, in accordance with Article 7 of the Termination of Employment Convention, 1982, against allegations regarding his conduct or performance liable to result in the termination of his employment; this right may be specified by the methods of implementation referred to in Paragraph 1 of this Recommendation.

10. The employer should be deemed to have waived his right to terminate the employment of a worker for misconduct if he has failed to do so within a reasonable period of time after he has knowledge of the misconduct.

11. The employer may consult workers' representatives before a final decision is taken on individual cases of termination of employment.

12. The employer should notify a worker in writing of a decision to terminate his employment.

13.

(1) A worker who has been notified of termination of employment or whose employment has been terminated should be entitled to receive, on request, a written statement from his employer of the reason or reasons for the termination.

(2) Subparagraph (1) of this Paragraph need not be applied in the case of collective termination for the reasons referred to in Articles 13 and 14 of the Termination of Employment Convention, 1982, if the procedure provided for therein is followed.

#### *Procedure of Appeal against Termination*

14. Provision may be made for recourse to a procedure of conciliation before or during appeal proceedings against termination of employment.

15. Efforts should be made by public authorities, workers' representatives and organisations of workers to ensure that workers are fully informed of the possibilities of appeal at their disposal.

#### *Time Off from Work during the Period of Notice*

16. During the period of notice referred to in Article 11 of the Termination of Employment Convention, 1982, the worker should, for the purpose of seeking other employment, be entitled to a reasonable amount of time off without loss of pay, taken at times that are convenient to both parties.

#### *Certificate of Employment*

17. A worker whose employment has been terminated should be entitled to receive, on request, a certificate from the employer specifying only the dates of his engagement and termination of his employment and the type or types of work on which he was employed; nevertheless, and at the request of the worker, an evaluation of his conduct and performance may be given in this certificate or in a separate certificate.

#### *Severance Allowance and Other Income Protection*

18.

(1) A worker whose employment has been terminated should be entitled, in accordance with national law and practice, to:

- (a) a severance allowance or other separation benefits, the amount of which should be based, inter alia, on length of service and the level of wages, and paid directly by the employer or by a fund constituted by employers' contributions; or
- (b) benefits from unemployment insurance or assistance or other forms of social security, such as old-age or invalidity benefits, under the normal conditions to which such benefits are subject; or
- (c) a combination of such allowance and benefits.

(2) A worker who does not fulfil the qualifying conditions for unemployment insurance or assistance under a scheme of general scope need not be paid any allowance or benefit referred to in subparagraph (1) (a) of this Paragraph solely because he is not receiving an unemployment benefit under subparagraph (1) (b).

(3) Provision may be made by the methods of implementation referred to in Paragraph 1 of this Recommendation for loss of entitlement to the allowance or benefits referred to in subparagraph (1) (a) of this Paragraph in the event of termination for serious misconduct.

### III. SUPPLEMENTARY PROVISIONS CONCERNING TERMINATIONS OF EMPLOYMENT FOR ECONOMIC, TECHNOLOGICAL, STRUCTURAL OR SIMILAR REASONS

19.

(1) All parties concerned should seek to avert or minimise as far as possible termination of employment for reasons of an economic, technological, structural or similar nature, without prejudice to the efficient operation of the undertaking, establishment or service, and to mitigate the adverse effects of any termination of employment for these reasons on the worker or workers concerned.

(2) Where appropriate, the competent authority should assist the parties in seeking solutions to the problems raised by the terminations contemplated.

#### *Consultations on Major Changes in the Undertaking*

20.

(1) When the employer contemplates the introduction of major changes in production, programme, organisation, structure or technology that are likely to entail terminations, the employer should consult the workers' representatives concerned as early as possible on, inter alia, the introduction of such changes, the effects they are likely to have and the measures for averting or mitigating the adverse effects of such changes.

(2) To enable the workers' representatives concerned to participate effectively in the consultations referred to in subparagraph (1) of this Paragraph, the employer should supply them in good time with all relevant information on the major changes contemplated and the effects they are likely to have.

(3) For the purposes of this Paragraph the term *the workers' representatives concerned* means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

#### *Measures to Avert or Minimise Termination*

21. The measures which should be considered with a view to averting or minimising terminations of employment for reasons of an economic, technological, structural or similar nature might include, inter alia, restriction of hiring, spreading the workforce reduction over a certain period of time to permit natural reduction of the workforce, internal transfers, training and retraining, voluntary early retirement with appropriate income protection, restriction of overtime and reduction of normal hours of work.

22. Where it is considered that a temporary reduction of normal hours of work would be likely to avert or minimise terminations of employment due to temporary economic difficulties, consideration should be given to partial compensation for loss of wages for the normal hours not worked, financed by methods appropriate under national law and practice.

#### *Criteria for Selection for Termination*

23.

(1) The selection by the employer of workers whose employment is to be terminated for reasons of an economic, technological, structural or similar nature should be made according to criteria, established wherever possible in advance, which give due weight both to the interests of the undertaking, establishment or service and to the interests of the workers.

(2) These criteria, their order of priority and their relative weight, should be determined by the methods of implementation referred to in Paragraph 1 of this Recommendation.



*Priority of Rehiring*

24.

(1) Workers whose employment has been terminated for reasons of an economic, technological, structural or similar nature, should be given a certain priority of rehiring if the employer again hires workers with comparable qualifications, subject to their having, within a given period from the time of their leaving, expressed a desire to be rehired.

(2) Such priority of rehiring may be limited to a specified period of time.

(3) The criteria for the priority of rehiring, the question of retention of rights-particularly seniority rights-in the event of rehiring, as well as the terms governing the wages of rehired workers, should be determined according to the methods of implementation referred to in Paragraph 1 of this Recommendation.

*Mitigating the Effects of Termination*

25.

(1) In the event of termination of employment for reasons of an economic, technological, structural or similar nature, the placement of the workers affected in suitable alternative employment as soon as possible, with training or retraining where appropriate, should be promoted by measures suitable to national circumstances, to be taken by the competent authority, where possible with the collaboration of the employer and the workers' representatives concerned.

(2) Where possible, the employer should assist the workers affected in the search for suitable alternative employment, for example through direct contacts with other employers.

(3) In assisting the workers affected in obtaining suitable alternative employment or training or retraining, regard may be had to the Human Resources Development Convention and Recommendation, 1975.

26.

(1) With a view to mitigating the adverse effects of termination of employment for reasons of an economic, technological, structural or similar nature, consideration should be given to providing income protection during any course of training or retraining and partial or total reimbursement of expenses connected with training or retraining and with finding and taking up employment which requires a change of residence.

(2) The competent authority should consider providing financial resources to support in full or in part the measures referred to in subparagraph (1) of this Paragraph, in accordance with national law and practice.

IV. EFFECT ON EARLIER RECOMMENDATION

27. This Recommendation and the Termination of Employment Convention, 1982, supersede the Termination of Employment Recommendation, 1963.

**Recommendation No. 189****Recommendation concerning General Conditions  
to stimulate Job Creation in Small and Medium-Sized  
Enterprises, 1998**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Eighty-sixth Session on 2 June 1998, and

Recognizing the need for the pursuit of the economic, social, and spiritual well-being and develop-  
ment of individuals, families, communities and nations,

Aware of the importance of job creation in small and medium-sized enterprises, Recalling the  
resolution concerning the promotion of small and medium-sized enterprises adopted by the  
International Labour Conference at its 72nd Session, 1986, as well as the Conclusions set out  
in the resolution concerning employment policies in a global context, adopted by the Confer-  
ence at its 83rd Session, 1996,

Noting that small and medium-sized enterprises, as a critical factor in economic growth and devel-  
opment, are increasingly responsible for the creation of the majority of jobs throughout the  
world, and can help create an environment for innovation and entrepreneurship,

Understanding the special value of productive, sustainable and quality jobs,

Recognizing that small and medium-sized enterprises provide the potential for women and other  
traditionally disadvantaged groups to gain access under better conditions to productive,  
sustainable and quality employment opportunities,

Convinced that promoting respect for the Forced Labour Convention, 1930, the Freedom of  
Association and Protection of the Right to Organise Convention, 1948, the Right to Organ-  
ise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention,  
1951, the Abolition of Forced Labour Convention, 1957, and the Discrimination (Employ-  
ment and Occupation) Convention, 1958, will enhance the creation of quality employment  
in small and medium-sized enterprises and in particular that promoting respect for the Mini-  
mum Age Convention and Recommendation, 1973, will help Members in their efforts to  
eliminate child labour,

Also convinced that the adoption of new provisions on job creation in small and medium-sized  
enterprises, to be taken into account together with:

- (a) the relevant provisions of other international labour Conventions and Recommendations  
as appropriate, such as the Employment Policy Convention and Recommendation,  
1964, and the Employment Policy (Supplementary Provisions) Recommendation, 1984,  
the Co-operatives (Developing Countries) Recommendation, 1966, the Human  
Resources Development Convention and Recommendation, 1975, and the Occupational  
Safety and Health Convention and Recommendation, 1981; and
- (b) other proven ILO initiatives promoting the role of small and medium-sized enterprises  
in sustainable job creation and encouraging adequate and common application of social  
protection, including Start and Improve Your Business and other programmes as well  
as the work of the International Training Centre of the ILO in training and skills  
enhancement,

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will provide valuable guidance for Members in the design and implementation of policies on job creation in small and medium-sized enterprises,

Having decided upon the adoption of certain proposals with regard to general conditions to stimulate job creation in small and medium-sized enterprises, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-eight the following Recommendation which may be cited as the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998.

## I. DEFINITION, PURPOSE AND SCOPE

1. Members should, in consultation with the most representative organizations of employers and workers, define small and medium-sized enterprises by reference to such criteria as may be considered appropriate, taking account of national social and economic conditions, it being understood that this flexibility should not preclude Members from arriving at commonly agreed definitions for data collection and analysis purposes.

2. Members should adopt measures which are appropriate to national conditions and consistent with national practice in order to recognize and to promote the fundamental role that small and medium-sized enterprises can play as regards:

- (a) the promotion of full, productive and freely chosen employment;
- (b) greater access to income-earning opportunities and wealth creation leading to productive and sustainable employment;
- (c) sustainable economic growth and the ability to react with flexibility to changes;
- (d) increased economic participation of disadvantaged and marginalized groups in society;
- (e) increased domestic savings and investment;
- (f) training and development of human resources;
- (g) balanced regional and local development;
- (h) provision of goods and services which are better adapted to local market needs;
- (i) access to improved quality of work and working conditions which may contribute to a better quality of life, as well as allow large numbers of people to have access to social protection;
- (j) stimulating innovation, entrepreneurship, technology development and research;
- (k) access to domestic and international markets; and
- (l) the promotion of good relations between employers and workers.

3. In order to promote the fundamental role of small and medium-sized enterprises referred to in Paragraph 2, Members should adopt appropriate measures and enforcement mechanisms to safeguard the interests of workers in such enterprises by providing them with the basic protection available under other relevant instruments.

4. The provisions of this Recommendation apply to all branches of economic activity and all types of small and medium-sized enterprises, irrespective of the form of ownership (for example, private and public companies, cooperatives, partnerships, family enterprises, and sole proprietorships).

## II. POLICY AND LEGAL FRAMEWORK

5. In order to create an environment conducive to the growth and development of small and medium-sized enterprises, Members should:

- (a) adopt and pursue appropriate fiscal, monetary and employment policies to promote an optimal economic environment (as regards, in particular, inflation, interest and exchange rates, taxation, employment and social stability);

- (b) establish and apply appropriate legal provisions as regards, in particular, property rights, including intellectual property, location of establishments, enforcement of contracts, fair competition as well as adequate social and labour legislation;
- (c) improve the attractiveness of entrepreneurship by avoiding policy and legal measures which disadvantage those who wish to become entrepreneurs.

6. The measures referred to in Paragraph 5 should be complemented by policies for the promotion of efficient and competitive small and medium-sized enterprises able to provide productive and sustainable employment under adequate social conditions. To this end, Members should consider policies that:

- (1) create conditions which:
  - (a) provide for all enterprises, whatever their size or type:
    - (i) equal opportunity as regards, in particular, access to credit, foreign exchange and imported inputs; and
    - (ii) fair taxation;
  - (b) ensure the non-discriminatory application of labour legislation, in order to raise the quality of employment in small and medium-sized enterprises;
  - (c) promote observance by small and medium-sized enterprises of international labour standards related to child labour;

(2) remove constraints to the development and growth of small and medium-sized enterprises, arising in particular from:

- (a) difficulties of access to credit and capital markets;
- (b) low levels of technical and managerial skills;
- (c) inadequate information;
- (d) low levels of productivity and quality;
- (e) insufficient access to markets;
- (f) difficulties of access to new technologies;
- (g) lack of transport and communications infrastructure;
- (h) inappropriate, inadequate or overly burdensome registration, licensing, reporting and other administrative requirements, including those which are disincentives to the hiring of personnel, without prejudicing the level of conditions of employment effectiveness of labour inspection or the system of supervision of working conditions and related issues;
- (i) insufficient support for research and development;
- (j) difficulties in access to public and private procurement opportunities;

(3) include specific measures and incentives aimed at assisting and upgrading the informal sector to become part of the organized sector.

7. With a view to the formulation of such policies Members should, where appropriate:

(1) collect national data on the small and medium-sized enterprise sector, covering inter alia quantitative and qualitative aspects of employment, while ensuring that this does not result in undue administrative burdens for small and medium-sized enterprises;

(2) undertake a comprehensive review of the impact of existing policies and regulations on small and medium-sized enterprises, with particular attention to the impact of structural adjustment programmes on job creation;

(3) review labour and social legislation, in consultation with the most representative organizations of employers and workers, to determine whether:

- (a) such legislation meets the needs of small and medium-sized enterprises, while ensuring adequate protection and working conditions for their workers;

- (b) there is a need for supplementary measures as regards social protection, such as voluntary schemes, cooperative initiatives and others;
- (c) such social protection extends to workers in small and medium-sized enterprises and there are adequate provisions to ensure compliance with social security regulations in areas such as medical care, sickness, unemployment, old-age, employment injury, family, maternity, invalidity and survivors' benefits.

8. In times of economic difficulties, governments should seek to provide strong and effective assistance to small and medium-sized enterprises and their workers.

9. In formulating these policies, Members:

- (1) may consult, in addition to the most representative organizations of employers and workers, other concerned and competent parties as they deem appropriate;
- (2) should take into account other policies in such areas as fiscal and monetary matters, trade and industry, employment, labour, social protection, gender equality, occupational safety and health and capacity-building through education and training;
- (3) should establish mechanisms to review these policies, in consultation with the most representative organizations of employers and workers, and to update them.

### III. DEVELOPMENT OF AN ENTERPRISE CULTURE

10. Members should adopt measures, drawn up in consultation with the most representative organizations of employers and workers, to create and strengthen an enterprise culture which favours initiatives, enterprise creation, productivity, environmental consciousness, quality, good labour and industrial relations, and adequate social practices which are equitable. To this end, Members should consider:

(1) pursuing the development of entrepreneurial attitudes, through the system and programmes of education, entrepreneurship and training linked to job needs and the attainment of economic growth and development, with particular emphasis being given to the importance of good labour relations and the multiple vocational and managerial skills needed by small and medium-sized enterprises;

(2) seeking, through appropriate means, to encourage a more positive attitude towards risk-taking and business failure by recognizing their value as a learning experience while at the same time recognizing their impact on both entrepreneurs and workers;

(3) encouraging a process of lifelong learning for all categories of workers and entrepreneurs;

(4) designing and implementing, with full involvement of the organizations of employers and workers concerned, awareness campaigns to promote:

- (a) respect for the rule of law and workers' rights, better working conditions, higher productivity and improved quality of goods and services;
- (b) entrepreneurial role models and award schemes, taking due account of the specific needs of women, and of disadvantaged and marginalized groups.

### IV. DEVELOPMENT OF AN EFFECTIVE SERVICE INFRASTRUCTURE

11. In order to enhance the growth, job-creation potential and competitiveness of small and medium-sized enterprises, consideration should be given to the availability and accessibility of a range of direct and indirect support services for them and their workers, to include:

- (a) business pre-start-up, start-up and development assistance;
- (b) business plan development and follow-up;
- (c) business incubators;

- (d) information services, including advice on government policies;
- (e) consultancy and research services;
- (f) managerial and vocational skills enhancement;
- (g) promotion and development of enterprise-based training;
- (h) support for training in occupational safety and health;
- (i) assistance in upgrading the literacy, numeracy, computer competencies and basic education levels of managers and employees;
- (j) access to energy, telecommunications and physical infrastructure such as water, electricity, premises, transportation and roads, provided directly or through private sector intermediaries;
- (k) assistance in understanding and applying labour legislation, including provisions on workers' rights, as well as in human resources development and the promotion of gender equality;
- (l) legal, accounting and financial services;
- (m) support for innovation and modernization;
- (n) advice regarding technology;
- (o) advice on the effective application of information and communication technologies to the business process;
- (p) access to capital markets, credit and loan guarantees;
- (q) advice in finance, credit and debt management;
- (r) export promotion and trade opportunities in national and international markets;
- (s) market research and marketing assistance;
- (t) assistance in product design, development and presentation;
- (u) quality management, including quality testing and measurement;
- (v) packaging services;
- (w) environmental management services.

12. As far as possible, the support services referred to in Paragraph 11 should be designed and provided to ensure optimum relevance and efficiency through such means as:

- (a) adapting the services and their delivery to the specific needs of small and medium-sized enterprises, taking into account prevailing economic, social and cultural conditions, as well as differences in terms of size, sector and stage of development;
- (b) ensuring active involvement of small and medium-sized enterprises and the most representative organizations of employers and workers in the determination of the services to be offered;
- (c) involving the public and private sector in the delivery of such services through, for example, organizations of employers and workers, semi-public organizations, private consultants, technology parks, business incubators and small and medium-sized enterprises themselves;
- (d) decentralizing the delivery of services, thereby bringing them as physically close to small and medium-sized enterprises as possible;
- (e) promoting easy access to an integrated range of effective services through "single window" arrangements or referral services;
- (f) aiming towards self-sustainability for service providers through a reasonable degree of cost recovery from small and medium-sized enterprises and other sources, in such a manner as to avoid distorting the markets for such services and to enhance the employment creation potential of small and medium-sized enterprises;
- (g) ensuring professionalism and accountability in the management of service delivery;
- (h) establishing mechanisms for continuous monitoring, evaluation and updating of services.

13. Services should be designed to include productivity-enhancing and other approaches which promote efficiency and help small and medium-sized enterprises to sustain competitiveness

in domestic and international markets, while at the same time improving labour practices and working conditions.

14. Members should facilitate access of small and medium-sized enterprises to finance and credit under satisfactory conditions. In this connection:

(1) credit and other financial services should as far as possible be provided on commercial terms to ensure their sustainability, except in the case of particularly vulnerable groups of entrepreneurs;

(2) supplementary measures should be taken to simplify administrative procedures, reduce transaction costs and overcome problems related to inadequate collateral by, for example, the creation of non-governmental financial retail agencies and development finance institutions addressing poverty alleviation;

(3) small and medium-sized enterprises may be encouraged to organize in mutual guarantee associations;

(4) the creation of venture capital and other organizations, specializing in assistance to innovative small and medium-sized enterprises, should be encouraged.

15. Members should consider appropriate policies to improve all aspects of employment in small and medium-sized enterprises by ensuring the non-discriminatory application of protective labour and social legislation.

16. Members should, in addition:

(1) facilitate, where appropriate, the development of organizations and institutions which can effectively support the growth and competitiveness of small and medium-sized enterprises. In this regard, consultation with the most representative organizations of employers and workers should be considered;

(2) consider adequate measures to promote cooperative linkages between small and medium-sized enterprises and larger enterprises. In this connection, measures should be taken to safeguard the legitimate interests of the small and medium-sized enterprises concerned and of their workers;

(3) consider measures to promote linkages between small and medium-sized enterprises to encourage the exchange of experience as well the sharing of resources and risks. In this connection, small and medium-sized enterprises might be encouraged to form structures such as consortia, networks and production and service cooperatives, taking into account the importance of the role of organizations of employers and workers;

(4) consider specific measures and incentives for persons aspiring to become entrepreneurs among selected categories of the population, such as women, long-term unemployed, persons affected by structural adjustment or restrictive and discriminatory practices, disabled persons, demobilized military personnel, young persons including graduates, older workers, ethnic minorities and indigenous and tribal peoples. The detailed identification of these categories should be carried out taking into account national socio-economic priorities and circumstances;

(5) consider special measures to improve communication and relations between government agencies and small and medium-sized enterprises as well as the most representative organizations of such enterprises, in order to improve the effectiveness of government policies aimed at job creation;

(6) encourage support for female entrepreneurship, recognizing the growing importance of women in the economy, through measures designed specifically for women who are or wish to become entrepreneurs.

## V. ROLES OF ORGANIZATIONS OF EMPLOYERS AND WORKERS

17. Organizations of employers or workers should consider contributing to the development of small and medium-sized enterprises in the following ways:

- (a) articulating to governments the concerns of small and medium-sized enterprises or their workers, as appropriate;
- (b) providing direct support services in such areas as training, consultancy, easier access to credit, marketing, advice on industrial relations and promoting linkages with larger enterprises;
- (c) cooperating with national, regional and local institutions as well as with intergovernmental regional organizations which provide support to small and medium-sized enterprises in such areas as training, consultancy, business start-up and quality control;
- (d) participating in councils, task forces and other bodies at national, regional and local levels established to deal with important economic and social issues, including policies and programmes, affecting small and medium-sized enterprises;
- (e) promoting and taking part in the development of economically beneficial and socially progressive restructuring (by such means as retraining and promotion of self-employment) with appropriate social safety nets;
- (f) participating in the promotion of exchange of experience and establishment of linkages between small and medium-sized enterprises;
- (g) participating in the monitoring and analysis of social and labour-market issues affecting small and medium-sized enterprises, concerning such matters as terms of employment, working conditions, social protection and vocational training, and promoting corrective action as appropriate;
- (h) participating in activities to raise quality and productivity, as well as to promote ethical standards, gender equality and non-discrimination;
- (i) preparing studies on small and medium-sized enterprises, collecting statistical and other types of information relevant to the sector, including statistics disaggregated by gender and age, and sharing this information, as well as lessons of best practice, with other national and international organizations of employers and workers;
- (j) providing services and advice on workers' rights, labour legislation and social protection for workers in small and medium-sized enterprises.

18. Small and medium-sized enterprises and their workers should be encouraged to be adequately represented, in full respect for freedom of association. In this connection, organizations of employers and workers should consider widening their membership base to include small and medium-sized enterprises.

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## VI. INTERNATIONAL COOPERATION

19. Appropriate international cooperation should be encouraged in the following areas:

- (a) establishment of common approaches to the collection of comparable data, to support policy-making;
- (b) exchange of information, disaggregated by gender, age and other relevant variables, on best practices in terms of policies and programmes to create jobs and to raise the quality of employment in small and medium-sized enterprises;
- (c) creation of linkages between national and international bodies and institutions that are involved in the development of small and medium-sized enterprises, including organizations of employers and workers, in order to facilitate:
  - (i) exchange of staff, experiences and ideas;
  - (ii) exchange of training materials, training methodologies and reference materials;
  - (iii) compilation of research findings and other quantitative and qualitative data, disaggregated by gender and age, on small and medium-sized enterprises and their development;
  - (iv) establishment of international partnerships and alliances of small and medium-sized enterprises, subcontracting arrangements and other commercial linkages;



- (v) development of new mechanisms, utilizing modern information technology, for the exchange of information among governments, employers' organizations and workers' organizations on experience gained with regard to the promotion of small and medium-sized enterprises;
- (d) international meetings and discussion groups on approaches to job creation through the development of small and medium-sized enterprises, including support for female entrepreneurship. Similar approaches for job creation and entrepreneurship will be helpful for disadvantaged and marginalized groups;
- (e) systematic research in a variety of contexts and countries into key success factors for promoting small and medium-sized enterprises which are both efficient and capable of creating jobs providing good working conditions and adequate social protection;
- (f) promotion of access by small and medium-sized enterprises and their workers to national and international databases on such subjects as employment opportunities, market information, laws and regulations, technology and product standards.

20. Members should promote the contents of this Recommendation with other international bodies. Members should also be open to cooperation with those bodies, where appropriate, when evaluating and implementing the provisions of this Recommendation, and take into consideration the prominent role played by the ILO in the promotion of job creation in small and medium-sized enterprises.

**Recommendation No. 198****Recommendation concerning the employment relationship, 2006**

- The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006, and  
 Considering that there is protection offered by national laws and regulations and collective agreements which are linked to the existence of an employment relationship between an employer and an employee, and  
 Considering that laws and regulations, and their interpretation, should be compatible with the objectives of decent work, and  
 Considering that employment or labour law seeks, among other things, to address what can be an unequal bargaining position between parties to an employment relationship, and  
 Considering that the protection of workers is at the heart of the mandate of the International Labour Organization, and in accordance with principles set out in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and the Decent Work Agenda, and  
 Considering the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application, and  
 Noting that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due, and  
 Recognizing that there is a role for international guidance to Members in achieving this protection through national law and practice, and that such guidance should remain relevant over time, and  
 Further recognizing that such protection should be accessible to all, particularly vulnerable workers, and should be based on law that is efficient, effective and comprehensive, with expeditious outcomes, and that encourages voluntary compliance, and  
 Recognizing that national policy should be the result of consultation with the social partners and should provide guidance to the parties concerned in the workplace, and  
 Recognizing that national policy should promote economic growth, job creation and decent work, and  
 Considering that the globalized economy has increased the mobility of workers who are in need of protection, at least against circumvention of national protection by choice of law, and  
 Noting that, in the framework of transnational provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is, and  
 Considering that the difficulties in establishing the existence of an employment relationship may create serious problems for those workers concerned, their communities, and society at large, and  
 Considering that the uncertainty as to the existence of an employment relationship needs to be addressed to guarantee fair competition and effective protection of workers in an employment relationship in a manner appropriate to national law or practice, and

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Noting all relevant international labour standards, especially those addressing the particular situation of women, as well as those addressing the scope of the employment relationship, and

Having decided upon the adoption of certain proposals with regard to the employment relationship, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this fifteenth day of June of the year two thousand and six the following Recommendation, which may be cited as the Employment Relationship Recommendation, 2006.

## I. NATIONAL POLICY OF PROTECTION FOR WORKERS IN AN EMPLOYMENT RELATIONSHIP

1. Members should formulate and apply a national policy for reviewing at appropriate intervals and, if necessary, clarifying and adapting the scope of relevant laws and regulations, in order to guarantee effective protection for workers who perform work in the context of an employment relationship.

2. The nature and extent of protection given to workers in an employment relationship should be defined by national law or practice, or both, taking into account relevant international labour standards. Such law or practice, including those elements pertaining to scope, coverage and responsibility for implementation, should be clear and adequate to ensure effective protection for workers in an employment relationship.

3. National policy should be formulated and implemented in accordance with national law and practice in consultation with the most representative organizations of employers and workers.

4. National policy should at least include measures to:

- (a) provide guidance for the parties concerned, in particular employers and workers, on effectively establishing the existence of an employment relationship and on the distinction between employed and self-employed workers;
- (b) combat disguised employment relationships in the context of, for example, other relationships that may include the use of other forms of contractual arrangements that hide the true legal status, noting that a disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due;
- (c) ensure standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due;
- (d) ensure that standards applicable to all forms of contractual arrangements establish who is responsible for the protection contained therein;
- (e) provide effective access of those concerned, in particular employers and workers, to appropriate, speedy, inexpensive, fair and efficient procedures and mechanisms for settling disputes regarding the existence and terms of an employment relationship;
- (f) ensure compliance with, and effective application of, laws and regulations concerning the employment relationship; and
- (g) provide for appropriate and adequate training in relevant international labour standards, comparative and case law for the judiciary, arbitrators, mediators, labour inspectors, and other persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standards.

5. Members should take particular account in national policy to ensure effective protection to workers especially affected by the uncertainty as to the existence of an employment relationship, including women workers, as well as the most vulnerable workers, young workers, older workers, workers in the informal economy, migrant workers and workers with disabilities.

6. Members should:

- (a) take special account in national policy to address the gender dimension in that women workers predominate in certain occupations and sectors where there is a high proportion of disguised employment relationships, or where there is a lack of clarity of an employment relationship; and
- (b) have clear policies on gender equality and better enforcement of the relevant laws and agreements at national level so that the gender dimension can be effectively addressed.

7. In the context of the transnational movement of workers:

- (a) in framing national policy, a Member should, after consulting the most representative organizations of employers and workers, consider adopting appropriate measures within its jurisdiction, and where appropriate in collaboration with other Members, so as to provide effective protection to and prevent abuses of migrant workers in its territory who may be affected by uncertainty as to the existence of an employment relationship;
- (b) where workers are recruited in one country for work in another, the Members concerned may consider concluding bilateral agreements to prevent abuses and fraudulent practices which have as their purpose the evasion of the existing arrangements for the protection of workers in the context of an employment relationship.

8. National policy for protection of workers in an employment relationship should not interfere with true civil and commercial relationships, while at the same time ensuring that individuals in an employment relationship have the protection they are due.

## II. DETERMINATION OF THE EXISTENCE OF AN EMPLOYMENT RELATIONSHIP

9. For the purposes of the national policy of protection for workers in an employment relationship, the determination of the existence of such a relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

10. Members should promote clear methods for guiding workers and employers as to the determination of the existence of an employment relationship.

11. For the purpose of facilitating the determination of the existence of an employment relationship, Members should, within the framework of the national policy referred to in this Recommendation, consider the possibility of the following:

- (a) allowing a broad range of means for determining the existence of an employment relationship;
- (b) providing for a legal presumption that an employment relationship exists where one or more relevant indicators is present; and
- (c) determining, following prior consultations with the most representative organizations of employers and workers, that workers with certain characteristics, in general or in a particular sector, must be deemed to be either employed or self-employed.

12. For the purposes of the national policy referred to in this Recommendation, Members may consider clearly defining the conditions applied for determining the existence of an employment relationship, for example, subordination or dependence.

13. Members should consider the possibility of defining in their laws and regulations, or by other means, specific indicators of the existence of an employment relationship. Those indicators might include:

- (a) the fact that the work: is carried out according to the instructions and under the control of another party; involves the integration of the worker in the organization of the enterprise; is performed solely or mainly for the benefit of another person; must be carried out personally by the worker; is carried out within specific working hours or at a workplace specified or

agreed by the party requesting the work; is of a particular duration and has a certain continuity; requires the worker's availability; or involves the provision of tools, materials and machinery by the party requesting the work;

- (b) periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income; provision of payment in kind, such as food, lodging or transport; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

14. The settlement of disputes concerning the existence and terms of an employment relationship should be a matter for industrial or other tribunals or arbitration authorities to which workers and employers have effective access in accordance with national law and practice.

15. The competent authority should adopt measures with a view to ensuring respect for and implementation of laws and regulations concerning the employment relationship with regard to the various aspects considered in this Recommendation, for example, through labour inspection services and their collaboration with the social security administration and the tax authorities.

16. In regard to the employment relationship, national labour administrations and their associated services should regularly monitor their enforcement programmes and processes. Special attention should be paid to occupations and sectors with a high proportion of women workers.

17. Members should develop, as part of the national policy referred to in this Recommendation, effective measures aimed at removing incentives to disguise an employment relationship.

18. As part of the national policy, Members should promote the role of collective bargaining and social dialogue as a means, among others, of finding solutions to questions related to the scope of the employment relationship at the national level.

### III. MONITORING AND IMPLEMENTATION

19. Members should establish an appropriate mechanism, or make use of an existing one, for monitoring developments in the labour market and the organization of work, and for formulating advice on the adoption and implementation of measures concerning the employment relationship within the framework of the national policy.

20. The most representative organizations of employers and workers should be represented, on an equal footing, in the mechanism for monitoring developments in the labour market and the organization of work. In addition, these organizations should be consulted under the mechanism as often as necessary and, wherever possible and useful, on the basis of expert reports or technical studies.

21. Members should, to the extent possible, collect information and statistical data and undertake research on changes in the patterns and structure of work at the national and sectoral levels, taking into account the distribution of men and women and other relevant factors.

22. Members should establish specific national mechanisms in order to ensure that employment relationships can be effectively identified within the framework of the transnational provision of services. Consideration should be given to developing systematic contact and exchange of information on the subject with other States.

## FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

- Equal Remuneration Convention, 1951, No. 100, and Recommendation No. 90
- Discrimination (Employment & Occupation) Convention, 1958, No. 111, and Recommendation No. 111
- Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87
- Right to Organise and Collective Bargaining Convention, 1949, No. 98
- Minimum Age Convention, 1973, No. 138, and Recommendation No. 146
- Worst Forms of Child Labour Convention, 1999, No. 182, and Recommendation No. 190
- Forced Labour Convention, 1930, No. 29, and Recommendation No. 35
- Abolition of Forced Labour Convention, 1957, No. 105

## MATERNITY PROTECTION, WORK AND FAMILY

- Maternity Protection Convention, 2000, No. 183, and Recommendation No. 191
- Workers with Family Responsibilities Convention, 1981, No. 156, and Recommendation No. 165

## EMPLOYMENT PROMOTION

- Employment Policy Convention, 1964, No. 122, and Recommendation No. 122
- Employment Policy (Supplementary Provision) Recommendation, 1984, No. 16
- Human Resources Development Convention, 1975, No. 142, and revised by Recommendation No. 195, 2004
- Termination of Employment Convention, 1982, No. 158, and Recommendation No. 166
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998, No. 189
- Employment Relationship Recommendation, 2006, No. 198

## SPECIFIC CATEGORIES

- HIV and AIDS Recommendation, 2010, No. 200
- Domestic Workers Convention, 2011, No. 189, and Recommendation No. 201
- Indigenous and Tribal People's Convention, 1989, No. 169
- Migration for Employment Convention (Revised), 1949, No. 97, and Recommendation No. 86
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143, and Recommendation No. 151

## WORKING CONDITIONS

- Night Work (Women) Convention (Revised), 1948, No. 89, Protocol of 1990 to the Night Work (Women) Convention No. 89
- Night Work Convention, 1990, No. 171, and Recommendation No. 178
- Home Work Convention, 1996, No. 177 and Recommendation No. 184
- Part-time Work Convention, 1994, No. 175, and Recommendation No. 182



**Recommendation No. 200****Recommendation concerning HIV and AIDS  
and the World of Work (2010)**

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 99th Session on 2 June 2010, and

Noting that HIV and AIDS have a serious impact on society and economies, on the world of work in both the formal and informal sectors, on workers, their families and dependants, on the employers and workers organizations and on public and private enterprises, and undermine the attainment of decent work and sustainable development, and

Reaffirming the importance of the International Labour Organization's role in addressing HIV and AIDS in the world of work and the need for the Organization to strengthen its efforts to achieve social justice and to combat discrimination and stigmatization with regard to HIV and AIDS in all aspects of its work and mandate, and

Recalling the importance of reducing the informal economy by attaining decent work and sustainable development in order to better mobilize the world of work in the response to HIV and AIDS, and Noting that high levels of social and economic inequality, lack of information and awareness, lack of confidentiality and insufficient access to and adherence to treatment, increase the risk of HIV transmission, mortality levels, the number of children who have lost one or both parents and the number of workers engaged in informal work, and

Considering that poverty, social and economic inequality and unemployment increase the risk of lack of access to prevention, treatment, care and support, therefore increasing the risk of transmission, and

Noting that stigma, discrimination and the threat of job loss suffered by persons affected by HIV or AIDS are barriers to knowing one's HIV status, thus increasing the vulnerability of workers to HIV and undermining their right to social benefits, and

Noting that HIV and AIDS have a more severe impact on vulnerable and at-risk groups, and

Noting that HIV affects both men and women, although women and girls are at greater risk and more vulnerable to HIV infection and are disproportionately affected by the HIV pandemic compared to men as a result of gender inequality, and that women's empowerment is therefore a key factor in the global response to HIV and AIDS, and

Recalling the importance of safeguarding workers through comprehensive occupational safety and health programmes, and Recalling the value of the ILO code of practice An ILO code of practice on HIV/ AIDS and the world of work, 2001, and the need to strengthen its impact given that there are limits and gaps in its implementation, and

Noting the need to promote and implement the international labour Conventions and Recommendations and other international instruments that are relevant to HIV and AIDS and the world of work, including those that recognize the right to the highest attainable standard of health and to decent living standards, and

Recalling the specific role of employers and workers organizations in promoting and supporting national and international efforts in response to HIV and AIDS in and through the world of work, and

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Noting the important role of the workplace as regards information about and access to prevention, treatment, care and support in the national response to HIV and AIDS, and

Affirming the need to continue and increase international cooperation, in particular in the context of the Joint United Nations Programme on HIV/ AIDS, to support efforts to give effect to this Recommendation, and Recalling the value of collaboration at the national, regional and international levels with the structures dealing with HIV and AIDS, including the health sector and with relevant organizations, especially those representing persons living with HIV, and

Affirming the need to set an international standard in order to guide governments and organizations of employers and workers in defining their roles and responsibilities at all levels, and

Having decided upon the adoption of certain proposals with regard to HIV and AIDS and the world of work, and

Having determined that these proposals shall take the form of a Recommendation; adopts this seventeenth day of June of the year two thousand and ten the following Recommendation, which may be cited as the HIV and AIDS Recommendation, 2010.

## I. DEFINITIONS

1. For the purposes of this Recommendation:

- (a) *HIV* refers to the human immunodeficiency virus, a virus that damages the human immune system. Infection can be prevented by appropriate measures;
- (b) *AIDS* refers to the acquired immunodeficiency syndrome which results from advanced stages of HIV infection, and is characterized by opportunistic infections or HIV-related cancers, or both;
- (c) *persons living with HIV* means persons infected with HIV;
- (d) *stigma* means the social mark that, when associated with a person, usually causes marginalization or presents an obstacle to the full enjoyment of social life by the person infected or affected by HIV;
- (e) *discrimination* means any distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation, as referred to in the Discrimination (Employment and Occupation) Convention, 1958, and Recommendation, 1958;
- (f) *affected persons* means persons whose lives are changed by HIV or AIDS owing to the broader impact of the pandemic;
- (g) *reasonable accommodation* means any modification or adjustment to a job or to the workplace that is reasonably practicable and enables a person living with HIV or AIDS to have access to, or participate or advance in, employment;
- (h) *vulnerability* means the unequal opportunities, social exclusion, unemployment or precarious employment, resulting from the social, cultural, political and economic factors that make a person more susceptible to HIV infection and to developing AIDS;
- (i) *workplace* refers to any place in which workers perform their activity; and
- (j) *worker* refers to any persons working under any form or arrangement.

## II. SCOPE

2. This Recommendation covers:

- (a) all workers working under all forms or arrangements, and at all workplaces, including:
  - (i) persons in any employment or occupation;
  - (ii) those in training, including interns and apprentices;

- (iii) volunteers;
- (iv) jobseekers and job applicants; and
- (v) laid-off and suspended workers;
- (b) all sectors of economic activity, including the private and public sectors and the formal and informal economies; and
- (c) armed forces and uniformed services.

### III. GENERAL PRINCIPLES

3. The following general principles should apply to all action involved in the national response to HIV and AIDS in the world of work:

- (a) the response to HIV and AIDS should be recognized as contributing to the realization of human rights and fundamental freedoms and gender equality for all, including workers, their families and their dependants;
- (b) HIV and AIDS should be recognized and treated as a workplace issue, which should be included among the essential elements of the national, regional and international response to the pandemic with full participation of organizations of employers and workers;
- (c) there should be no discrimination against or stigmatization of workers, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk of or more vulnerable to HIV infection;
- (d) prevention of all means of HIV transmission should be a fundamental priority;
- (e) workers, their families and their dependants should have access to and benefit from prevention, treatment, care and support in relation to HIV and AIDS, and the workplace should play a role in facilitating access to these services;
- (f) workers participation and engagement in the design, implementation and evaluation of national and workplace programmes should be recognized and reinforced;
- (g) workers should benefit from programmes to prevent specific risks of occupational transmission of HIV and related transmissible diseases, such as tuberculosis;
- (h) workers, their families and their dependants should enjoy protection of their privacy, including confidentiality related to HIV and AIDS, in particular with regard to their own HIV status;
- (i) no workers should be required to undertake an HIV test or disclose their HIV status;
- (j) measures to address HIV and AIDS in the world of work should be part of national development policies and programmes, including those related to labour, education, social protection and health; and
- (k) the protection of workers in occupations that are particularly exposed to the risk of HIV transmission.

### IV. NATIONAL POLICIES AND PROGRAMMES

4. Members should:

- (a) adopt national policies and programmes on HIV and AIDS and the world of work and on occupational safety and health, where they do not already exist; and
- (b) integrate their policies and programmes on HIV and AIDS and the world of work in development plans and poverty reduction strategies, including decent work, sustainable enterprises and income-generating strategies, as appropriate.

5. In developing the national policies and programmes, the competent authorities should take into account the ILO code of practice on HIV/AIDS of 2001, and any subsequent revision,

other relevant International Labour Organization instruments, and other international guidelines adopted on this subject.

6. The national policies and programmes should be developed by the competent authorities, in consultation with the most representative organizations of employers and workers, as well as organizations representing persons living with HIV, taking into account the views of relevant sectors, especially the health sector.

7. In developing the national policies and programmes, the competent authorities should take into account the role of the workplace in prevention, treatment, care and support, including the promotion of voluntary counselling and testing, in collaboration with local communities.

8. Members should take every opportunity to disseminate information about their policies and programmes on HIV and AIDS and the world of work through organizations of employers and workers, other relevant HIV and AIDS entities, and public information channels.

*Discrimination and promotion of equality of opportunity and treatment*

9. Governments, in consultation with the most representative organizations of employers and workers should consider affording protection equal to that available under the Discrimination (Employment and Occupation) Convention, 1958, to prevent discrimination based on real or perceived HIV status.

10. Real or perceived HIV status should not be a ground of discrimination preventing the recruitment or continued employment, or the pursuit of equal opportunities consistent with the provisions of the Discrimination (Employment and Occupation) Convention, 1958.

11. Real or perceived HIV status should not be a cause for termination of employment. Temporary absence from work because of illness or care giving duties related to HIV or AIDS should be treated in the same way as absences for other health reasons, taking into account the Termination of Employment Convention, 1982.

12. When existing measures against discrimination in the workplace are inadequate for effective protection against discrimination in relation to HIV and AIDS, Members should adapt these measures or put new ones in place, and provide for their effective and transparent implementation.

13. Persons with HIV-related illness should not be denied the possibility of continuing to carry out their work, with reasonable accommodation if necessary, for as long as they are medically fit to do so. Measures to redeploy such persons to work reasonably adapted to their abilities, to find other work through training or to facilitate their return to work should be encouraged, taking into consideration the relevant International Labour Organization and United Nations instruments.

14. Measures should be taken in or through the workplace to reduce the transmission of HIV and alleviate its impact by:

- (a) ensuring respect for human rights and fundamental freedoms;
- (b) ensuring gender equality and the empowerment of women;
- (c) ensuring actions to prevent and prohibit violence and harassment in the workplace;
- (d) promoting the active participation of both women and men in the response to HIV and AIDS;
- (e) promoting the involvement and empowerment of all workers regardless of their sexual orientation and whether or not they belong to a vulnerable group;
- (f) promoting the protection of sexual and reproductive health and sexual and reproductive rights of women and men; and
- (g) ensuring the effective confidentiality of personal data, including medical data.

*Prevention*

15. Prevention strategies should be adapted to national conditions and the type of workplace, and should take into account gender, cultural, social and economic concerns.

16. Prevention programmes should ensure:

- (a) that accurate, up to date, relevant and timely information is made available and accessible to all in a culturally sensitive format and language through the different channels of communication available
- (b) comprehensive education programmes to help women and men understand and reduce the risk of all modes of HIV transmission, including mother-to-child transmission, and understand the importance of changing risk behaviours related to infection;
- (c) effective occupational safety and health measures;
- (d) measures to encourage workers to know their own HIV status through voluntary counselling and testing;
- (e) access to all means of prevention, including but not limited to guaranteeing the availability of necessary supplies, in particular male and female condoms and, where appropriate, information about their correct use, and the availability of post-exposure prophylaxis;
- (f) effective measures to reduce high-risk behaviours, including for the most at-risk groups, with a view to decreasing the incidence of HIV; and
- (g) harm reduction strategies based on guidelines published by the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the United Nations Office on Drugs and Crime (UNODC) and other relevant guidelines.

#### *Treatment and care*

17. Members should ensure that their national policies and programmes on workplace health interventions are determined in consultation with employers and workers and their representatives and are linked to public health services. They should offer the broadest range of appropriate and effective interventions to prevent HIV and AIDS and manage their impact.

18. Members should ensure that workers living with HIV and their dependants benefit from full access to health care, whether this is provided under public health, social security systems or private insurance or other schemes. Members should also ensure the education and awareness raising of workers to facilitate their access to health care.

19. All persons covered by this Recommendation, including workers living with HIV and their families and their dependants, should be entitled to health services.

These services should include access to free or affordable:

- (a) voluntary counselling and testing;
- (b) antiretroviral treatment and adherence education, information and support;
- (c) proper nutrition consistent with treatment;
- (d) treatment for opportunistic infections and sexually transmitted infections, and any other HIV-related illnesses, in particular tuberculosis; and
- (e) support and prevention programmes for persons living with HIV, including psychosocial support.

20. There should be no discrimination against workers or their dependants based on real or perceived HIV status in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivors benefits.

#### *Support*

21. Programmes of care and support should include measures of reasonable accommodation in the workplace for persons living with HIV or HIV-related illnesses, with due regard to national conditions. Work should be organized in such a way as to accommodate the episodic nature of HIV and AIDS, as well as possible side effects of treatment.

22. Members should promote the retention in work and recruitment of persons living with HIV. Members should consider extending support through periods of employment and unemployment, including where necessary income-generating opportunities for persons living with HIV or persons affected by HIV or AIDS.

23. Where a direct link can be established between an occupation and the risk of infection, AIDS and infection by HIV should be recognized as an occupational disease or accident, in accordance with national procedures and definitions, and with reference to the List of Occupational Diseases Recommendation, 2002, as well as other relevant International Labour Organization instruments.

*Testing, privacy and confidentiality*

24. Testing must be genuinely voluntary and free of any coercion and testing programmes must respect international guidelines on confidentiality, counselling and consent.

25. HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, jobseekers and job applicants.

26. The results of HIV testing should be confidential and not endanger access to jobs, tenure, job security or opportunities for advancement.

27. Workers, including migrant workers, jobseekers and job applicants, should not be required by countries of origin, of transit or of destination to disclose HIV-related information about themselves or others. Access to such information should be governed by rules of confidentiality consistent with the ILO code of practice on the protection of workers personal data, 1997, and other relevant international data protection standards.

28. Migrant workers, or those seeking to migrate for employment, should not be excluded from migration by the countries of origin, of transit or of destination on the basis of their real or perceived HIV status.

29. Members should have in place easily accessible dispute resolution procedures which ensure redress for workers if their rights set out above are violated.

*Occupational safety and health*

30. The working environment should be safe and healthy, in order to prevent transmission of HIV in the workplace, taking into account the Occupational Safety and Health Convention, 1981, and Recommendation, 1981, the Promotional Framework for Occupational Safety and Health Convention, 2006, and Recommendation, 2006, and other relevant international instruments, such as joint International Labour Office and WHO guidance documents.

31. Safety and health measures to prevent workers exposure to HIV at work should include universal precautions, accident and hazard prevention measures, such as organizational measures, engineering and work practice controls, personal protective equipment, as appropriate, environmental control measures and postexposure prophylaxis and other safety measures to minimize the risk of contracting HIV and tuberculosis, especially in occupations most at risk, including in the healthcare sector.

32. When there is a possibility of exposure to HIV at work, workers should receive education and training on modes of transmission and measures to prevent exposure and infection. Members should take measures to ensure that prevention, safety and health are provided for in accordance with relevant standards.

33. Awareness-raising measures should emphasize that HIV is not transmitted by casual physical contact and that the presence of a person living with HIV should not be considered a workplace hazard.

34. Occupational health services and workplace mechanisms related to occupational safety and health should address HIV and AIDS, taking into account the Occupational Health Services

Convention, 1985, and Recommendation, 1985, the Joint ILO/WHO guidelines on health services and HIV/AIDS, 2005, and any subsequent revision, and other relevant international instruments.

### *Children and young persons*

35. Members should take measures to combat child labour and child trafficking that may result from the death or illness of family members or caregivers due to AIDS and to reduce the vulnerability of children to HIV, taking into account the ILO Declaration on Fundamental Principles and Rights at Work, 1998, the Minimum Age Convention, 1973, and Recommendation, 1973, and the Worst Forms of Child Labour Convention, 1999, and Recommendation, 1999. Special measures should be taken to protect these children from sexual abuse and sexual exploitation.

36. Members should take measures to protect young workers against HIV infection, and to include the special needs of children and young persons in the response to HIV and AIDS in national policies and programmes. These should include objective sexual and reproductive health education, in particular the dissemination of information on HIV and AIDS through vocational training and in youth employment programmes and services.

## V. IMPLEMENTATION

37. National policies and programmes on HIV and AIDS and the world of work should:

- (a) be given effect, in consultation with the most representative organizations of employers and workers and other parties concerned, including relevant public and private occupational health structures, by one or a combination of the following means:
  - (i) national laws and regulations;
  - (ii) collective agreements;
  - (iii) national and workplace policies and programmes of action; and
  - (iv) sectoral strategies, with particular attention to sectors in which persons covered by this Recommendation are most at risk;
- (b) involve the judicial authorities competent in labour issues, and labour administration authorities in the planning and implementation of the policies and programmes, and training in this regard should be provided to them;
- (c) provide for measures in national laws and regulations to address breaches of privacy and confidentiality and other protection afforded under this Recommendation;
- (d) ensure collaboration and coordination among the public authorities and public and private services concerned, including insurance and benefit programmes or other types of programmes;
- (e) promote and support all enterprises to implement the national policies and programmes, including through their supply chains and distribution networks, with the participation of organizations of employers and workers and ensure that enterprises operating in the export processing zones comply;
- (f) promote social dialogue, including consultation and negotiation, consistent with the Tripartite Consultation (International Labour Standards) Convention, 1976, and other forms of cooperation among government authorities, public and private employers and workers and their representatives, taking into account the views of occupational health personnel, specialists in HIV and AIDS, and other parties including organizations representing persons living with HIV, international organizations, relevant civil society organizations and country coordinating mechanisms;
- (g) be formulated, implemented, regularly reviewed and updated, taking into consideration the most recent scientific and social developments and the need to mainstream gender and cultural concerns;

- (h) be coordinated with, among others, labour, social security and health policies and programmes; and
- (i) ensure that Members make reasonable provision for the means of their implementation, with due regard to national conditions, as well as to the capacity of employers and workers.

### *Social dialogue*

38. Implementation of policies and programmes on HIV and AIDS should be based on cooperation and trust among employers and workers and their representatives, and governments, with the active involvement, at their workplace, of persons living with HIV.

39. Organizations of employers and workers should promote awareness of HIV and AIDS, including prevention and non-discrimination, through the provision of education and information to their members. These should be sensitive to gender and cultural concerns.

### *Education, training, information and consultation*

40. Training, safety instructions and any necessary guidance in the workplace related to HIV and AIDS should be provided in a clear and accessible form for all workers and, in particular, for migrant workers, newly engaged or inexperienced workers, young workers and persons in training, including interns and apprentices. Training, instructions and guidance should be sensitive to gender and cultural concerns and adapted to the characteristics of the workforce, taking into account the risk factors for the workforce.

41. Up to date scientific and socio-economic information and, where appropriate, education and training on HIV and AIDS should be available to employers, managers and workers representatives, in order to assist them in taking appropriate measures in the workplace.

42. Workers, including interns, trainees and volunteers should receive awarenessraising information and appropriate training in HIV infection control procedures in the context of workplace accidents and first aid. Workers whose occupations put them at risk of exposure to human blood, blood products and other body fluids should receive additional training in exposure prevention, exposure registration procedures and post-exposure prophylaxis.

43. Workers and their representatives should have the right to be informed and consulted on measures taken to implement workplace policies and programmes related to HIV and AIDS. Workers and employers representatives should participate in workplace inspections in accordance with national practice.

### *Public services*

44. The role of the labour administration services, including the labour inspectorate, and of the judicial authorities competent in labour issues, in the response to HIV and AIDS, should be reviewed and, if necessary, strengthened.

45. Public health systems should be strengthened and follow the Joint ILO/WHO guidelines on health services and HIV/AIDS, 2005, and any subsequent revision, to help ensure greater access to prevention, treatment, care and support, and reduce the additional strain on public services, particularly on health workers, caused by HIV and AIDS.

### *International cooperation*

46. Members should cooperate, through bilateral or multilateral agreements, through their participation in the multilateral system or through other effective means, in order to give effect to this Recommendation.

47. Measures to ensure access to HIV prevention, treatment, care and support services for migrant workers should be taken by countries of origin, of transit and of destination, and agreements should be concluded among the countries concerned, whenever appropriate.

48. International cooperation should be encouraged between and among Members, their national structures on HIV and AIDS and relevant international organizations and should include the systematic exchange of information on all measures taken to respond to the HIV pandemic.

49. Members and multilateral organizations should give particular attention to coordination and to the necessary resources to satisfy the needs of all countries, especially high prevalence countries, in the development of international strategies and programmes for prevention, treatment, care and support related to HIV.

50. Members and international organizations should seek to reduce the price of supplies of any type, for the prevention, treatment and care of infection caused by HIV and other opportunistic infections and HIV-related cancers.

## VI. FOLLOW-UP

51. Members should establish an appropriate mechanism or make use of an existing one, for monitoring developments in relation to their national policy on HIV and AIDS and the world of work, as well as for formulating advice on its adoption and implementation.

52. The most representative organizations of employers and workers should be represented, on an equal footing, in the mechanism for monitoring developments in relation to the national policy. In addition, these organizations should be consulted under the mechanism as often as necessary, taking into consideration the views of organizations of persons living with HIV, expert reports or technical studies.

53. Members should, to the extent possible, collect detailed information and statistical data and undertake research on developments at the national and sectoral levels in relation to HIV and AIDS in the world of work, taking into account the distribution of women and men and other relevant factors.

54. In addition to the reporting under article 19 of the Constitution of the International Labour Organization, a regular review of action taken on the basis of this Recommendation could be included in national reports to UNAIDS and reports under relevant international instruments.



**Convention No. 189****Convention concerning decent work for domestic workers, 2011**

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and

Considering that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this sixteenth day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

#### *Article 1*

For the purpose of this Convention:

- (a) the term domestic work means work performed in or for a household or households;
- (b) the term domestic worker means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

#### *Article 2*

1. The Convention applies to all domestic workers.

2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:

- (a) categories of workers who are otherwise provided with at least equivalent protection;
- (b) limited categories of workers in respect of which special problems of a substantial nature arise.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

#### *Article 3*

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

#### *Article 4*

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.

2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

*Article 5*

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

*Article 6*

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

*Article 7*

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

*Article 8*

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

*Article 9*

Each Member shall take measures to ensure that domestic workers:

- (a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
- (b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
- (c) are entitled to keep in their possession their travel and identity documents.

*Article 10*

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

*Article 11*

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

*Article 12*

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

*Article 13*

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

*Article 14*

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that

domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

*Article 15*

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

- (a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;
  - (b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;
  - (c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;
  - (d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and
  - (e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.
2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

*Article 16*

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

*Article 17*

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

*Article 18*

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers and workers organizations, through laws and regulations, as well

as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

*Article 19*

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

(Final Provisions)

**Recommendation No. 201****Recommendation concerning Decent Work  
for Domestic Workers, 2011**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 100th Session on 1 June 2011, and  
Having adopted the Domestic Workers Convention, 2011, and  
Having decided upon the adoption of certain proposals with regard to decent work for domestic  
workers, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing  
the Domestic Workers Convention, 2011;  
adopts this sixteenth day of June of the year two thousand and eleven the following Recommendation,  
which may be cited as the Domestic Workers Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 (the Convention), and should be considered in conjunction with them.

2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:

- (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers organizations of their own choosing and to the right of organizations of domestic workers to join workers organizations, federations and confederations;
- (b) give consideration to taking or supporting measures to strengthen the capacity of workers and employers organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.

3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:

- (a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice Protection of workers personal data (1997), and other relevant international data protection standards;
- (b) prevent any discrimination related to such testing; and
- (c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

- (a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;
- (b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and

(c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work. 5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

- (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
- (b) prohibiting night work;
- (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
- (d) establishing or strengthening mechanisms to monitor their working and living conditions.

6.

(1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

- (a) a job description;
- (b) sick leave and, if applicable, any other personal leave;
- (c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
- (d) any other payments to which the domestic worker is entitled;
- (e) any payments in kind and their monetary value;
- (f) details of any accommodation provided; and
- (g) any authorized deductions from the worker's remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

(4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8.

(1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.



(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9.

(1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
- (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
- (c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11.

(1) Weekly rest should be at least 24 consecutive hours.

(2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

(3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:

- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
- (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
- (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
- (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and
- (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15.

(1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

- (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- (b) access to suitable sanitary facilities, shared or private;
- (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
- (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

- (a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;
- (b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;
- (c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;
- (d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and
- (e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20.

(1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21.

(1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

- (a) establishing a national hotline with interpretation services for domestic workers who need assistance;
- (b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;
- (c) developing a network of emergency housing;
- (d) raising employers awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;
- (e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and
- (f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25.

(1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

- (a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;
- (b) address the work life balance needs of domestic workers; and
- (c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and

those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policy-making regarding domestic work.

26.

(1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

- (a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers rights; and
- (b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

**Convention No. 169****Convention concerning Indigenous and Tribal Peoples  
in Independent Countries, 1989**

- The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 76th Session on 7 June 1989, and
- Noting the international standards contained in the Indigenous and Tribal Populations Convention  
and Recommendation, 1957, and
- Recalling the terms of the Universal Declaration of Human Rights, the International Covenant on  
Economic, Social and Cultural Rights, the International Covenant on Civil and Political  
Rights, and the many international instruments on the prevention of discrimination, and
- Considering that the developments which have taken place in international law since 1957, as well  
as developments in the situation of indigenous and tribal peoples in all regions of the world,  
have made it appropriate to adopt new international standards on the subject with a view to  
removing the assimilationist orientation of the earlier standards, and
- Recognising the aspirations of these peoples to exercise control over their own institutions, ways  
of life and economic development and to maintain and develop their identities, languages and  
religions, within the framework of the States in which they live, and
- Noting that in many parts of the world these peoples are unable to enjoy their fundamental human  
rights to the same degree as the rest of the population of the States within which they live,  
and that their laws, values, customs and perspectives have often been eroded, and
- Calling attention to the distinctive contributions of indigenous and tribal peoples to the cultural  
diversity and social and ecological harmony of humankind and to international co-operation  
and understanding, and
- Noting that the following provisions have been framed with the co-operation of the United Nations,  
the Food and Agriculture Organisation of the United Nations, the United Nations Educa-  
tional, Scientific and Cultural Organisation and the World Health Organisation, as well as of  
the Inter-American Indian Institute, at appropriate levels and in their respective fields, and  
that it is proposed to continue this co-operation in promoting and securing the application of  
these provisions, and
- Having decided upon the adoption of certain proposals with regard to the partial revision of the  
Indigenous and Tribal Populations Convention, 1957 (No. 107), which is the fourth item on  
the agenda of the session, and
- Having determined that these proposals shall take the form of an international Convention revising  
the Indigenous and Tribal Populations Convention, 1957;
- adopts this twenty-seventh day of June of the year one thousand nine hundred and eighty-nine the  
following Convention, which may be cited as the Indigenous and Tribal Peoples Convention,  
1989;

## PART I. GENERAL POLICY

### *Article 1*

1. This Convention applies to:

- (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;
- (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3. The use of the term *peoples* in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.

### *Article 2*

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

2. Such action shall include measures for:

- (a) ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;
- (b) promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;
- (c) assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.

### *Article 3*

1. Indigenous and tribal peoples shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. The provisions of the Convention shall be applied without discrimination to male and female members of these peoples.

2. No form of force or coercion shall be used in violation of the human rights and fundamental freedoms of the peoples concerned, including the rights contained in this Convention.

### *Article 4*

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.

2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.

3. Enjoyment of the general rights of citizenship, without discrimination, shall not be prejudiced in any way by such special measures.

*Article 5*

In applying the provisions of this Convention:

- (a) the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected, and due account shall be taken of the nature of the problems which face them both as groups and as individuals;
- (b) the integrity of the values, practices and institutions of these peoples shall be respected;
- (c) policies aimed at mitigating the difficulties experienced by these peoples in facing new conditions of life and work shall be adopted, with the participation and co-operation of the peoples affected.

*Article 6*

1. In applying the provisions of this Convention, governments shall:

- (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;
- (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them;
- (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

*Article 7*

1. The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

2. The improvement of the conditions of life and work and levels of health and education of the peoples concerned, with their participation and co-operation, shall be a matter of priority in plans for the overall economic development of areas they inhabit. Special projects for development of the areas in question shall also be so designed as to promote such improvement.

3. Governments shall ensure that, whenever appropriate, studies are carried out, in co-operation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.

4. Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

*Article 8*

1. In applying national laws and regulations to the peoples concerned, due regard shall be had to their customs or customary laws.

2. These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with

internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.

3. The application of paragraphs 1 and 2 of this Article shall not prevent members of these peoples from exercising the rights granted to all citizens and from assuming the corresponding duties.

#### *Article 9*

1. To the extent compatible with the national legal system and internationally recognised human rights, the methods customarily practised by the peoples concerned for dealing with offences committed by their members shall be respected.

2. The customs of these peoples in regard to penal matters shall be taken into consideration by the authorities and courts dealing with such cases.

#### *Article 10*

1. In imposing penalties laid down by general law on members of these peoples account shall be taken of their economic, social and cultural characteristics.

2. Preference shall be given to methods of punishment other than confinement in prison.

#### *Article 11*

The exaction from members of the peoples concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited and punishable by law, except in cases prescribed by law for all citizens.

#### *Article 12*

The peoples concerned shall be safeguarded against the abuse of their rights and shall be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights. Measures shall be taken to ensure that members of these peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation or by other effective means.

## PART II. LAND

#### *Article 13*

1. In applying the provisions of this Part of the Convention governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

2. The use of the term *lands* in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

#### *Article 14*

1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.



2. Governments shall take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession.

3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned.

*Article 15*

1. The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

*Article 16*

1. Subject to the following paragraphs of this Article, the peoples concerned shall not be removed from the lands which they occupy.

2. Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.

3. Whenever possible, these peoples shall have the right to return to their traditional lands, as soon as the grounds for relocation cease to exist.

4. When such return is not possible, as determined by agreement or, in the absence of such agreement, through appropriate procedures, these peoples shall be provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them, suitable to provide for their present needs and future development. Where the peoples concerned express a preference for compensation in money or in kind, they shall be so compensated under appropriate guarantees.

5. Persons thus relocated shall be fully compensated for any resulting loss or injury.

*Article 17*

1. Procedures established by the peoples concerned for the transmission of land rights among members of these peoples shall be respected.

2. The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community.

3. Persons not belonging to these peoples shall be prevented from taking advantage of their customs or of lack of understanding of the laws on the part of their members to secure the ownership, possession or use of land belonging to them.

*Article 18*

Adequate penalties shall be established by law for unauthorised intrusion upon, or use of, the lands of the peoples concerned, and governments shall take measures to prevent such offences.

*Article 19*

National agrarian programmes shall secure to the peoples concerned treatment equivalent to that accorded to other sectors of the population with regard to:

- (a) the provision of more land for these peoples when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers;
- (b) the provision of the means required to promote the development of the lands which these peoples already possess.

### PART III. RECRUITMENT AND CONDITIONS OF EMPLOYMENT

*Article 20*

1. Governments shall, within the framework of national laws and regulations, and in co-operation with the peoples concerned, adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.

2. Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers, in particular as regards:

- (a) admission to employment, including skilled employment, as well as measures for promotion and advancement;
- (b) equal remuneration for work of equal value;
- (c) medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing;
- (d) the right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organisations.

3. The measures taken shall include measures to ensure:

- (a) that workers belonging to the peoples concerned, including seasonal, casual and migrant workers in agricultural and other employment, as well as those employed by labour contractors, enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labour legislation and of the means of redress available to them;
- (b) that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances;
- (c) that workers belonging to these peoples are not subjected to coercive recruitment systems, including bonded labour and other forms of debt servitude;
- (d) that workers belonging to these peoples enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.

4. Particular attention shall be paid to the establishment of adequate labour inspection services in areas where workers belonging to the peoples concerned undertake wage employment, in order to ensure compliance with the provisions of this Part of this Convention.

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### PART IV. VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES

*Article 21*

Members of the peoples concerned shall enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.

*Article 22*

1. Measures shall be taken to promote the voluntary participation of members of the peoples concerned in vocational training programmes of general application.
2. Whenever existing programmes of vocational training of general application do not meet the special needs of the peoples concerned, governments shall, with the participation of these peoples, ensure the provision of special training programmes and facilities.
3. Any special training programmes shall be based on the economic environment, social and cultural conditions and practical needs of the peoples concerned. Any studies made in this connection shall be carried out in co-operation with these peoples, who shall be consulted on the organisation and operation of such programmes. Where feasible, these peoples shall progressively assume responsibility for the organisation and operation of such special training programmes, if they so decide.

*Article 23*

1. Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted.
2. Upon the request of the peoples concerned, appropriate technical and financial assistance shall be provided wherever possible, taking into account the traditional technologies and cultural characteristics of these peoples, as well as the importance of sustainable and equitable development.

## PART V. SOCIAL SECURITY AND HEALTH

*Article 24*

Social security schemes shall be extended progressively to cover the peoples concerned, and applied without discrimination against them.

*Article 25*

1. Governments shall ensure that adequate health services are made available to the peoples concerned, or shall provide them with resources to allow them to design and deliver such services under their own responsibility and control, so that they may enjoy the highest attainable standard of physical and mental health.
2. Health services shall, to the extent possible, be community-based. These services shall be planned and administered in co-operation with the peoples concerned and take into account their economic, geographic, social and cultural conditions as well as their traditional preventive care, healing practices and medicines.
3. The health care system shall give preference to the training and employment of local community health workers, and focus on primary health care while maintaining strong links with other levels of health care services.
4. The provision of such health services shall be co-ordinated with other social, economic and cultural measures in the country.

## PART VI. EDUCATION AND MEANS OF COMMUNICATION

*Article 26*

Measures shall be taken to ensure that members of the peoples concerned have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community.

*Article 27*

1. Education programmes and services for the peoples concerned shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations.

2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, with a view to the progressive transfer of responsibility for the conduct of these programmes to these peoples as appropriate.

3. In addition, governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. Appropriate resources shall be provided for this purpose.

*Article 28*

1. Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. When this is not practicable, the competent authorities shall undertake consultations with these peoples with a view to the adoption of measures to achieve this objective.

2. Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country.

3. Measures shall be taken to preserve and promote the development and practice of the indigenous languages of the peoples concerned.

*Article 29*

The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education for these peoples.

*Article 30*

1. Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.

2. If necessary, this shall be done by means of written translations and through the use of mass communications in the languages of these peoples.

*Article 31*

Educational measures shall be taken among all sections of the national community, and particularly among those that are in most direct contact with the peoples concerned, with the object of eliminating prejudices that they may harbour in respect of these peoples. To this end, efforts shall be made to ensure that history textbooks and other educational materials provide a fair, accurate and informative portrayal of the societies and cultures of these peoples.

## PART VII. CONTACTS AND CO-OPERATION ACROSS BORDERS

### *Article 32*

Governments shall take appropriate measures, including by means of international agreements, to facilitate contacts and co-operation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

## PART VIII. ADMINISTRATION

### *Article 33*

1. The governmental authority responsible for the matters covered in this Convention shall ensure that agencies or other appropriate mechanisms exist to administer the programmes affecting the peoples concerned, and shall ensure that they have the means necessary for the proper fulfilment of the functions assigned to them.

2. These programmes shall include:

- (a) the planning, co-ordination, execution and evaluation, in co-operation with the peoples concerned, of the measures provided for in this Convention;
- (b) the proposing of legislative and other measures to the competent authorities and supervision of the application of the measures taken, in co-operation with the peoples concerned.

## PART IX. GENERAL PROVISIONS

### *Article 34*

The nature and scope of the measures to be taken to give effect to this Convention shall be determined in a flexible manner, having regard to the conditions characteristic of each country.

### *Article 35*

The application of the provisions of this Convention shall not adversely affect rights and benefits of the peoples concerned pursuant to other Conventions and Recommendations, international instruments, treaties, or national laws, awards, custom or agreements.

**Convention No. 97****Convention concerning Migration for Employment  
(Revised 1949)**

The General Conference of the International Labour Organisation,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met in its Thirty-second Session on 8 June 1949, and  
 Having decided upon the adoption of certain proposals with regard to the revision of the Migration  
 for Employment Convention, 1939, adopted by the Conference at its Twenty-fifth Session,  
 which is included in the eleventh item on the agenda of the session, and  
 Considering that these proposals must take the form of an international Convention,  
 adopts this first day of July of the year one thousand nine hundred and forty-nine the following  
 Convention, which may be cited as the Migration for Employment Convention (Revised), 1949:

*Article 1*

Each Member of the International Labour Organisation for which this Convention is in force  
 undertakes to make available on request to the International Labour Office and to other Members:

- (a) information on national policies, laws and regulations relating to emigration and immigration;
- (b) information on special provisions concerning migration for employment and the conditions  
 of work and livelihood of migrants for employment;
- (c) information concerning general agreements and special arrangements on these questions  
 concluded by the Member.

*Article 2*

Each Member for which this Convention is in force undertakes to maintain, or satisfy itself  
 that there is maintained, an adequate and free service to assist migrants for employment, and in  
 particular to provide them with accurate information.

*Article 3*

1. Each Member for which this Convention is in force undertakes that it will, so far as  
 national laws and regulations permit, take all appropriate steps against misleading propaganda  
 relating to emigration and immigration.

2. For this purpose, it will where appropriate act in co-operation with other Members  
 concerned.

*Article 4*

Measures shall be taken as appropriate by each Member, within its jurisdiction, to facilitate  
 the departure, journey and reception of migrants for employment.

*Article 5*

Each Member for which this Convention is in force undertakes to maintain, within its jurisdiction, appropriate medical services responsible for:

- (a) ascertaining, where necessary, both at the time of departure and on arrival, that migrants for employment and the members of their families authorised to accompany or join them are in reasonable health;
- (b) ensuring that migrants for employment and members of their families enjoy adequate medical attention and good hygienic conditions at the time of departure, during the journey and on arrival in the territory of destination.

*Article 6*

1. Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

- (a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities:
  - (i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;
  - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
  - (iii) accommodation;
- (b) social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
  - (i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
  - (ii) national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;
- (c) employment taxes, dues or contributions payable in respect of the person employed; and
- (d) legal proceedings relating to the matters referred to in this Convention.

2. In the case of a federal State the provisions of this Article shall apply in so far as the matters dealt with are regulated by federal law or regulations or are subject to the control of federal administrative authorities. The extent to which and manner in which these provisions shall be applied in respect of matters regulated by the law or regulations of the constituent States, provinces or cantons, or subject to the control of the administrative authorities thereof, shall be determined by each Member. The Member shall indicate in its annual report upon the application of the Convention the extent to which the matters dealt with in this Article are regulated by federal law or regulations or are subject to the control of federal administrative authorities. In respect of matters which are regulated by the law or regulations of the constituent States, provinces or cantons, or are subject to the control of the administrative authorities thereof, the Member shall take the steps provided for in paragraph 7 (b) of Article 19 of the Constitution of the International Labour Organisation.

*Article 7*

1. Each Member for which this Convention is in force undertakes that its employment service and other services connected with migration will co-operate in appropriate cases with the corresponding services of other Members.

2. Each Member for which this Convention is in force undertakes to ensure that the services rendered by its public employment service to migrants for employment are rendered free.

#### *Article 8*

1. A migrant for employment who has been admitted on a permanent basis and the members of his family who have been authorised to accompany or join him shall not be returned to their territory of origin or the territory from which they emigrated because the migrant is unable to follow his occupation by reason of illness contracted or injury sustained subsequent to entry, unless the person concerned so desires or an international agreement to which the Member is a party so provides.

2. When migrants for employment are admitted on a permanent basis upon arrival in the country of immigration the competent authority of that country may determine that the provisions of paragraph 1 of this Article shall take effect only after a reasonable period which shall in no case exceed five years from the date of admission of such migrants.

#### *Article 9*

Each Member for which this Convention is in force undertakes to permit, taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of the migrant for employment as the migrant may desire.

#### *Article 10*

In cases where the number of migrants going from the territory of one Member to that of another is sufficiently large, the competent authorities of the territories concerned shall, whenever necessary or desirable, enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Convention.

#### *Article 11*

1. For the purpose of this Convention the term migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.

2. This Convention does not apply to:

- (a) frontier workers;
- (b) short-term entry of members of the liberal professions and artistes; and
- (c) seamen.

(Final Provisions)



## ANNEX I

RECRUITMENT, PLACING AND CONDITIONS OF LABOUR  
OF MIGRANTS FOR EMPLOYMENT RECRUITED OTHERWISE  
THAN UNDER GOVERNMENT-SPONSORED ARRANGEMENTS  
FOR GROUP TRANSFER

*Article 1*

This Annex applies to migrants for employment who are recruited otherwise than under Government-sponsored arrangements for group transfer.

*Article 2*

For the purpose of this Annex:

- (a) the term *recruitment* means:
- (i) the engagement of a person in one territory on behalf of an employer in another territory, or
  - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory,
- together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;
- (b) the term *introduction* means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of paragraph (a) of this Article; and
- (c) the term *placing* means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced within the meaning of paragraph (b) of this Article.

*Article 3*

1. Each Member for which this Annex is in force, the laws and regulations of which permit the operations of recruitment, introduction and placing as defined in Article 2, shall regulate such of the said operations as are permitted by its laws and regulations in accordance with the provisions of this Article.

2. Subject to the provisions of the following paragraph, the right to engage in the operations of recruitment, introduction and placing shall be restricted to:

- (a) public employment offices or other public bodies of the territory in which the operations take place;
- (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by agreement between the Governments concerned;
- (c) any body established in accordance with the terms of an international instrument.

3. In so far as national laws and regulations or a bilateral arrangement permit, the operations of recruitment, introduction and placing may be undertaken by:

- (a) the prospective employer or a person in his service acting on his behalf, subject, if necessary in the interest of the migrant, to the approval and supervision of the competent authority;
- (b) a private agency, if given prior authorisation so to do by the competent authority of the territory where the said operations are to take place, in such cases and under such conditions as may be prescribed by:
  - (i) the laws and regulations of that territory, or

- (ii) agreement between the competent authority of the territory of emigration or any body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration.

4. The competent authority of the territory where the operations take place shall supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of paragraph 3 (b), other than any body established in accordance with the terms of an international instrument, the position of which shall continue to be governed by the terms of the said instrument or by any agreement made between the body and the competent authority concerned.

5. Nothing in this Article shall be deemed to permit the acceptance of a migrant for employment for admission to the territory of any Member by any person or body other than the competent authority of the territory of immigration.

#### *Article 4*

Each Member for which this Annex is in force undertakes to ensure that the services rendered by its public employment service in connection with the recruitment, introduction or placing of migrants for employment are rendered free.

#### *Article 5*

1. Each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require:

- (a) that a copy of the contract of employment shall be delivered to the migrant before departure or, if the Governments concerned so agree, in a reception centre on arrival in the territory of immigration;
- (b) that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant;
- (c) that the migrant shall receive in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, information concerning the general conditions of life and work applicable to him in the territory of immigration.

2. Where a copy of the contract is to be delivered to the migrant on arrival in the territory of immigration, he shall be informed in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category for which he is engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.

3. The competent authority shall ensure that the provisions of the preceding paragraphs are enforced and that appropriate penalties are applied in respect of violations thereof.

#### *Article 6*

The measures taken under Article 4 of the Convention shall, as appropriate, include:

- (a) the simplification of administrative formalities;
- (b) the provision of interpretation services;
- (c) any necessary assistance during an initial period in the settlement of the migrants and members of their families authorised to accompany or join them; and
- (d) the safeguarding of the welfare, during the journey and in particular on board ship, of migrants and members of their families authorised to accompany or join them.

#### *Article 7*

1. In cases where the number of migrants for employment going from the territory of one Member to that of another is sufficiently large, the competent authorities of the territories concerned

shall, whenever necessary or desirable, enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Annex.

2. Where the members maintain a system of supervision over contracts of employment, such agreements shall indicate the methods by which the contractual obligations of the employers shall be enforced.

*Article 8*

Any person who promotes clandestine or illegal immigration shall be subject to appropriate penalties.

ANNEX II

RECRUITMENT, PLACING AND CONDITIONS OF LABOUR  
OF MIGRANTS FOR EMPLOYMENT RECRUITED  
UNDER GOVERNMENT-SPONSORED ARRANGEMENTS  
FOR GROUP TRANSFER

*Article 1*

This Annex applies to migrants for employment who are recruited under Government-sponsored arrangements for group transfer.

*Article 2*

For the purpose of this Annex:

- (a) the term *recruitment* means:
  - (i) the engagement of a person in one territory on behalf of an employer in another territory under a Government-sponsored arrangement for group transfer, or
  - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory under a Government-sponsored arrangement for group transfer, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;
- (b) the term *introduction* means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited under a Government-sponsored arrangement for group transfer within the meaning of subparagraph (a) of this paragraph; and
- (c) the term *placing* means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced under a Government-sponsored arrangement for group transfer within the meaning of subparagraph (b) of this paragraph.

*Article 3*

1. Each Member for which this Annex is in force, the laws and regulations of which permit the operations of recruitment, introduction and placing as defined in Article 2, shall regulate such of the said operations as are permitted by its laws and regulations in accordance with the provisions of this Article.

2. Subject to the provisions of the following paragraph, the right to engage in the operations of recruitment, introduction and placing shall be restricted to:

- (a) public employment offices or other public bodies of the territory in which the operations take place;

- (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by agreement between the Governments concerned;
- (c) any body established in accordance with the terms of an international instrument.

3. In so far as national laws and regulations or a bilateral arrangement permit, and subject, if necessary in the interest of the migrant, to the approval and supervision of the competent authority, the operations of recruitment, introduction and placing may be undertaken by:

- (a) the prospective employer or a person in his service acting on his behalf;
- (b) private agencies.

4. The right to engage in the operations of recruitment, introduction and placing shall be subject to the prior authorisation of the competent authority of the territory where the said operations are to take place in such cases and under such conditions as may be prescribed by:

- (a) the laws and regulations of that territory, or
- (b) agreement between the competent authority of the territory of emigration or any body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration.

5. The competent authority of the territory where the operations take place shall, in accordance with any agreements made between the competent authorities concerned, supervise the activities of bodies and persons to whom authorisations have been issued in pursuance of the preceding paragraph, other than any body established in accordance with the terms of an international instrument, the position of which shall continue to be governed by the terms of the said instrument or by any agreement made between the body and the competent authority concerned.

6. Before authorising the introduction of migrants for employment the competent authority of the territory of immigration shall ascertain whether there is not a sufficient number of persons already available capable of doing the work in question.

7. Nothing in this Article shall be deemed to permit the acceptance of a migrant for employment for admission to the territory of any Member by any person or body other than the competent authority of the territory of immigration.

#### *Article 4*

1. Each Member for which this Annex is in force undertakes to ensure that the services rendered by its public employment service in connection with the recruitment, introduction or placing of migrants for employment are rendered free.

2. The administrative costs of recruitment, introduction and placing shall not be borne by the migrants.

#### *Article 5*

In the case of collective transport of migrants from one country to another necessitating passage in transit through a third country, the competent authority of the territory of transit shall take measures for expediting the passage, to avoid delays and administrative difficulties.

#### *Article 6*

1. Each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require:

- (a) that a copy of the contract of employment shall be delivered to the migrant before departure or, if the Governments concerned so agree, in a reception centre on arrival in the territory of immigration;

- (b) that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant;
- (c) that the migrant shall receive in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, information concerning the general conditions of life and work applicable to him in the territory of immigration.

2. Where a copy of the contract is to be delivered to the migrant on arrival in the territory of immigration, he shall be informed in writing before departure, by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category for which he is engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.

3. The competent authority shall ensure that the provisions of the preceding paragraphs are enforced and that appropriate penalties are applied in respect of violations thereof.

#### *Article 7*

1. The measures taken under Article 4 of this Convention shall, as appropriate, include:

- (a) the simplification of administrative formalities;
- (b) the provision of interpretation services;
- (c) any necessary assistance, during an initial period in the settlement of the migrants and members of their families authorised to accompany or join them;
- (d) the safeguarding of the welfare, during the journey and in particular on board ship, of migrants and members of their families authorised to accompany or join them; and
- (e) permission for the liquidation and transfer of the property of migrants for employment admitted on a permanent basis.

#### *Article 8*

Appropriate measures shall be taken by the competent authority to assist migrants for employment, during an initial period, in regard to matters concerning their conditions of employment; where appropriate, such measures may be taken in co-operation with approved voluntary organisations.

#### *Article 9*

If a migrant for employment introduced into the territory of a Member in accordance with the provisions of Article 3 of this Annex fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited or other suitable employment, the cost of his return and that of the members of his family who have been authorised to accompany or join him, including administrative fees, transport and maintenance charges to the final destination, and charges for the transport of household belongings, shall not fall upon the migrant.

#### *Article 10*

If the competent authority of the territory of immigration considers that the employment for which a migrant for employment was recruited under Article 3 of this Annex has been found to be unsuitable, it shall take appropriate measures to assist him in finding suitable employment which does not prejudice national workers and shall take such steps as will ensure his maintenance pending placing in such employment, or his return to the area of recruitment if the migrant is willing or agreed to such return at the time of his recruitment, or his resettlement elsewhere.

#### *Article 11*

If a migrant for employment who is a refugee or a displaced person and who has entered a territory of immigration in accordance with Article 3 of this Annex becomes redundant in any

employment in that territory, the competent authority of that territory shall use its best endeavours to enable him to obtain suitable employment which does not prejudice national workers, and shall take such steps as will ensure his maintenance pending placing in suitable employment or his resettlement elsewhere.

*Article 12*

1. The competent authorities of the territories concerned shall enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Annex.

2. Where the Members maintain a system of supervision over contracts of employment, such agreements shall indicate the methods by which the contractual obligations of the employer shall be enforced.

3. Such agreements shall provide, where appropriate, for co-operation between the competent authority of the territory of emigration or a body established in accordance with the terms of an international instrument and the competent authority of the territory of immigration, in respect of the assistance to be given to migrants concerning their conditions of employment in virtue of the provisions of Article 8.

*Article 13*

Any person who promotes clandestine or illegal immigration shall be subject to appropriate penalties.

### ANNEX III

#### IMPORTATION OF THE PERSONAL EFFECTS, TOOLS AND EQUIPMENT OF MIGRANTS FOR EMPLOYMENT

*Article 1*

1. Personal effects belonging to recruited migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on arrival in the territory of immigration.

2. Portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades belonging to recruited migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on arrival in the territory of immigration if such tools and equipment can be shown at the time of importation to be in their actual ownership or possession, to have been in their possession and use for an appreciable time, and to be intended to be used by them in the course of their occupation.

*Article 2*

1. Personal effects belonging to migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on the return of the said persons to their country of origin if such persons have retained the nationality of that country at the time of their return there.

2. Portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades belonging to migrants for employment and members of their families who have been authorised to accompany or join them shall be exempt from customs duties on return of the said persons to their country of origin if such persons have retained the nationality of that country at the time of their return there and if such tools and equipment can be

shown at the time of importation to be in their actual ownership or possession, to have been in their possession and use for an appreciable time, and to be intended to be used by them in the course of their occupation.

## Recommendation No. 86

### Recommendation concerning Migration for Employment (Revised 1949)

The General Conference of the International Labour Organisation,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met its Thirty-second Session on 8 June 1949, and  
 Having decided upon the adoption of certain proposals with regard to the revision of the Migration  
 for Employment Recommendation, 1939, and the Migration for Employment (Co-operation  
 between States) Recommendation, 1939, adopted by the Conference at its Twenty-fifth  
 Session, which are included in the eleventh item on the agenda of the session, and  
 Having determined that these proposals shall take the form of a Recommendation,  
 adopts this first day of July of the year one thousand nine hundred and forty-nine, the following  
 Recommendation, which may be cited as the Migration for Employment Recommendation  
 (Revised), 1949:  
 The Conference,  
 Having adopted the Migration for Employment Convention (Revised), 1949, and  
 Desiring to supplement its provisions by a Recommendation;  
 Recommends as follows:

#### I

1. For the purpose of this Recommendation:
  - (a) the term *migrant for employment* means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment;
  - (b) the term *recruitment* means:
    - (i) the engagement of a person in one territory on behalf of an employer in another territory, or
    - (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of emigrants and the preparation for departure of the emigrants;
  - (c) the term *introduction* means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of subparagraph (b);
  - (d) the term *placing* means any operations for the purpose of ensuring or facilitating the employment of persons who have been introduced within the meaning of subparagraph (c).

2. For the purpose of this Recommendation, references to the Government or competent authority of a territory of emigration should be interpreted as referring, in the case of migrants who are refugees or displaced persons, to any body established in accordance with the terms of an



international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.

3. This Recommendation does not apply to:

- (a) frontier workers;
- (b) short-term entry of members of the liberal professions and artistes; and
- (c) seamen.

## II

4.

(1) It should be the general policy of Members to develop and utilise all possibilities of employment and for this purpose to facilitate the international distribution of manpower and in particular the movement of manpower from countries which have a surplus of manpower to those countries that have a deficiency.

(2) The measures taken by each Member should have due regard to the manpower situation in the country and the Government should consult the appropriate organisations of employers and workers on all general questions concerning migration for employment.

## III

5.

(1) The free service provided in each country to assist migrants and their families and in particular to provide them with accurate information should be conducted:

- (a) by public authorities; or
- (b) by one or more voluntary organisations not conducted with a view to profit, approved for the purpose by the public authorities, and subject to the supervision of the said authorities; or
- (c) partly by the public authorities and partly by one or more voluntary organisations fulfilling the conditions stated in subparagraph (b) of this Paragraph.

(2) The service should advise migrants and their families, in their languages or dialects or at least in a language which they can understand, on matters relating to emigration, immigration, employment and living conditions, including health conditions in the place of destination, return to the country of origin or of emigration, and generally speaking any other question which may be of interest to them in their capacity as migrants.

(3) The service should provide facilities for migrants and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with the return of the migrants to the country of origin or of emigration, should the case arise.

(4) With a view to facilitating the adaptation of migrants, preparatory courses should, where necessary, be organised to inform the migrants of the general conditions and the methods of work prevailing in the country of immigration, and to instruct them in the language of that country. The countries of emigration and immigration should mutually agree to organise such courses.

6. On request information should be made available by Members to the International Labour Office and to other Members concerning their emigration laws and regulations, including administrative provisions relating to restrictions on emigration and facilities granted to emigrants, and appropriate details concerning the categories of persons wishing to emigrate.

7. On request information should be made available by Members to the International Labour Office and to other Members concerning their immigration laws and regulations, including administrative provisions, entry permits where needed, number and occupational qualifications of immigrants desired, laws and regulations affecting admission of migrants to employment, and any special facilities granted to migrants and measures to facilitate their adaptation to the economic and social organisation of the country of immigration.

8. There should, as far as possible, be a reasonable interval between the publication and the coming into force of any measure altering the conditions on which emigration or immigration or the employment of migrants is permitted in order that these conditions may be notified in good time to persons who are preparing to emigrate.

9. Provision should be made for adequate publicity to be given at appropriate stages to the principal measures referred to in the preceding Paragraph, such publicity to be in the languages most commonly known to the migrants.

10. Migration should be facilitated by such measures as may be appropriate:

- (a) to ensure that migrants for employment are provided in case of necessity with adequate accommodation, food and clothing on arrival in the country of immigration;
- (b) to ensure, where necessary, vocational training so as to enable the migrants for employment to acquire the qualifications required in the country of immigration;
- (c) to permit, taking into account the limits allowed by national laws and regulations concerning export and import of currency, the transfer of such part of the earnings and savings of migrants for employment as the migrants may desire;
- (d) to arrange, in the case of permanent migration, for the transfer, where desired, to the country of immigration, of the capital of migrants for employment, within the limits allowed by national laws and regulations concerning export and import of currency;
- (e) to provide access to schools for migrants and members of their families.

11. Migrants and the members of their families should be assisted in obtaining access to recreation and welfare facilities, and steps should be taken where necessary to ensure that special facilities are made available during the initial period of settlement in the country of immigration.

12. In the case of migrants under Government-sponsored arrangements for group transfer, medical assistance should be extended to such migrants in the same manner as provided for nationals.

#### IV

13.

(1) Where necessary in the interest of the migrant, Members should require that any intermediary who undertakes the recruitment, introduction or placing of migrants for employment on behalf of an employer must obtain a written warrant from the employer, or some other document proving that he is acting on the employer's behalf.

(2) This document should be drawn up in, or translated into, the official language of the country of emigration and should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake, and concerning the employment offered, including the remuneration.

14.

(1) The technical selection of migrants for employment should be carried out in such a way as to restrict migration as little as possible while ensuring that the migrants are qualified to perform the required work.

(2) Responsibility for such selection should be entrusted:

- (a) to official bodies; or
- (b) where appropriate, to private bodies of the territory of immigration duly authorised and, where necessary in the interest of the migrant, supervised by the competent authority of the territory of emigration.

(3) The right to engage in selection should be subject to the prior authorisation of the competent authority of the territory where the said operation takes place, in such cases under such conditions as may be prescribed by the laws and regulations of that territory, or by agreement between the Government of the territory of emigration and the Government of the territory of immigration.

(4) As far as possible, intending migrants for employment should, before their departure from the territory of emigration, be examined for purposes of occupational and medical selection by a representative of the competent authority of the territory of immigration.

(5) If recruitment takes place on a sufficiently large scale there should be arrangements for close liaison and consultation between the competent authorities of the territories of emigration and immigration concerned.

(6) The operations referred to in the preceding subparagraphs of this Paragraph should be carried out as near as possible to the place where the intending migrant is recruited.

15.

(1) Provision should be made by agreement for authorisation to be granted for a migrant for employment introduced on a permanent basis to be accompanied or joined by the members of his family.

(2) The movement of the members of the family of such a migrant authorised to accompany or join him should be specially facilitated by both the country of emigration and the country of immigration.

(3) For the purposes of this Paragraph, the members of the family of a migrant for employment should include his wife and minor children; favourable consideration should be given to requests for the inclusion of other members of the family dependent upon the migrant.

## V

16.

(1) Migrants for employment authorised to reside in a territory and the members of their families authorised to accompany or join them should as far as possible be admitted to employment in the same conditions as nationals.

(2) In countries in which the employment of migrants is subject to restrictions, these restrictions should as far as possible:

- (a) cease to be applied to migrants who have regularly resided in the country for a period, the length of which should not, as a rule, exceed five years; and
- (b) cease to be applied to the wife and children of an age to work who have been authorised to accompany or join the migrant, at the same time as they cease to be applied to the migrant.

17. In countries where the number of migrants for employment is sufficiently large, the conditions of employment of such workers should be specially supervised, such supervision being undertaken according to circumstances either by a special inspection service or by labour inspectors or other officials specialising in this work.

## VI

18.

(1) When a migrant for employment has been regularly admitted to the territory of a Member, the said Member should, as far as possible, refrain from removing such person or the members of his family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between the competent authorities of the emigration and immigration territories concerned.

(2) Any such agreement should provide:

- (a) that the length of time the said migrant has been in the territory of immigration shall be taken into account and that in principle no migrant shall be removed who has been there for more than five years;
- (b) that the migrant must have exhausted his rights to unemployment insurance benefit;

- (c) that the migrant must have been given reasonable notice so as to give him time, more particularly to dispose of his property;
- (d) that suitable arrangements shall have been made for his transport and that of the members of his family;
- (e) that the necessary arrangements shall have been made to ensure that he and the members of his family are treated in a humane manner; and
- (f) that the costs of the return of the migrant and the members of his family and of the transport of their household belongings to their final destination shall not fall on him.

19. Appropriate steps should be taken by the authorities of the territories concerned to consult the employers' and workers' organisations concerning the operations of recruitment, introduction and placing of migrants for employment.

## VII

20. When migrants for employment or members of their families who have retained the nationality of their State of origin return there, that country should admit such persons to the benefit of any measures in force for the granting of poor relief and unemployment relief, and for promoting the re-employment of the unemployed, by exempting them from the obligation to comply with any condition as to previous residence or employment in the country or place.

## VIII

21.

(1) Members should in appropriate cases supplement the Migration for Employment Convention (Revised), 1949, and the preceding Paragraphs of the present Recommendation by bilateral agreements, which should specify the methods of applying the principles set forth in the Convention and in the Recommendation.

(2) In concluding such agreements, Members should take into account the provisions of the Model Agreement annexed to the present Recommendation in framing appropriate clauses for the organisation of migration for employment and the regulation of the conditions of transfer and employment of migrants, including refugees and displaced persons.

## ANNEX

Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons (Note: The phrases and passages in italics refer primarily to permanent migration; those enclosed within square brackets refer solely to migration of refugees and displaced persons.)

*Article 1. Exchange of Information*

1. The competent authority of the territory of immigration shall periodically furnish appropriate information to the competent authority of the territory of emigration or in the case of refugees and displaced persons, to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government concerning:

- (a) legislative and administrative provisions relating to entry, employment, residence and settlement of migrants and of their families;
- (b) the number, the categories and the occupational qualifications of the migrants desired;
- (c) the conditions of life and work for the migrants and, in particular, cost of living and minimum wages according to occupational categories and regions of employment, supplementary allowances, if any, nature of employments available, bonus on engagement, if any, social security systems and medical assistance, provisions concerning transport of migrants and of their tools and belongings, housing conditions and provisions for the supply of food and clothing, measures relating to the transfer of the migrants' savings and other sums due in virtue of this Agreement;
- (d) special facilities, if any, for migrants;
- (e) facilities for general education and vocational training for migrants;
- (f) measures designed to promote rapid adaptation of migrants;
- (g) procedure and formalities required for naturalisation.

2. The competent authority of the territory of emigration or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government shall bring this information to the attention of persons or bodies interested.

3. The competent authority of the territory of emigration or in the case of refugees and displaced persons, any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government shall periodically furnish appropriate information to the competent authority of the territory of immigration concerning :

- (a) legislative and administrative provisions relating to emigration;
- (b) the number and occupational qualifications of intending emigrants, as well as the composition of their families;
- (c) the social security system;
- (d) special facilities, if any, for migrants;
- (e) the environment and living conditions to which migrants are accustomed;
- (f) the provisions in force regarding the export of capital.

4. The competent authority of the territory of immigration shall bring this information to the attention of persons or bodies interested.

5. The information mentioned in paragraphs 1 to 4 above shall also be transmitted by the respective parties to the International Labour Office.

*Article 2. Action against Misleading Propaganda*

1. The parties agree, with regard to their respective territories, to take all practical steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration.

2. For this purpose the parties will, where appropriate, act in co-operation with the competent authorities of other countries concerned.

*Article 3. Administrative Formalities*

The parties agree to take measures with a view to accelerating and simplifying the carrying out of administrative formalities relating to departure, travel, entry, residence, and settlement of migrants and as far as possible for the members of their families. Such measures shall include the provision of an interpretation service, where necessary.

*Article 4. Validity of Documents*

1. The parties shall determine the conditions to be met for purposes of recognition in the territory of immigration of any document issued by the competent authority of the territory of emigration in respect of migrants and members of their families or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government concerning :

- (a) civil status;
- (b) legal status;
- (c) occupational qualifications;
- (d) general education and vocational training; and
- (e) participation in social security systems.

2. The parties shall also determine the application of such recognition.

3. In the case of refugees and displaced persons, the competent authority of the territory of immigration shall recognise the validity of any travel document issued in lieu of a national passport by the competent authority of the territory of emigration and, in particular, of travel documents issued in accordance with the terms of an international Agreement (e.g. the travel document established by the Agreement of 15 October 1946, and the Nansen passport).

*Article 5. Conditions and Criteria of Migration*

1. The parties shall jointly determine :

- (a) the requirements for migrants and members of their families, as to age, physical aptitude and health, as well as the occupational qualifications for the various branches of economic activity and for the various occupational categories;
- (b) the categories of the members of the migrants' families authorised to accompany or to join them.

2. The parties shall also determine, in accordance with the provisions of Article 28 of this Agreement :

- (a) the numbers and occupational categories of migrants to be recruited in the course of a stated period;
- (b) the areas of recruitment and the areas of placing and settlement except that in the case of refugees and displaced persons the determination of the areas of recruitment shall be reserved to any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.

3. In order to recruit migrants required to meet the technical needs of the territory of immigration and who can adapt themselves easily to the conditions in the territory of immigration, the parties shall determine criteria to govern technical selection of the migrants.

4. In drawing up these criteria, the two parties shall take into consideration :

- (a) with respect to medical selection:
  - (i) the nature of the medical examination which migrants shall undergo (general medical examination, X-ray examination, laboratory examination, etc.) ;
  - (ii) the drawing up of lists of diseases and physical defects which clearly constitute a disability for employment in certain occupations;
  - (iii) minimum health provisions prescribed by international health conventions and relating to movement of population from one country to another;
- (b) with respect to vocational selection:
  - (i) qualifications required of migrants with respect to each occupation or groups of occupations;
  - (ii) enumeration of alternative occupations requiring similar qualifications or capacities on the part of the workers in order to fulfil the needs of specified occupations for which it is difficult to recruit a sufficient number of qualified workers;
  - (iii) development of psycho-technical testing;
- (c) with respect to selection based on the age of migrants, flexibility to be given to the application of age criteria in order to take into consideration on the one hand the requirements of various occupations and, on the other, the varying capacities of different individuals at a given age.

*Article 6. Organisation of Recruitment, Introduction and Placing*

1. The bodies or persons which engage in the operations of recruitment, introduction and placing of migrants and of members of their families shall be named by the competent authorities of the respective territories or in the case of refugees and displaced persons, by any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government on the one hand and the competent authority of the territory of immigration on the other subject to the approval of both parties.

2. Subject to the provisions of the following paragraphs, the right to engage in the operations of recruitment, introduction and placing shall be restricted to :

- (a) public employment offices or other public bodies of the territory in which the operations take place;
- (b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the parties;
- (c) any body established in accordance with the terms of an international instrument.

3. In addition, in so far as the national laws and regulations of the parties permit and subject to the approval and supervision of the competent authorities of the parties, the operations of recruitment, introduction and placing may be undertaken by :

- (a) the prospective employer or a person in his service acting on his behalf; and
- (b) private agencies.

4. The administrative costs of recruitment, introduction and placing shall not be borne by the migrants.

*Article 7. Selection Testing*

1. An intending migrant shall undergo an appropriate examination in the territory of emigration; any such examination should inconvenience him as little as possible.

2. With respect to the organisation of the selection of migrants, the parties shall agree on :
- (a) recognition and composition of official agencies or private bodies authorised by the competent authority of the territory of immigration to carry out selection operations in the territory of emigration;
  - (b) organisation of selection examinations, the centres where they are to be carried out, and allocation of expenses resulting from these examinations;
  - (c) co-operation of the competent authorities of the two parties and in particular of their employment services in organising selection.

*Article 8. Information and Assistance of Migrants*

1. The migrant accepted after medical and occupational examination in the assembly or selection centre shall receive, in a language that he understands, all information he may still require as to the nature of the work for which he has been engaged, the region of employment, the undertaking to which he is assigned, travel arrangements and the conditions of life and work including health and related matters in the country and region to which he is going.

2. On arrival in the country of destination, and at a reception centre if such exists, or at the place of residence, migrants and the members of their families shall receive all the documents which they need for their work, their residence and their settlement in the country, as well as information, instruction and advice regarding conditions of life and work, and any other assistance that they may need to adapt themselves to the conditions in the country of immigration.

*Article 9. Education and Vocational Training*

The parties shall co-ordinate their activities concerning the organisation of educational courses for migrants, which shall include general information on the country of immigration, instruction in the language of that country, and vocational training.

*Article 10. Exchange of Trainees*

The parties agree to further the exchange of trainees, and to determine in a separate agreement the conditions governing such exchanges.

*Article 11. Conditions of Transport*

1. During the journey from their place of residence to the assembly or selection centre, as well as during their stay in the said centre, migrants and the members of their families shall receive from the competent authority of the territory of immigration or in the case of refugees and displaced persons, from any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government any assistance which they may require.

2. The competent authorities of the territories of emigration and immigration shall, each within its own jurisdiction, safeguard the health and welfare of, and render assistance to, migrants and the members of their families during the journey from the assembly or selection centre to the place of their employment, as well as during their stay in a reception centre if such exists.

3. Migrants and members of their families shall be transported in a manner appropriate for human beings and in conformity with the laws and regulations in force.

4. The parties shall agree upon the terms and conditions for the application of the provisions of this Article.

*Article 12. Travel and Maintenance Expenses*

The parties shall agree upon the methods for meeting the cost of travel of the migrants and the members of their families from the place of their residence to the place of their destination,



and the cost of their maintenance while travelling, sick or hospitalised, as well as the cost of transport of their personal belongings.

*Article 13. Transfer of Funds*

1. The competent authority of the territory of emigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for migrants and for members of their families to withdraw from their country such sums as they may need for their initial settlement abroad.

2. The competent authority of the territory of immigration shall, as far as possible and in conformity with national laws and regulations concerning the import and export of foreign currency, authorise and provide facilities for the periodical transfer to the territory of emigration of migrants' savings and of any other sums due in virtue of this Agreement.

3. The transfers of funds mentioned in paragraphs 1 and 2 above shall be made at the prevailing official rate of exchange.

4. The parties shall take all measures necessary for the simplification and acceleration of administrative formalities regarding the transfer of funds so that such funds may be available with the least possible delay to those entitled to them.

5. The parties shall determine if and under what conditions a migrant may be required to remit part of his wages for the maintenance of his family remaining in his country or in the territory from which he emigrated.

*Article 14. Adaptation and Naturalisation*

The competent authority of the territory of immigration shall take measures to facilitate adaptation to national climatic, economic and social conditions and facilitate the procedure of naturalisation of migrants and of members of their families.

*Article 15. Supervision of Living and Working Conditions*

1. Provision shall be made for the supervision by the competent authority or duly authorised bodies of the territory of immigration of the living and working conditions, including hygienic conditions, to which the migrants are subject.

2. With respect to temporary migrants, the parties shall provide, where appropriate, for authorised representatives of the territory of emigration or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government to co-operate with the competent authority or duly authorised bodies of the territory of immigration in carrying out this supervision.

3. During a fixed period, the duration of which shall be determined by the parties, migrants shall receive special assistance in regard to matters concerning their conditions of employment.

4. Assistance with respect to the employment and living conditions of the migrants may be given either through the regular labour inspection service of the territory of immigration or through a special service for migrants, in co-operation where appropriate with approved voluntary organisations.

5. Provision shall be made where appropriate for the co-operation of representatives of the territory of emigration or in the case of refugees and displaced persons, of any body established in accordance with the terms of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government with such services.

*Article 16. Settlement of Disputes*

1. In case of a dispute between a migrant and his employer, the migrant shall have access to the appropriate courts or shall otherwise obtain redress for his grievances, in accordance with the laws and regulations of the territory of immigration.

2. The authorities shall establish such other machinery as is necessary to settle disputes arising out of the Agreement.

*Article 17. Equality of Treatment*

1. The competent authority of the territory of immigration shall grant to migrants and to members of their families with respect to employment in which they are eligible to engage treatment no less favourable than that applicable to its own nationals in virtue of legal or administrative provisions or collective labour agreements.

2. Such equality of treatment shall apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within the territory of immigration in respect of the following matters:

- (a) in so far as such matters are regulated by laws or regulations or are subject to the control of administrative authorities,
  - (i) remuneration, including family allowances where these form part of remuneration, hours of work, weekly rest days, overtime arrangements, holidays with pay and other regulations concerning employment, including limitations on home work, minimum age provisions, women's work, and the work of young persons;
  - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
  - (iii) admission to schools, to apprenticeship and to courses or schools for vocational or technical training, provided that this does not prejudice nationals of the country of immigration;
  - (iv) recreation and welfare measures;
- (b) employment taxes, dues or contributions payable in respect of the persons employed;
- (c) hygiene, safety and medical assistance;
- (d) legal proceedings relating to the matters referred to in this Agreement.

*Article 18. Access to Trades and Occupations and the Right to Acquire Property Equality of treatment shall also apply to:*

- (a) access to trades and occupations to the extent permitted under national laws and regulations;
- (b) acquisition, possession and transmission of urban or rural property.

*Article 19. Supply of Food*

The treatment applied to migrants and the members of their families shall be the same as that applied to national workers in the same occupation as regards the supply of food.

*Article 20. Housing Conditions*

The competent authority of the territory of immigration shall ensure that migrants and the members of their families have hygienic and suitable housing, in so far as the necessary housing is available.

*Article 21. Social Security*

1. The two parties shall determine in a separate agreement the methods of applying a system of social security to migrants and their dependants.

2. Such agreement shall provide that the competent authority of the territory of immigration shall take measures to ensure to the migrants and their dependants treatment not less favourable than that afforded by it to its nationals, except where particular residence qualifications apply to nationals.

3. The agreement shall embody appropriate arrangements for the maintenance of migrants' acquired rights and rights in course of acquisition framed with due regard to the principles of the Maintenance of Migrants' Pension Rights Convention, 1935, or of any revision of that Convention.

4. The agreement shall provide that the competent authority of the territory of immigration shall take measures to grant to temporary migrants and their dependants treatment not less favourable than that afforded by it to its nationals, subject in the case of compulsory pension schemes to appropriate arrangements being made for the maintenance of migrants' acquired rights and rights in course of acquisition.

*Article 22. Contracts of Employment*

1. In countries where a system of model contracts is used, the individual contract of employment for migrants shall be based on a model contract drawn up by the parties for the principal branches of economic activity.

2. The individual contract of employment shall set forth the general conditions of engagement and of employment provided in the relevant model contract and shall be translated into a language which the migrant understands. A copy of the contract shall be delivered to the migrant before departure from the territory of emigration or, if it is agreed between the two parties concerned, in a reception centre on arrival in the territory of immigration. In the latter case before departure the migrant shall be informed in writing by a document which relates either to him individually or to a group of migrants of which he is a member, of the occupational category in which he is to be engaged and the other conditions of work, in particular the minimum wage which is guaranteed to him.

3. The individual contract of employment shall contain necessary information, such as :

- (a) the full name of the worker as well as the date and place of birth, his family status, his place of residence and of recruitment;
- (b) the nature of the work, and the place where it is to be performed;
- (c) the occupational category in which he is placed;
- (d) remuneration for ordinary hours of work, overtime, night work and holidays, and the medium for wage payment;
- (e) bonuses, indemnities and allowances, if any;
- (f) conditions under which and extent to which the employer may be authorised to make any deductions from remuneration;
- (g) conditions regarding food if food is to be provided by the employer;
- (h) the duration of the contract as well as the conditions of renewal and denunciation of the contract;
- (i) the conditions under which entry and residence in the territory of immigration are permitted;
- (j) the method of meeting the expenses of the journey of the migrant and the members of his family;
- (k) in case of temporary migration, the method of meeting the expenses of return to the home country or the territory of migration, as appropriate;
- (l) the grounds on which a contract may be prematurely terminated.

*Article 23. Change of Employment*

1. If the competent authority of the territory of immigration considers that the employment for which the migrant has been recruited does not correspond to his physical capacity or occupa-

tional qualifications, the said authority shall provide facilities for placing the said migrant in an employment corresponding to his capacity or qualifications, and in which he may be employed in accordance with national laws or regulations.

2. During periods of unemployment, if any, the method of maintaining the migrant and the dependent members of his family authorised to accompany or join him shall be determined by arrangements made under a separate agreement.

#### *Article 24. Employment Stability*

1. If before the expiration of the period of his contract the migrant for employment becomes redundant in the undertaking or branch of economic activity for which he was engaged, the competent authority of the territory of immigration shall, subject to the provisions of the contract, facilitate the placing of the said migrant in other suitable employment in which he may be employed in accordance with national laws or regulations.

2. If the migrant is not entitled to benefits under an unemployment insurance or assistance scheme, his maintenance, as well as that of dependent members of his family during any period in which he is unemployed shall be determined by a separate agreement in so far as this is not inconsistent with the terms of his contract.

3. The provisions of this Article shall not affect the right of the migrant to benefit from any provisions that may be included in his contract in case it is prematurely terminated by the employer.

#### *Article 25. Provisions Concerning Compulsory Return*

1. The competent authority of the territory of immigration undertakes that a migrant and the members of his family who have been authorised to accompany or join him will not be returned to the territory from which he emigrated unless he so desires if, because of illness or injury, he is unable to follow his occupation.

2. The Government of the territory of immigration undertakes not to send refugees and displaced persons or migrants who do not wish to return to their country of origin for political reasons back to their territory of origin as distinct from the territory from which they were recruited, unless they formally express this desire by a request in writing addressed both to the competent authority of the territory of immigration and the representative of the body set up in accordance with the provisions of an international instrument which may be responsible for the protection of refugees and displaced persons who do not benefit from the protection of any Government.

#### *Article 26. Return Journey*

1. The cost of the return journey of a migrant introduced under a plan sponsored by the Government of the territory of immigration, who is obliged to leave his employment for reasons for which he is not responsible, and who cannot, in virtue of national laws and regulations, be placed in an employment for which he is eligible, shall be regulated as follows:

- (a) the cost of the return journey of the migrant, and persons dependent upon him, shall in no case fall on the migrant himself;
- (b) supplementary bilateral agreements shall specify the method of meeting the cost of this return journey;
- (c) in any case, even if no provision to this effect is included in a bilateral agreement, the information given to migrants at the time of their recruitment shall specify what person or agency is responsible for defraying the cost of return in the circumstances mentioned in this Article.

2. In accordance with the methods of co-operation and consultation agreed upon under Article 28 of this Agreement, the two parties shall determine the measures necessary to organise the return home of the said persons and to assure to them in the course of the journey the conditions of health and welfare and the assistance which they enjoyed during the outward journey.

3. The competent authority of the territory of emigration shall exempt from customs duties on their arrival :

- (a) personal effects; and
- (b) portable hand-tools and portable equipment of the kind normally owned by workers for the carrying out of their particular trades, which have been in possession and use of the said persons for an appreciable time and which are intended to be used by them in the course of their occupation.

*Article 27. Double Taxation*

The two parties shall determine in a separate agreement the measures to be taken to avoid double taxation on the earnings of a migrant for employment.

*Article 28. Methods of Co-operation*

- 1. The two parties shall agree on the methods of consultation and co-operation necessary to carry out the terms of the Agreement.
- 2. When so requested by the representatives of the two parties the International Labour Office shall be associated with such consultation and co-operation.

*Article 29. Final Provisions*

- 1. The parties shall determine the duration of the Agreement as well as the period of notice for termination.
- 2. The parties shall determine those provisions of this Agreement which shall remain in operation after expiration of this Agreement.

**Convention No. 143**

## **Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity of Migrant Workers (1975)**

- The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixtieth Session on 4 June 1975, and
- Considering that the Preamble of the Constitution of the International Labour Organisation assigns to it the task of protecting “the interests of workers when employed in countries other than their own”, and
- Considering that the Declaration of Philadelphia reaffirms, among the principles on which the Organisation is based, that “labour is not a commodity”, and that “poverty anywhere constitutes a danger to prosperity everywhere”, and recognises the solemn obligation of the ILO to further programmes which will achieve in particular full employment through “the transfer of labour, including for employment ...”,
- Considering the ILO World Employment Programme and the Employment Policy Convention and Recommendation, 1964, and emphasising the need to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences, and
- Considering that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology rather than the transfer of workers in accordance with the needs and requests of these countries in the reciprocal interest of the countries of origin and the countries of employment, and
- Considering the right of everyone to leave any country, including his own, and to enter his own country, as set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and
- Recalling the provisions contained in the Migration for Employment Convention and Recommendation (Revised), 1949, in the Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955, in the Employment Policy Convention and Recommendation, 1964, in the Employment Service Convention and Recommendation, 1948, and in the Fee-Charging Employment Agencies Convention (Revised), 1949, which deal with such matters as the regulation of the recruitment, introduction and placing of migrant workers, the provision of accurate information relating to migration, the minimum conditions to be enjoyed by migrants in transit and on arrival, the adoption of an active employment policy and international collaboration in these matters, and
- Considering that the migration of workers due to conditions in labour markets should take place under the responsibility of official agencies for employment or in accordance with the relevant bilateral or multilateral agreements, in particular those permitting free circulation of workers, and
- Considering that evidence of the existence of illicit and clandestine trafficking in labour calls for further standards specifically aimed at eliminating these abuses, and

Recalling the provisions of the Migration for Employment Convention (Revised), 1949, which require ratifying Members to apply to immigrants lawfully within their territory treatment not less favourable than that which they apply to their nationals in respect of a variety of matters which it enumerates, in so far as these are regulated by laws or regulations or subject to the control of administrative authorities, and

Recalling that the definition of the term “discrimination” in the Discrimination (Employment and Occupation) Convention, 1958, does not mandatorily include distinctions on the basis of nationality, and

Considering that further standards, covering also social security, are desirable in order to promote equality of opportunity and treatment of migrant workers and, with regard to matters regulated by laws or regulations or subject to the control of administrative authorities, ensure treatment at least equal to that of nationals, and

Noting that, for the full success of action regarding the very varied problems of migrant workers, it is essential that there be close co-operation with the United Nations and other specialised agencies, and

Noting that, in the framing of the following standards, account has been taken of the work of the United Nations and of other specialised agencies and that, with a view to avoiding duplication and to ensuring appropriate co-ordination, there will be continuing co-operation in promoting and securing the application of the standards, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention supplementing the Migration for Employment Convention (Revised), 1949, and the Discrimination (Employment and Occupation) Convention, 1958,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five the following Convention, which may be cited as the Migrant Workers (Supplementary Provisions) Convention, 1975:

## PART I. MIGRATIONS IN ABUSIVE CONDITIONS

### *Article 1*

Each Member for which this Convention is in force undertakes to respect the basic human rights of all migrant workers.

### *Article 2*

1. Each Member for which this Convention is in force shall systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements, or national laws or regulations.

2. The representative organisations of employers and workers shall be fully consulted and enabled to furnish any information in their possession on this subject.

### *Article 3*

Each Member shall adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members:

- (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and

- (b) against the organisers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions, in order to prevent and to eliminate the abuses referred to in Article 2 of this Convention.

#### *Article 4*

In particular, Members shall take such measures as are necessary, at the national and the international level, for systematic contact and exchange of information on the subject with other States, in consultation with representative organisations of employers and workers.

#### *Article 5*

One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.

#### *Article 6*

1. Provision shall be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for the definition and the application of administrative, civil and penal sanctions, which include imprisonment in their range, in respect of the illegal employment of migrant workers, in respect of the organisation of movements of migrants for employment defined as involving the abuses referred to in Article 2 of this Convention, and in respect of knowing assistance to such movements, whether for profit or otherwise.

2. Where an employer is prosecuted by virtue of the provision made in pursuance of this Article, he shall have the right to furnish proof of his good faith.

#### *Article 7*

The representative organisations of employers and workers shall be consulted in regard to the laws and regulations and other measures provided for in this Convention and designed to prevent and eliminate the abuses referred to above, and the possibility of their taking initiatives for this purpose shall be recognised.

#### *Article 8*

1. On condition that he has resided legally in the territory for the purpose of employment, the migrant worker shall not be regarded as in an illegal or irregular situation by the mere fact of the loss of his employment, which shall not in itself imply the withdrawal of his authorisation of residence or, as the case may be, work permit.

2. Accordingly, he shall enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, the provision of alternative employment, relief work and retraining.

#### *Article 9*

1. Without prejudice to measures designed to control movements of migrants for employment by ensuring that migrant workers enter national territory and are admitted to employment in conformity with the relevant laws and regulations, the migrant worker shall, in cases in which these laws and regulations have not been respected and in which his position cannot be regularised, enjoy equality of treatment for himself and his family in respect of rights arising out of past employment as regards remuneration, social security and other benefits.



2. In case of dispute about the rights referred to in the preceding paragraph, the worker shall have the possibility of presenting his case to a competent body, either himself or through a representative.

3. In case of expulsion of the worker or his family, the cost shall not be borne by them.

4. Nothing in this Convention shall prevent Members from giving persons who are illegally residing or working within the country the right to stay and to take up legal employment.

## PART II. EQUALITY OF OPPORTUNITY AND TREATMENT

### *Article 10*

Each Member for which the Convention is in force undertakes to declare and pursue a national policy designed to promote and to guarantee, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory.

### *Article 11*

1. For the purpose of this Part of this Convention, the term *migrant worker* means a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

2. This Part of this Convention does not apply to:

- (a) frontier workers;
- (b) artistes and members of the liberal professions who have entered the country on a short-term basis;
- (c) seamen;
- (d) persons coming specifically for purposes of training or education;
- (e) employees of organisations or undertakings operating within the territory of a country who have been admitted temporarily to that country at the request of their employer to undertake specific duties or assignments, for a limited and defined period of time, and who are required to leave that country on the completion of their duties or assignments.

### *Article 12*

Each Member shall, by methods appropriate to national conditions and practice:

- (a) seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of the policy provided for in Article 10 of this Convention;
- (b) enact such legislation and promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) take measures, encourage educational programmes and develop other activities aimed at acquainting migrant workers as fully as possible with the policy, with their rights and obligations and with activities designed to give effective assistance to migrant workers in the exercise of their rights and for their protection;
- (d) repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (e) in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking

account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment;

- (f) take all steps to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue;
- (g) guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity whatever might be the particular conditions of their employment.

#### *Article 13*

1. A Member may take all necessary measures which fall within its competence and collaborate with other Members to facilitate the reunification of the families of all migrant workers legally residing in its territory.

2. The members of the family of the migrant worker to which this Article applies are the spouse and dependent children, father and mother.

#### *Article 14*

A Member may:

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

(Final Provisions)

**Recommendation No. 151****Recommendation concerning Migrant Workers,  
(1975)**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Sixtieth Session on 4 June 1975, and

Considering that the Preamble of the Constitution of the International Labour Organisation assigns  
to it the task of protecting the interests of workers when employed in countries other than  
their own, and

Recalling the provisions contained in the Migration for Employment Convention and Recommen-  
dation (Revised), 1949, and in the Protection of Migrant Workers (Underdeveloped Coun-  
tries) Recommendation, 1955, which deal with such matters as the preparation and organisa-  
tion of migration, social services to be provided to migrant workers and their families, in  
particular before their departure and during their journey, equality of treatment as regards a  
variety of matters which they enumerate, and the regulation of the stay and return of migrant  
workers and their families, and

Having adopted the Migrant Workers (Supplementary Provisions) Convention, 1975, and

Considering that further standards are desirable as regards equality of opportunity and treatment,  
social policy in regard to migrants and employment and residence, and

Having decided upon the adoption of certain proposals with regard to migrant workers, which is  
the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-fourth day of June of the year one thousand nine hundred and seventy-five, the  
following Recommendation, which may be cited as the Migrant Workers Recommendation, 1975:

1. Members should apply the provision of this Recommendation within the framework of a  
coherent policy on international migration for employment. That policy should be based upon the  
economic and social needs of both countries of origin and countries of employment; it should take  
account not only of short-term manpower needs and resources but also of the long-term social and  
economic consequences of migration for migrants as well as for the communities concerned.

**I. EQUALITY OF OPPORTUNITY AND TREATMENT**

2. Migrant workers and members of their families lawfully within the territory of a Member  
should enjoy effective equality of opportunity and treatment with nationals of the Member  
concerned in respect of:

- (a) access to vocational guidance and placement services;
- (b) access to vocational training and employment of their own choice on the basis of individual  
suitability for such training or employment, account being taken of qualifications acquired  
outside the territory of and in the country of employment;
- (c) advancement in accordance with their individual character, experience, ability and diligence;

- (d) security of employment, the provision of alternative employment, relief work and retraining;
- (e) remuneration for work of equal value;
- (f) conditions of work, including hours of work, rest periods, annual holidays with pay, occupational safety and occupational health measures, as well as social security measures and welfare facilities and benefits provided in connection with employment;
- (g) membership of trade unions, exercise of trade union rights and eligibility for office in trade unions and in labour-management relations bodies, including bodies representing workers in undertakings;
- (h) rights of full membership in any form of co-operative;
- (i) conditions of life, including housing and the benefits of social services and educational and health facilities.

3. Each Member should ensure the application of the principles set forth in Paragraph 2 of this Recommendation in all activities under the control of a public authority and promote its observance in all other activities by methods appropriate to national conditions and practice.

4. Appropriate measures should be taken, with the collaboration of employers' and workers' organisations and other bodies concerned, with a view to:

- (a) fostering public understanding and acceptance of the above-mentioned principles;
- (b) examining complaints that these principles are not being observed and securing the correction, by conciliation of other appropriate means, of any practices regarded as in conflict therewith.

5. Each Member should ensure that national laws and regulations concerning residence in its territory are so applied that the lawful exercise of rights enjoyed in pursuance of these principles cannot be the reason for non-renewal of a residence permit or for expulsion and is not inhibited by the threat of such measures.

6. A Member may:

- (a) make the free choice of employment, while assuring migrant workers the right to geographical mobility, subject to the conditions that the migrant worker has resided lawfully in its territory for the purpose of employment for a prescribed period not exceeding two years or, if its laws or regulations provide for contracts for a fixed term of less than two years, that the worker has completed his first work contract;
- (b) after appropriate consultation with the representative organisations of employers and workers, make regulations concerning recognition of occupational qualifications acquired outside its territory, including certificates and diplomas;
- (c) restrict access to limited categories of employment or functions where this is necessary in the interests of the State.

7.

(1) In order to enable migrant workers and their families to take full advantage of their rights and opportunities in employment and occupation, such measures as may be necessary should be taken, in consultation with the representative organisations of employers and workers:

- (a) to inform them, as far as possible in their mother tongue or, if that is not possible, in a language with which they are familiar, of their rights under national law and practice as regards the matters dealt with in Paragraph 2 of this Recommendation;
- (b) to advance their knowledge of the language or languages of the country of employment, as far as possible during paid time;
- (c) generally, to promote their adaptation to the society of the country of employment and to assist and encourage the efforts of migrant workers and their families to preserve their national and ethnic identity and their cultural ties with their country of origin, including the possibility for children to be given some knowledge of their mother tongue.

(2) Where agreements concerning the collective recruitment of workers have been concluded between Members, they should jointly take the necessary measures before the migrants' departure

from their country of origin to introduce them to the language of the country of employment and also to its economic, social and cultural environment.

8.

(1) Without prejudice to measures designed to ensure that migrant workers and their families enter national territory and are admitted to employment in conformity with the relevant laws and regulations, a decision should be taken as soon as possible in cases in which these laws and regulations have not been respected so that the migrant worker should know whether his position can be regularised or not.

(2) Migrant workers whose position has been regularised should benefit from all rights which, in accordance with Paragraph 2 of this Recommendation, are provided for migrant workers lawfully within the territory of a Member.

(3) Migrant workers whose position has not been or could not be regularised should enjoy equality of treatment for themselves and their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits as well as regards trade union membership and exercise of trade union rights.

(4) In case of dispute about the rights referred to in the preceding sub-paragraphs, the worker should have the possibility of presenting his case to a competent body, either himself or through a representative.

(5) In case of expulsion of the worker or his family, the cost should not be borne by them.

## II. SOCIAL POLICY

9. Each Member should, in consultation with representative organisations of employers and workers, formulate and apply a social policy appropriate to national conditions and practice which enables migrant workers and their families to share in advantages enjoyed by its nationals while taking account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as they may have until they are adapted to the society of the country of employment.

10. With a view to making the policy as responsive as possible to the real needs of migrant workers and their families, it should be based, in particular, on an examination not only of conditions in the territory of the Member but also of those in the countries of origin of the migrants.

11. The policy should take account of the need to spread the social cost of migration as widely and equitably as possible over the entire collectivity of the country of employment, and in particular over those who profit most from the work of migrants.

12. The policy should be periodically reviewed and evaluated and where necessary revised.

### A. *Reunification of Families*

13.

(1) All possible measures should be taken both by countries of employment and by countries of origin to facilitate the reunification of families of migrant workers as rapidly as possible. These measures should include, as necessary, national laws or regulations and bilateral and multilateral arrangements.

(2) A prerequisite for the reunification of families should be that the worker has, for his family, appropriate accommodation which meets the standards normally applicable to nationals of the country of employment.

14. Representatives of all concerned, and in particular of employers and workers, should be consulted on the measures to be adopted to facilitate the reunification of families and their co-operation sought in giving effect thereto.

15. For the purpose of the provisions of this Recommendation relating to the reunification of families, the family of the migrant worker should include the spouse and dependent children, father and mother.

16. With a view to facilitating the reunification of families as quickly as possible in accordance with Paragraph 13 of this Recommendation, each Member should take full account of the needs of migrant workers and their families in particular in its policy regarding the construction of family housing, assistance in obtaining this housing and the development of appropriate reception services.

17. Where a migrant worker who has been employed for at least one year in a country of employment cannot be joined by his family in that country, he should be entitled:

- (a) to visit the country of residence of his family during the paid annual holiday to which he is entitled under the national law and practice of the country of employment without losing during the absence from that country any acquired rights or rights in course of acquisition and, particularly, without having his employment terminated or his right to residence in the country of employment withdrawn during that period; or
- (b) to be visited by his family for a period corresponding at least to the annual holiday with pay to which he is entitled.

18. Consideration should be given to the possibility of giving the migrant worker financial assistance towards the cost of the travel envisaged in the preceding Paragraph or a reduction in the normal cost of transport, for instance by the arrangement of group travel.

19. Without prejudice to more favourable provisions which may be applicable to them, persons admitted in pursuance of international arrangements for free movement of labour should have the benefit of the measures provided for in Paragraphs 13 to 18 of this Recommendation.

#### *B. Protection of the Health of Migrant Workers*

20. All appropriate measures should be taken to prevent any special health risks to which migrant workers may be exposed.

21.

(1) Every effort should be made to ensure that migrant workers receive training and instruction in occupational safety and occupational hygiene in connection with their practical training or other work preparation, and, as far as possible, as part thereof.

(2) In addition, a migrant worker should, during paid working hours and immediately after beginning his employment, be provided with sufficient information in his mother tongue or, if that is not possible, in a language with which he is familiar, on the essential elements of laws and regulations and on provisions of collective agreements concerning the protection of workers and the prevention of accidents as well as on safety regulations and procedures particular to the nature of the work.

22.

(1) Employers should take all possible measures so that migrant workers may fully understand instructions, warnings, symbols and other signs relating to safety and health hazards at work.

(2) Where, on account of the migrant workers' lack of familiarity with processes, language difficulties or other reasons, the training or instruction given to other workers is inadequate for them, special measures which ensure their full understanding should be taken.

(3) Members should have laws or regulations applying the principles set out in this Paragraph and provide that where employers or other persons or organisations having responsibility in this regard fail to observe such laws or regulations, administrative, civil and penal sanctions might be imposed.

#### *C. Social Services*

23. In accordance with the provisions of Paragraph 2 of this Recommendation, migrant workers and their families should benefit from the activities of social services and have access thereto under the same conditions as nationals of the country of employment.

24. In addition, social services should be provided which perform, in particular, the following functions in relation to migrant workers and their families:

- (a) giving migrant workers and their families every assistance in adapting to the economic, social and cultural environment of the country of employment;
- (b) helping migrant workers and their families to obtain information and advice from appropriate bodies, for instance by providing interpretation and translation services; to comply with administrative and other formalities; and to make full use of services and facilities provided in such fields as education, vocational training and language training, health services and social security, housing, transport and recreation: Provided that migrant workers and their families should as far as possible have the right to communicate with public authorities in the country of employment in their own language or in a language with which they are familiar, particularly in the context of legal assistance and court proceedings;
- (c) assisting authorities and bodies with responsibilities relating to the conditions of life and work of migrant workers and their families in identifying their needs and in adapting thereto;
- (d) giving the competent authorities information and, as appropriate, advice regarding the formulation, implementation and evaluation of social policy with respect to migrant workers;
- (e) providing information for fellow workers and foremen and supervisors about the situation and the problems of migrant workers.

25.

(1) The social services referred to in Paragraph 24 of this Recommendation may be provided, as appropriate to national conditions and practice, by public authorities, by approved non-profit-making organisations or bodies, or by a combination of both. The public authorities should have the over-all responsibility of ensuring that these social services are at the disposal of migrant workers and their families.

(2) Full use should be made of services which are or can be provided by authorities, organisations and bodies serving the nationals of the country of employment, including employers' and workers' organisations.

26. Each Member should take such measures as may be necessary to ensure that sufficient resources and adequately trained staff are available for the social services referred to in Paragraph 24 of this Recommendation.

27. Each Member should promote co-operation and co-ordination between different social services on its territory and, as appropriate, between these services and corresponding services in other countries, without, however, this co-operation and co-ordination relieving the States of their responsibilities in this field.

28. Each Member should organise and encourage the organisation, at the national, regional or local level, or as appropriate in a branch of economic activity employing substantial numbers of migrant workers, of periodic meetings for the exchange of information and experience. Consideration should also be given to the exchange of information and experience with other countries of employment as well as with the countries of origin of migrant workers.

29. Representatives of all concerned and in particular of employers and workers should be consulted on the organisation of the social services in question and their co-operation sought in achieving the purposes aimed at.

### III. EMPLOYMENT AND RESIDENCE

30. In pursuance of the provision of Paragraph 18 of the Migration for Employment Recommendation (Revised), 1949, that Members should, as far as possible, refrain from removing from their territory, on account of lack of means or the state of the employment market, a migrant worker regularly admitted thereto, the loss by such migrant worker of his employment should not in itself imply the withdrawal of his authorisation of residence.

31. A migrant who has lost his employment should be allowed sufficient time to find alternative employment, at least for a period corresponding to that during which he may be entitled to unemployment benefit; the authorisation of residence should be extended accordingly.

32.

(1) A migrant worker who has lodged an appeal against the termination of his employment, under such procedures as may be available, should be allowed sufficient time to obtain a final decision thereon.

(2) If it is established that the termination of employment was not justified, the migrant worker should be entitled, on the same terms as national workers, to reinstatement, to compensation for loss of wages or of other payment which results from unjustified termination, or to access to a new job with a right to indemnification. If he is not reinstated, he should be allowed sufficient time to find alternative employment.

33. A migrant worker who is the object of an expulsion order should have a right of appeal before an administrative or judicial instance, according to conditions laid down in national laws or regulations. This appeal should stay the execution of the expulsion order, subject to the duly substantiated requirements of national security or public order. The migrant worker should have the same right to legal assistance as national workers and have the possibility of being assisted by an interpreter.

34.

(1) A migrant worker who leaves the country of employment should be entitled, irrespective of the legality of his stay therein:

- (a) to any outstanding remuneration for work performed, including severance payments normally due;
- (b) to benefits which may be due in respect of any employment injury suffered;
- (c) in accordance with national practice:
  - (i) to compensation in lieu of any holiday entitlement acquired but not used;
  - (ii) to reimbursement of any social security contributions which have not given and will not give rise to rights under national laws or regulations or international arrangements: Provided that where social security contributions do not permit entitlement to benefits, every effort should be made with a view to the conclusion of bilateral or multilateral agreements to protect the rights of migrants.

(2) Where any claim covered in subparagraph (1) of this Paragraph is in dispute, the worker should be able to have his interests represented before the competent body and enjoy equal treatment with national workers as regards legal assistance.





## FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK

- Equal Remuneration Convention, 1951, No. 100, and Recommendation No. 90
- Discrimination (Employment & Occupation) Convention, 1958, No. 111, and Recommendation No. 111
- Freedom of Association and Protection of the Right to Organise Convention, 1948, No. 87
- Right to Organise and Collective Bargaining Convention, 1949, No. 98
- Minimum Age Convention, 1973, No. 138, and Recommendation No. 146
- Worst Forms of Child Labour Convention, 1999, No. 182, and Recommendation No. 190
- Forced Labour Convention, 1930, No. 29, and Recommendation No. 35
- Abolition of Forced Labour Convention, 1957, No. 105

## MATERNITY PROTECTION, WORK AND FAMILY

- Maternity Protection Convention, 2000, No. 183, and Recommendation No. 191
- Workers with Family Responsibilities Convention, 1981, No. 156, and Recommendation No. 165

## EMPLOYMENT PROMOTION

- Employment Policy Convention, 1964, No. 122, and Recommendation No. 122
- Employment Policy (Supplementary Provision) Recommendation, 1984, No. 16
- Human Resources Development Convention, 1975, No. 142, and revised by Recommendation No. 195, 2004
- Termination of Employment Convention, 1982, No. 158, and Recommendation No. 166
- Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998, No. 189
- Employment Relationship Recommendation, 2006, No. 198

## SPECIFIC CATEGORIES

- HIV and AIDS Recommendation, 2010, No. 200
- Domestic Workers Convention, 2011, No. 189, and Recommendation No. 201
- Indigenous and Tribal People's Convention, 1989, No. 169
- Migration for Employment Convention (Revised), 1949, No. 97, and Recommendation No. 86
- Migrant Workers (Supplementary Provisions) Convention, 1975, No. 143, and Recommendation No. 151

## WORKING CONDITIONS

- Night Work (Women) Convention (Revised), 1948, No 89, Protocol of 1990 to the Night Work (Women) Convention No. 89
- Night Work Convention, 1990, No. 171, and Recommendation No. 178
- Home Work Convention, 1996, No. 177 and Recommendation No. 184
- Part-time Work Convention, 1994, No. 175, and Recommendation No. 182



## Convention No. 89

### Convention concerning Night Work of Women Employed in Industry (Revised 1948)

The General Conference of the International Labour Organisation,  
 Having been convened at San Francisco by the Governing Body of the International Labour Office,  
 and having met in its Thirty-first Session on 17 June 1948, and  
 Having decided upon the adoption of certain proposals with regard to the partial revision of the  
 Night Work (Women) Convention, 1919, adopted by the Conference at its First Session, and  
 the Night Work (Women) Convention (Revised), 1934, adopted by the Conference at its  
 Eighteenth Session, which is the ninth item on the agenda of the session, and  
 Considering that these proposals must take the form of an international Convention,  
 adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following  
 Convention, which may be cited as the Night Work (Women) Convention (Revised), 1948:

#### PART I. GENERAL PROVISIONS

##### *Article 1*

1. For the purpose of this Convention, the term *industrial undertakings* includes particularly:
  - (a) mines, quarries, and other works for the extraction of minerals from the earth;
  - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;
  - (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.
2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

##### *Article 2*

For the purpose of this Convention the term *night* signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

##### *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.

*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*

1. The prohibition of night work for women may be suspended by the government, after consultation with the employers' and workers' organisations concerned, when in case of serious emergency the national interest demands it.

2. Such suspension shall be notified by the government concerned to the Director-General of the International Labour Office in its annual report on the application of the Convention.

*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, the night period may be shorter than that prescribed in the above articles if compensatory rest is accorded during the day.

*Article 8*

This Convention does not apply to:

- (a) women holding responsible positions of a managerial or technical character; and
- (b) women employed in health and welfare services who are not ordinarily engaged in manual work.

## PART II. SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

*Article 9*

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 an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

*Articles 10*

1. The provisions of this Convention shall apply to India subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Indian legislature has jurisdiction to apply them.

3. The term *industrial undertaking* shall include:

- (a) factories as defined in the Indian Factories Act; and
- (b) mines to which the Indian Mines Act applies.

*Article 11*

1. The provisions of this Convention shall apply to Pakistan subject to the modifications set forth in this Article.

2. The said provisions shall apply to all territories in respect of which the Pakistan legislature has jurisdiction to apply them.

3. The term *industrial undertaking* shall include:

- (a) factories as defined in the Factories Act;
- (b) mines to which the Mines Act applies.

*Article 12*

1. The International Labour Conference may, at any session at which the matter is included in its agenda, adopt by a two-thirds majority draft amendments to any one or more of the preceding articles of Part II of this Convention.

2. Any such draft amendment shall state the Member or Members to which it applies, and shall, within the period of one year, or, in exceptional circumstances, of eighteen months from the closing of the session of the Conference, be submitted by the Member or Members to which it applies to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

3. Each such Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the amendment to the Director-General of the International Labour Office for registration.

4. Any such draft amendment shall take effect as an amendment to this Convention on ratification by the Member or Members to which it applies.

(Final Provisions)

## Protocole of 1990

### **Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 77th Session on 6 June 1990, and  
Having decided upon the adoption of certain proposals with regard to night work, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Protocol to the Night Work (Women) Convention (Revised), 1948 (hereinafter referred to as “the Convention”),  
adopts this twenty-sixth day of June 1990 the following Protocol, which may be cited as the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

#### *Article 1*

##### 1.

(1) National laws or regulations, adopted after consulting the most representative organisations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority:

- (a) in a specific branch of activity or occupation, provided that the organisations representative of the employers and the workers concerned have concluded an agreement or have given their agreement;
- (b) in one or more specific establishments not covered by a decision taken pursuant to clause (a) above, provided that:
  - (i) an agreement has been concluded in the establishment or enterprise concerned between the employer and the workers’ representatives concerned; and
  - (ii) the organisations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;
- (c) in a specific establishment not covered by a decision taken pursuant to clause (a) above, and where no agreement has been reached in accordance with clause (b) (i) above, provided that:
  - (i) the workers’ representatives in the establishment or enterprise as well as the organisations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;
  - (ii) the competent authority has satisfied itself that adequate safeguards exist in the establishment as regards occupational safety and health, social services and equality of opportunity and treatment for women workers; and
  - (iii) the decision of the competent authority shall apply for a specified period of time, which may be renewed by means of the procedure under subclauses (i) and (ii) above,

(2) For the purposes of this paragraph the term “workers’ representatives” means persons who are recognised as such by national law or practice, in accordance with the Workers’ Representatives Convention, 1971.

2. The laws or regulations referred to in paragraph 1 shall determine the circumstances in which such variations and exemptions may be permitted and the conditions to which they shall be subject.

#### *Article 2*

1. It shall be prohibited to apply the variations and exemptions permitted pursuant to Article 1 above to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth. National laws or regulations may allow for the lifting of this prohibition at the express request of the woman worker concerned on condition that neither her health nor that of her child will be endangered.

2. The prohibition provided for in paragraph 1 of this Article shall also apply to additional periods in respect of which a medical certificate is produced stating that this is necessary for the health of the mother or child:

- (a) during pregnancy;
- (b) during a specified time prolonging the period after childbirth fixed pursuant to paragraph 1 above.

3. During the periods referred to in paragraphs 1 and 2 of this Article:

- (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
- (b) the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured through assignment to day work, extended maternity leave, social security benefits or any other appropriate measure, or through a combination of these measures.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

#### *Article 3*

Information on the variations and exemptions introduced pursuant to this Protocol shall be included in the reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation.

(Final Provisions)



**Convention No. 171****Convention concerning Night Work, 1990**

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 77th Session on 6 June 1990, and  
Noting the provisions of international labour Conventions and Recommendations on the night work of children and young persons, and specifically the provisions in the Night Work of Young Persons (Non-Industrial Occupations) Convention and Recommendation, 1946, the Night Work of Young Persons (Industry) Convention (Revised), 1948, and the Night Work of Children and Young Persons (Agriculture) Recommendation, 1921, and  
Noting the provisions of international labour Conventions and Recommendations on night work of women, and specifically the provisions in the Night Work (Women) Convention (Revised), 1948, and the Protocol of 1990 thereto, the Night Work of Women (Agriculture) Recommendation, 1921, and Paragraph 5 of the Maternity Protection Recommendation, 1952, and  
Noting the provisions of the Discrimination (Employment and Occupation) Convention, 1958, and  
Noting the provisions of the Maternity Protection Convention (Revised), 1952, and  
Having decided upon the adoption of certain proposals with regard to night work, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of an international Convention, adopts this twenty-sixth day of June of the year one thousand nine hundred and ninety the following Convention, which may be cited as the Night Work Convention, 1990:

*Article 1*

For the purposes of this Convention:

- (a) the term *night work* means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
- (b) the term *night worker* means an employed person whose work requires performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.

*Article 2*

1. This Convention applies to all employed persons except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.

2. A Member which ratifies this Convention may, after consulting the representative organisations of employers and workers concerned, exclude wholly or partly from its scope limited categories of workers when the application of the Convention to them would raise special problems of a substantial nature.

3. Each Member which avails itself of the possibility afforded in paragraph 2 of this Article shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate the particular categories of workers thus excluded and the reasons for their exclusion. It shall also describe all measures taken with a view to progressively extending the provisions of the Convention to the workers concerned.

#### *Article 3*

1. Specific measures required by the nature of night work, which shall include, as a minimum, those referred to in Articles 4 to 10, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.

2. The measures referred to in paragraph 1 above may be applied progressively.

#### *Article 4*

1. At their request, workers shall have the right to undergo a health assessment without charge and to receive advice on how to reduce or avoid health problems associated with their work:

- (a) before taking up an assignment as a night worker;
- (b) at regular intervals during such an assignment;
- (c) if they experience health problems during such an assignment which are not caused by factors other than the performance of night work.

2. With the exception of a finding of unfitness for night work, the findings of such assessments shall not be transmitted to others without the workers' consent and shall not be used to their detriment.

#### *Article 5*

Suitable first-aid facilities shall be made available for workers performing night work, including arrangements whereby such workers, where necessary, can be taken quickly to a place where appropriate treatment can be provided.

#### *Article 6*

1. Night workers certified, for reasons of health, as unfit for night work shall be transferred, whenever practicable, to a similar job for which they are fit.

2. If transfer to such a job is not practicable, these workers shall be granted the same benefits as other workers who are unable to work or to secure employment.

3. A night worker certified as temporarily unfit for night work shall be given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for reasons of health.

#### *Article 7*

1. Measures shall be taken to ensure that an alternative to night work is available to women workers who would otherwise be called upon to perform such work:

- (a) before and after childbirth, for a period of at least sixteen weeks of which at least eight weeks shall be before the expected date of childbirth;
- (b) for additional periods in respect of which a medical certificate is produced stating that it is necessary for the health of the mother or child:
  - (i) during pregnancy;

- (ii) during a specified time beyond the period after childbirth fixed pursuant to subparagraph (a) above, the length of which shall be determined by the competent authority after consulting the most representative organisations of employers and workers.
2. The measures referred to in paragraph 1 of this Article may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.
  3. During the periods referred to in paragraph 1 of this Article:
    - (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
    - (b) the income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured by any of the measures listed in paragraph 2 of this Article, by other appropriate measures or by a combination of these measures;
    - (c) a woman worker shall not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.
  4. The provisions of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

#### *Article 8*

Compensation for night workers in the form of working time, pay or similar benefits shall recognise the nature of night work.

#### *Article 9*

Appropriate social services shall be provided for night workers and, where necessary, for workers performing night work.

#### *Article 10*

1. Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives concerned on the details of such schedules and the forms of organisation of night work that are best adapted to the establishment and its personnel as well as on the occupational health measures and social services which are required. In establishments employing night workers this consultation shall take place regularly.

2. For the purposes of this Article the *workers' representatives* means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

#### *Article 11*

1. The provisions of this Convention may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and practice. In so far as they have not been given effect by other means, they shall be implemented by laws or regulations.

2. Where the provisions of this Convention are implemented by laws or regulations, there shall be prior consultation with the most representative organisations of employers and workers.

(Final Provisions)

## Recommendation No. 178

### Recommendation concerning Night Work, 1990

The General Conference of the International Labour Organisation,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 77th Session on 6 June 1990, and  
Having decided upon the adoption of certain proposals with regard to night work, which is the  
fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing  
the Night Work Convention, 1990,  
adopts this twenty-sixth day of June of the year one thousand nine hundred and ninety the follow-  
ing Recommendation, which may be cited as the Night Work Recommendation, 1990:

#### I. GENERAL PROVISIONS

1. For the purposes of this Recommendation:
  - (a) the term *night work* means all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m., to be determined by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements;
  - (b) the term *night worker* means an employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit. This limit shall be fixed by the competent authority after consulting the most representative organisations of employers and workers or by collective agreements.
2. This Recommendation applies to all employed persons, except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.
3.
  - (1) The provisions of this Recommendation may be implemented by laws or regulations, collective agreements, arbitration awards or court decisions, a combination of these means or in any other manner appropriate to national conditions and practice. In so far as they have not been given effect by other means, they should be implemented by laws or regulations.
  - (2) Where the provisions of this Recommendation are implemented by laws or regulations, there should be prior consultation with the most representative organisations of employers and workers.

#### II. HOURS OF WORK AND REST PERIODS

4.
  - (1) Normal hours of work for night workers should not exceed eight in any 24-hour period in which they perform night work, except in the case of work which includes substantial periods

of mere attendance or stand-by, in cases in which alternative working schedules give workers at least equivalent protection over different periods or in cases of exceptional circumstances recognised by collective agreements or failing that by the competent authority.

(2) The normal hours of work of night workers should generally be less on average than and, in any case, not exceed on average those of workers performing the same work to the same requirements by day in the branch of activity or the undertaking concerned.

(3) Night workers should benefit to at least the same extent as other workers from general measures for reducing normal weekly hours of work and increasing days of paid leave.

5.

(1) Work should be organised in such a way as to avoid, as far as possible, overtime by night workers before or after a daily period of work which includes night work.

(2) In occupations involving special hazards or heavy physical or mental strain, no overtime should be performed by night workers before or after a daily period of work which includes night work, except in cases of force majeure or of actual or imminent accident.

6. Where shift work involves night work:

(a) in no case should two consecutive full-time shifts be performed, except in cases of force majeure or of actual or imminent accident:

(b) a rest period of at least 11 hours between two shifts should be guaranteed as far as possible.

7. Daily periods of work which include night work should include a break or breaks to enable workers to rest and eat. The scheduling and total length of these breaks should take account of the demands placed on workers by the nature of night work.

### III. FINANCIAL COMPENSATION

8.

(1) Night work should generally give rise to appropriate financial compensation. Such compensation should be additional to the remuneration paid for the same work performed to the same requirements during the day and:

(a) should respect the principle of equal pay for men and women for the same work, or for work of equal value; and

(b) may by agreement be converted into reduced working time.

(2) In determining such compensation, the extent of reductions in working hours may be taken into account.

9. Where financial compensation for night work is a normal element in a night worker's earnings, it should be included in the calculation of the remuneration of paid annual leave, paid public holidays and other absences that are normally paid as well as in the fixing of social security contributions and benefits.

### IV. SAFETY AND HEALTH

10. Employers and the workers' representatives concerned should be able to consult the occupational health services, where they exist, on the consequences of various forms of organisation of night work, especially when undertaken by rotating crews.

11. In determining the content of the tasks assigned to night workers, account should be taken of the nature of night work and of the effects of environmental factors and forms of work organisation. Special attention should be paid to factors such as toxic substances, noise, vibrations and lighting levels and to forms of work organisation involving heavy physical or mental strain. Cumulative effects from such factors and forms of work organisation should be avoided or reduced.

12. The employer should take the necessary measures to maintain during night work the same level of protection against occupational hazards as by day, in particular avoiding, as far as possible, the isolation of workers.

## V. SOCIAL SERVICES

13. Measures should be taken to limit or reduce the time spent by night workers in travelling between their residence and workplace, to avoid or reduce additional travelling expenses for them and to improve their safety when travelling at night. Such measures may include:

- (a) co-ordination between the starting and finishing times of daily periods of work which include night work and the schedules of local public transport services;
- (b) provision by the employer of collective means of transport for night workers where public transport services are not available;
- (c) assistance to night workers in the acquisition of appropriate means of transport;
- (d) the payment of appropriate compensation for additional travelling expenses;
- (e) the building of housing complexes within a reasonable distance of the workplace.

14. Measures should be taken to improve the quality of rest for night workers. Such measures may include:

- (a) advice and, where appropriate, assistance to night workers for noise insulation of their housing;
- (b) design and equipping of housing complexes which take into account the need to reduce noise levels.

15. Suitably equipped resting facilities should be made available to night workers in appropriate places in the undertaking.

16. The employer should take the necessary measures to enable workers performing night work to obtain meals and beverages. Such measures, devised in such a way as to meet the needs of night workers, may include:

- (a) making available, at appropriate places in the undertaking, food and beverages suitable for consumption at night;
- (b) access to facilities where workers may, at night, prepare or heat and eat food which they have brought.

17. The extent to which night work is performed locally should be one of the factors to be taken into consideration when deciding on the establishment of crèches or other services for the care of young children, choosing their location and determining their opening hours.

18. The specific constraints on night workers should be duly taken into consideration by the public authorities, by other institutions and by employers within the framework of measures to encourage training and retraining, as well as cultural, sporting or recreational activities for workers.

## VI. OTHER MEASURES

19. At any point during pregnancy, once this is known, women night workers who so request should be assigned to day work, as far as practicable.

20. In cases of shift work, the special situation of workers with family responsibilities, of workers undergoing training and of older workers should be taken into consideration when decisions are taken on the composition of night crews.

21. Except in cases of force majeure or of actual or imminent accident, workers should be given reasonable notice of a requirement to perform night work.

22. Measures should be taken, where appropriate, to enable night workers, like other workers, to benefit from training opportunities including paid educational leave.

23.

(1) Night workers who have completed a given number of years on night work should be accorded special consideration with respect to vacancies for day work for which they have the necessary qualifications.

(2) Preparations should be made for such transfers by facilitating the training of night workers where necessary for tasks normally performed by day.

24. Workers who have spent a considerable number of years as night workers should be accorded special consideration with respect to opportunities for voluntary early or phased retirement where such opportunities exist.

25. Night workers who have a trade union or workers' representation function should, like other workers who assume such a function, be able to exercise it in appropriate conditions. The need to carry out workers' representation functions should be taken into consideration when decisions are made concerning assignment of workers' representatives to night work.

26. Statistics on night work should be improved and studies on the effects of different forms of organisation of night work, particularly when carried out in the framework of shift systems, should be intensified.

27. Wherever possible, advantage should be taken of scientific and technical progress and of innovations relating to work organisation in order to limit recourse to night work.

## Convention No. 177

### Convention concerning Home Work, 1996

The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met in its Eighty-third Session on 4 June 1996, and  
 Recalling that many international labour Conventions and Recommendations laying down standards of general application concerning working conditions are applicable to homeworkers,  
 and  
 Noting that the particular conditions characterizing home work make it desirable to improve the application of those Conventions and Recommendations to homeworkers, and to supplement them by standards which take into account the special characteristics of home work,  
 and  
 Having decided upon the adoption of certain proposals with regard to home work, which is the fourth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of an international Convention;  
 adopts, this twentieth day of June of the year one thousand nine hundred and ninety-six, the following Convention, which may be cited as the Home Work Convention, 1996:

#### *Article 1*

For the purposes of this Convention:

- (a) the term *home work* means work carried out by a person, to be referred to as a homeworker,
  - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
  - (ii) for remuneration;
  - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,  
 unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
- (b) persons with employee status do not become homeworkers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
- (c) the term *employer* means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

#### *Article 2*

This Convention applies to all persons carrying out home work within the meaning of Article 1.



*Article 3*

Each Member which has ratified this Convention shall adopt, implement and periodically review a national policy on home work aimed at improving the situation of homeworkers, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations concerned with homeworkers and those of employers of homeworkers.

*Article 4*

1. The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.

2. Equality of treatment shall be promoted, in particular, in relation to:

- (a) the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
- (b) protection against discrimination in employment and occupation;
- (c) protection in the field of occupational safety and health;
- (d) remuneration;
- (e) statutory social security protection;
- (f) access to training;
- (g) minimum age for admission to employment or work; and
- (h) maternity protection.

*Article 5*

The national policy on home work shall be implemented by means of laws and regulations, collective agreements, arbitration awards or in any other appropriate manner consistent with national practice.

*Article 6*

Appropriate measures shall be taken so that labour statistics include, to the extent possible, home work.

*Article 7*

National laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for reasons of safety and health.

*Article 8*

Where the use of intermediaries in home work is permitted, the respective responsibilities of employers and intermediaries shall be determined by laws and regulations or by court decisions, in accordance with national practice.

*Article 9*

1. A system of inspection consistent with national law and practice shall ensure compliance with the laws and regulations applicable to home work.

2. Adequate remedies, including penalties where appropriate, in case of violation of these laws and regulations shall be provided for and effectively applied.

*Article 10*

This Convention does not affect more favourable provisions applicable to homeworkers under other international labour Conventions.

(Final Provisions)

**Recommendation 184****Recommendation concerning home work,  
1996**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its Eighty-third Session on 4 June 1996, and  
Recalling that many international labour Conventions and Recommendations laying down standards of general application concerning working conditions are applicable to homeworkers, and  
Noting that the particular conditions characterizing home work make it desirable to improve the application of those Conventions and Recommendations to homeworkers, and to supplement them by standards which take into account the special characteristics of home work, and  
Having decided upon the adoption of certain proposals with regard to home work, which is the fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing the Home Work Convention, 1996;  
adopts, this twentieth day of June of the year one thousand nine hundred and ninety-six, the following Recommendation, which may be cited as the Home Work Recommendation, 1996:

**I DEFINITIONS AND SCOPE OF APPLICATION**

- 1 For the purposes of this Recommendation:
  - (a) the term *home work* means work carried out by a person, to be referred to as a homeworker,
    - (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
    - (ii) for remuneration;
    - (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,  
unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
  - (b) persons with employee status do not become homeworkers within the meaning of this Recommendation simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
  - (c) the term *employer* means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.
2. This Recommendation applies to all persons carrying out home work within the meaning of Paragraph 1.

## II. GENERAL PROVISIONS

3.

(1) Each Member should, according to national law and practice, designate an authority or authorities entrusted with the formulation and implementation of the national policy on home work referred to in Article 3 of the Convention.

(2) As far as possible, use should be made of tripartite bodies or organizations of employers and workers in the formulation and implementation of this national policy.

(3) In the absence of organizations concerned with homeworkers or organizations of employers of homeworkers, the authority or authorities referred to in subparagraph (1) should make suitable arrangements to permit these workers and employers to express their opinions on this national policy and on the measures adopted to implement it.

4. Detailed information, including data classified according to sex, on the extent and characteristics of home work should be compiled and kept up to date to serve as a basis for the national policy on home work and for the measures adopted to implement it. This information should be published and made publicly available.

5.

(1) A homeworker should be kept informed of his or her specific conditions of employment in writing or in any other appropriate manner consistent with national law and practice.

(2) This information should include, in particular:

- (a) the name and address of the employer and the intermediary, if any;
- (b) the scale or rate of remuneration and the methods of calculation; and
- (c) the type of work to be performed.

## III. SUPERVISION OF HOME WORK

6. The competent authority at the national level and, where appropriate, at the regional, sectoral or local levels, should provide for registration of employers of homeworkers and of any intermediaries used by such employers. For this purpose, such authority should specify the information employers should submit or keep at the authority's disposal.

7.

(1) Employers should be required to notify the competent authority when they give out home work for the first time.

(2) Employers should keep a register of all homeworkers, classified according to sex, to whom they give work.

(3) Employers should also keep a record of work assigned to a homeworker which shows:

- (a) the time allocated;
- (b) the rate of remuneration;
- (c) costs incurred, if any, by the homeworker and the amount reimbursed in respect of them;
- (d) any deductions made in accordance with national laws and regulations; and
- (e) the gross remuneration due and the net remuneration paid, together with the date of payment.

(4) A copy of the record referred to in subparagraph (3) should be provided to the homeworker.

8. In so far as it is compatible with national law and practice concerning respect for privacy, labour inspectors or other officials entrusted with enforcing provisions applicable to home work should be allowed to enter the parts of the home or other private premises in which the work is carried out.

9. In cases of serious or repeated violations of the laws and regulations applicable to home work, appropriate measures should be taken, including the possible prohibition of giving out home work, in accordance with national law and practice.

#### IV. MINIMUM AGE

10. National laws and regulations concerning minimum age for admission to employment or work should apply to home work.

#### V. THE RIGHTS TO ORGANIZE AND TO BARGAIN COLLECTIVELY

11. Legislative or administrative restrictions or other obstacles to:

- (a) the exercise of the right of homeworkers to establish their own organizations or to join the workers' organizations of their choice and to participate in the activities of such organizations; and
  - (b) the exercise of the right of organizations of homeworkers to join trade union federations or confederations,
- should be identified and eliminated.

12. Measures should be taken to encourage collective bargaining as a means of determining the terms and conditions of work of homeworkers.

#### VI. REMUNERATION

13. Minimum rates of wages should be fixed for home work, in accordance with national law and practice.

14.

(1) Rates of remuneration of homeworkers should be fixed preferably by collective bargaining, or in its absence, by:

- (a) decisions of the competent authority, after consulting the most representative organizations of employers and of workers as well as organizations concerned with homeworkers and those of employers of homeworkers, or where the latter organizations do not exist, representatives of homeworkers and of employers of homeworkers; or
- (b) other appropriate wage-fixing machinery at the national, sectoral or local levels.

(2) Where rates of remuneration are not fixed by one of the means in subparagraph (1) above, they should be fixed by agreement between the homeworker and the employer.

15. For specified work paid by the piece, the rate of remuneration of a homeworker should be comparable to that received by a worker in the enterprise of the employer, or if there is no such worker, in another enterprise in the branch of activity and region concerned.

16. Homeworkers should receive compensation for:

- (a) costs incurred in connection with their work, such as those relating to the use of energy and water, communications and maintenance of machinery and equipment; and
- (b) time spent in maintaining machinery and equipment, changing tools, sorting, unpacking and packing, and other such operations.

17.

(1) National laws and regulations concerning the protection of wages should apply to homeworkers.

(2) National laws and regulations should ensure that pre-established criteria are set for deductions and should protect homeworkers against unjustified deductions for defective work or spoilt materials.

(3) Homeworkers should be paid either on delivery of each completed work assignment or at regular intervals of not more than one month.

18. Where an intermediary is used, the intermediary and the employer should be made jointly and severally liable for payment of the remuneration due to homeworkers, in accordance with national law and practice.

## VII. OCCUPATIONAL SAFETY AND HEALTH

19. The competent authority should ensure the dissemination of guidelines concerning the safety and health regulations and precautions that employers and homeworkers are to observe. Where practicable, these guidelines should be translated into languages understood by homeworkers.

20. Employers should be required to:

- (a) inform homeworkers of any hazards that are known or ought to be known to the employer associated with the work given to them and of the precautions to be taken, and provide them, where appropriate, with the necessary training;
- (b) ensure that machinery, tools or other equipment provided to homeworkers are equipped with appropriate safety devices and take reasonable steps to ensure that they are properly maintained; and
- (c) provide homeworkers free of charge with any necessary personal protective equipment.

21. Homeworkers should be required to:

- (a) comply with prescribed safety and health measures;
- (b) take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work, including the proper use of materials, machinery, tools and other equipment placed at their disposal.

22.

(1) A homeworker who refuses to carry out work which he or she has reasonable justification to believe presents an imminent and serious danger to his or her safety or health should be protected from undue consequences in a manner consistent with national conditions and practice. The homeworker should report the situation to the employer without delay.

(2) In the event of an imminent and serious danger to the safety or health of a homeworker, his or her family or the public, as determined by a labour inspector or other public safety official, the continuation of home work should be prohibited until appropriate measures have been taken to remedy the situation.

## VIII. HOURS OF WORK, REST PERIODS AND LEAVE

23. A deadline to complete a work assignment should not deprive a homeworker of the possibility to have daily and weekly rest comparable to that enjoyed by other workers.

24. National laws and regulations should establish the conditions under which homeworkers should be entitled to benefit, as other workers, from paid public holidays, annual holidays with pay and paid sick leave.

## IX. SOCIAL SECURITY AND MATERNITY PROTECTION

25. Homeworkers should benefit from social security protection. This could be done by:

- (a) extending existing social security provisions to homeworkers;

- (b) adapting social security schemes to cover homeworkers; or
- (c) developing special schemes or funds for homeworkers.

26. National laws and regulations in the field of maternity protection should apply to homeworkers.

## X. PROTECTION IN CASE OF TERMINATION OF EMPLOYMENT

27. Homeworkers should benefit from the same protection as that provided to other workers with respect to termination of employment.

## XI. RESOLUTION OF DISPUTES

28. The competent authority should ensure that there are mechanisms for the resolution of disputes between a homeworker and an employer or any intermediary used by the employer.

## XII. PROGRAMMES RELATED TO HOME WORK

29.

(1) Each Member should, in cooperation with organizations of employers and workers, promote and support programmes which:

- (a) inform homeworkers of their rights and the kinds of assistance available to them;
- (b) raise awareness of home-work-related issues among employers' and workers' organizations, non-governmental organizations and the public at large;
- (c) facilitate the organization of homeworkers in organizations of their own choosing, including cooperatives;
- (d) provide training to improve homeworkers' skills (including non-traditional skills, leadership and negotiating skills), productivity, employment opportunities and income-earning capacity;
- (e) provide training which is carried out as close as practicable to the workers' homes and does not require unnecessary formal qualifications;
- (f) improve homeworkers' safety and health such as by facilitating their access to equipment, tools, raw materials and other essential materials that are safe and of good quality;
- (g) facilitate the creation of centres and networks for homeworkers in order to provide them with information and services and reduce their isolation;
- (h) facilitate access to credit, improved housing and child care; and
- (i) promote recognition of home work as valid work experience.

(2) Access to these programmes should be ensured to rural homeworkers.

(3) Specific programmes should be adopted to eliminate child labour in home work.

## XIII. ACCESS TO INFORMATION

30. Where practicable, information concerning the rights and protection of homeworkers and the obligations of employers towards homeworkers, as well as the programmes referred to in Paragraph 29, should be provided in languages understood by homeworkers.

## Convention No. 175

### Convention concerning Part-Time Work, 1994

The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and  
 having met in its 81st Session on 7 June 1994, and  
 Noting the relevance, for part-time workers, of the provisions of the Equal Remuneration Convention, 1951, the Discrimination (Employment and Occupation) Convention, 1958, and the Workers with Family Responsibilities Convention and Recommendation, 1981, and  
 Noting the relevance for these workers of the Employment Promotion and Protection against Unemployment Convention, 1988, and the Employment Policy (Supplementary Provisions) Recommendation, 1984, and  
 Recognizing the importance of productive and freely chosen employment for all workers, the economic importance of part-time work, the need for employment policies to take into account the role of part-time work in facilitating additional employment opportunities, and the need to ensure protection for part-time workers in the areas of access to employment, working conditions and social security, and  
 Having decided upon the adoption of certain proposals with regard to part-time work, which is the fourth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of an international Convention;  
 adopts this twenty-fourth day of June of the year one thousand nine hundred and ninety-four the following Convention, which may be cited as the Part-Time Work Convention, 1994:

#### *Article 1*

For the purposes of this Convention:

- (a) the term *part-time worker* means an employed person whose normal hours of work are less than those of comparable full-time workers;
- (b) the normal hours of work referred to in subparagraph (a) may be calculated weekly or on average over a given period of employment;
- (c) the term *comparable full-time worker* refers to a full-time worker who:
  - (i) has the same type of employment relationship;
  - (ii) is engaged in the same or a similar type of work or occupation; and
  - (iii) is employed in the same establishment or, when there is no comparable full-time worker in that establishment, in the same enterprise or, when there is no comparable full-time worker in that enterprise, in the same branch of activity,
 as the part-time worker concerned;
- (d) full-time workers affected by partial unemployment, that is by a collective and temporary reduction in their normal hours of work for economic, technical or structural reasons, are not considered to be part-time workers.



*Article 2*

This Convention does not affect more favourable provisions applicable to part-time workers under other international labour Conventions.

*Article 3*

1. This Convention applies to all part-time workers, it being understood that a Member may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from its scope particular categories of workers or of establishments when its application to them would raise particular problems of a substantial nature.

2. Each Member having ratified this Convention which avails itself of the possibility afforded in the preceding paragraph shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organization, indicate any particular category of workers or of establishments thus excluded and the reasons why this exclusion was or is still judged necessary.

*Article 4*

Measures shall be taken to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of:

- (a) the right to organize, the right to bargain collectively and the right to act as workers' representatives;
- (b) occupational safety and health;
- (c) discrimination in employment and occupation.

*Article 5*

Measures appropriate to national law and practice shall be taken to ensure that part-time workers do not, solely because they work part time, receive a basic wage which, calculated proportionately on an hourly, performance-related, or piece-rate basis, is lower than the basic wage of comparable full-time workers, calculated according to the same method.

*Article 6*

Statutory social security schemes which are based on occupational activity shall be adapted so that part-time workers enjoy conditions equivalent to those of comparable full-time workers; these conditions may be determined in proportion to hours of work, contributions or earnings, or through other methods consistent with national law and practice.

*Article 7*

Measures shall be taken to ensure that part-time workers receive conditions equivalent to those of comparable full-time workers in the fields of:

- (a) maternity protection;
- (b) termination of employment;
- (c) paid annual leave and paid public holidays; and
- (d) sick leave,

it being understood that pecuniary entitlements may be determined in proportion to hours of work or earnings.

*Article 8*

1. Part-time workers whose hours of work or earnings are below specified thresholds may be excluded by a Member:

- (a) from the scope of any of the statutory social security schemes referred to in Article 6, except in regard to employment injury benefits;
- (b) from the scope of any of the measures taken in the fields covered by Article 7, except in regard to maternity protection measures other than those provided under statutory social security schemes.

2. The thresholds referred to in paragraph 1 shall be sufficiently low as not to exclude an unduly large percentage of part-time workers.

3. A Member which avails itself of the possibility provided for in paragraph 1 above shall:

- (a) periodically review the thresholds in force;
- (b) in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organization, indicate the thresholds in force, the reasons therefor and whether consideration is being given to the progressive extension of protection to the workers excluded.

4. The most representative organizations of employers and workers shall be consulted on the establishment, review and revision of the thresholds referred to in this Article.

*Article 9*

1. Measures shall be taken to facilitate access to productive and freely chosen part-time work which meets the needs of both employers and workers, provided that the protection referred to in Articles 4 to 7 is ensured.

2. These measures shall include:

- (a) the review of laws and regulations that may prevent or discourage recourse to or acceptance of part-time work;
- (b) the use of employment services, where they exist, to identify and publicize possibilities for part-time work in their information and placement activities;
- (c) special attention, in employment policies, to the needs and preferences of specific groups such as the unemployed, workers with family responsibilities, older workers, workers with disabilities and workers undergoing education or training.

3. These measures may also include research and dissemination of information on the degree to which part-time work responds to the economic and social aims of employers and workers.

*Article 10*

Where appropriate, measures shall be taken to ensure that transfer from full-time to part-time work or vice versa is voluntary, in accordance with national law and practice.

*Article 11*

The provisions of this Convention shall be implemented by laws or regulations, except in so far as effect is given to them by means of collective agreements or in any other manner consistent with national practice. The most representative organizations of employers and workers shall be consulted before any such laws or regulations are adopted.

(Final Provisions)

**Recommendation No. 182****Recommendation concerning Part-Time Work,  
1994**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and  
having met in its 81st Session on 7 June 1994, and  
Having decided upon the adoption of certain proposals with regard to part-time work, which is the  
fourth item on the agenda of the session, and  
Having determined that these proposals shall take the form of a Recommendation supplementing  
the Part-Time Work Convention, 1994;  
adopts this twenty-fourth day of June of the year one thousand nine hundred and ninety-four the  
following Recommendation, which may be cited as the Part-Time Work Recommendation, 1994:

1. The provisions of this Recommendation should be considered in conjunction with those  
of the Part-Time Work Convention, 1994 (hereafter referred to as “the Convention”).

2. For the purposes of this Recommendation:

- (a) the term “part-time worker” means an employed person whose normal hours of work are  
less than those of comparable full-time workers;
- (b) the normal hours of work referred to in clause (a) may be calculated weekly or on average  
over a given period of employment;
- (c) the term “comparable full-time worker “ refers to a full-time worker who:
  - (i) has the same type of employment relationship;
  - (ii) is engaged in the same or a similar type of work or occupation; and
  - (iii) is employed in the same establishment or, when there is no comparable full-time worker  
in that establishment, in the same enterprise or, when there is no comparable full-time  
worker in that enterprise, in the same branch of activity,  
as the part-time worker concerned;
- (d) full-time workers affected by partial unemployment, that is by a collective and temporary  
reduction in their normal hours of work for economic, technical or structural reasons, are not  
considered to be part-time workers.

3. This Recommendation applies to all part-time workers.

4. In accordance with national law and practice, employers should consult the representa-  
tives of the workers concerned on the introduction or extension of part-time work on a broad scale,  
on the rules and procedures applying to such work and on the protective and promotional measures  
that may be appropriate.

5. Part-time workers should be informed of their specific conditions of employment in writ-  
ing or by any other means consistent with national law and practice.

6. The adaptations to be made in accordance with Article 6 of the Convention to statutory  
social security schemes which are based on occupational activity should aim at:

- (a) if appropriate, progressively reducing threshold requirements based on earnings or hours of work as a condition for coverage by these schemes;
- (b) as appropriate, granting to part-time workers minimum or flat-rate benefits, in particular old-age, sickness, invalidity and maternity benefits, as well as family allowances;
- (c) accepting in principle that part-time workers whose employment has come to an end or been suspended and who are seeking only part-time employment meet the condition of availability for work required for the payment of unemployment benefits;
- (d) reducing the risk that part-time workers may be penalized by schemes which:
  - (i) subject the right to benefits to a qualifying period, expressed in terms of periods of contribution, of insurance or of employment during a given reference period; or
  - (ii) fix the amount of benefits by reference both to the average of former earnings and to the length of the periods of contribution, of insurance or of employment.

7.

(1) Where appropriate, threshold requirements for access to coverage under private occupational schemes which supplement or replace statutory social security schemes should be progressively reduced to allow part-time workers to be covered as widely as possible.

(2) Part-time workers should be protected by such schemes under conditions equivalent to those of comparable full-time workers. Where appropriate, these conditions may be determined in proportion to hours of work, contributions or earnings.

8.

(1) As appropriate, threshold requirements based on hours of work or earnings as specified under Article 8 of the Convention in the fields referred to in its Article 7 should be progressively reduced.

(2) The periods of service required as a condition for protection in the fields referred to in Article 7 of the Convention should not be longer for part-time workers than for comparable full-time workers.

9. Where part-time workers have more than one job, their total hours of work, contributions or earnings should be taken into account in determining whether they meet threshold requirements in statutory social security schemes which are based on occupational activity.

10. Part-time workers should benefit on an equitable basis from financial compensation, additional to basic wages, which is received by comparable full-time workers.

11. All appropriate measures should be taken to ensure that as far as practicable part-time workers have access on an equitable basis to the welfare facilities and social services of the establishment concerned; these facilities and services should, to the extent possible, be adapted to take into account the needs of part-time workers.

12.

(1) The number and scheduling of hours of work of part-time workers should be established taking into account the interests of the worker as well as the needs of the establishment.

(2) As far as possible, changes in the agreed work schedule and work beyond scheduled hours should be subject to restrictions and to prior notice.

(3) The system of compensation for work beyond the agreed work schedule should be subject to negotiations in accordance with national law and practice.

13. In accordance with national law and practice, part-time workers should have access on an equitable basis, and as far as possible under equivalent conditions, to all forms of leave available to comparable full-time workers, in particular paid educational leave, parental leave and leave in cases of illness of a child or another member of a worker's immediate family.

14. Where appropriate, the same rules should apply to part-time workers as to comparable full-time workers with respect to scheduling of annual leave and work on customary rest days and public holidays.

15. Where appropriate, measures should be taken to overcome specific constraints on the access of part-time workers to training, career opportunities and occupational mobility.

16. Provisions of statutory social security schemes based on occupational activity that may discourage recourse to or acceptance of part-time work should be adapted, in particular those which:

- (a) result in proportionately higher contributions for part-time workers unless these are justified by corresponding proportionately higher benefits;
- (b) without reasonable grounds, significantly reduce the unemployment benefits of unemployed workers who temporarily accept part-time work;
- (c) overemphasize, in the calculation of old-age benefits, the reduced income from part-time work undertaken solely during the period preceding retirement.

17. Measures should be considered by employers to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions where appropriate.

18.

(1) Where appropriate, employers should give consideration to:

- (a) requests by workers for transfer from full-time to part-time work that becomes available in the enterprise; and
- (b) requests by workers for transfer from part-time to full-time work that becomes available in the enterprise.

(2) Employers should provide timely information to the workers on the availability of part-time and full-time positions in the establishment, in order to facilitate transfers from full-time to part-time work or vice versa.

19. A worker's refusal to transfer from full-time to part-time work or vice versa should not in itself constitute a valid reason for termination of employment, without prejudice to termination, in accordance with national law and practice, for other reasons such as may arise from the operational requirements of the establishment concerned.

20. Where national or establishment-level conditions permit, workers should be enabled to transfer to part-time work in justified cases, such as pregnancy or the need to care for a young child or a disabled or sick member of a worker's immediate family, and subsequently to return to full-time work.

21. Where obligations on employers depend on the number of the workers they employ, part-time workers should be counted as full-time workers. Nevertheless, where appropriate, part-time workers may be counted proportionately to their hours of work, it being understood that where such obligations refer to the protection mentioned in Article 4 of the Convention, they should be counted as full-time workers.

22. Information should be disseminated on the protective measures that apply to part-time work and on practical arrangements for various part-time work schemes.

**International Labour Office**

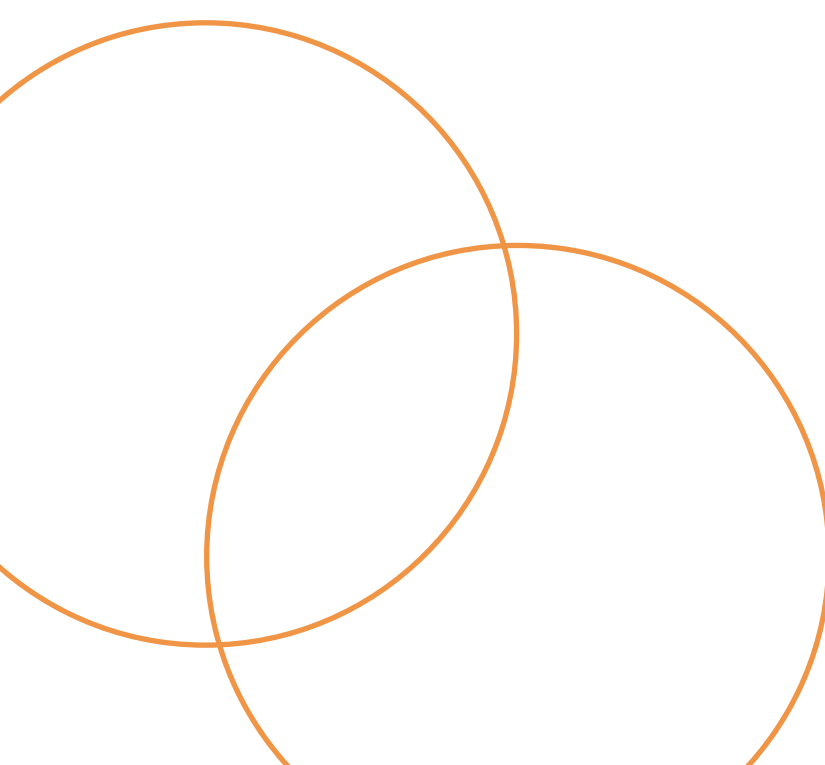
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