

International Labour Organization
International Training Centre of the ILO

GUIDE TO INTERNATIONAL LABOUR STANDARDS



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INTRODUCTION

International labour standards have been the principal means through which the International Labour Organization has acted since it was created in 1919. They take the form of Conventions or Recommendations. Conventions are international treaties that bind the member States which ratify them. By ratifying them, member States formally commit themselves to putting their provisions into effect, both in law and in practice. Recommendations are not international treaties. They establish non-obligatory guiding principles for national policy and practice. They often supplement the provisions of Conventions.

States that have ratified Conventions must periodically report on their application in law and in practice. They have a constitutional obligation to present reports on the measures they have taken to put those Conventions into effect. Employers' organizations and workers' organizations may present the Organization with their comments on the application of Conventions ratified by their countries.

The reports are examined by the Committee of Experts on the Application of Conventions and Recommendations, a body independent of the Organization, whose own report is then discussed each year by a tripartite committee of the International Labour Conference. The ILO Constitution also lays down a representations procedure and a complaints procedure for examining allegations that a Member State has failed to observe the provisions of a Convention it has ratified. Moreover, a special verification procedure for examining complaints that freedom of association has been violated can be launched even if the governments involved have not ratified the Conventions on freedom of association.

The significance of international labour standards depends on their practical effect. They both reflect what is currently feasible and point the way towards social and economic progress. That is why they are discussed and adopted at the Conference by government representatives together with representatives of employer and worker organizations from the ILO's member States.

This publication is primarily for participants in training activities run by the International Training Centre of the ILO. It may, however, also interest people such as representatives of employer or worker organizations, civil servants, NGOs concerned with human rights or socially responsible business, students, teachers, technical cooperation workers and anyone interested in social issues.

It is divided into two sections: 1) summaries of international labour standards; 2) the ILO and its procedures concerning international labour standards.

Summaries of international labour standards

This section largely reproduces the International Labour Standards Department's publication, "Guide to International Labour Standards".

The summaries are of a selection of international labour Conventions and Recommendations, grouped by subject. They cover 76 Conventions, 5 protocols and 79 Recommendations which it is a priority for the Organization to promote¹ (their title has an asterisk against it in the text). We have also included certain Conventions that are not considered to be fully up to date but which States that are party to earlier Conventions on the same subject are still being encouraged to ratify.

The summaries are set out in the form of "key points" that incorporate the main features of the instruments in question. For a Recommendation linked to a Convention, the summary only covers provisions which are not in the text of the Convention itself. Moreover, it appears in smaller letters and is set apart from the summary of the Convention to which it is linked.

Clearly, these summaries cannot reflect all the legal subtleties and nuances of the standards and procedures they refer to. It is therefore important for specialists to refer to the full texts, which are included in the CD-ROM that comes with this publication. The CD-ROM also contains other fundamental documents for those interested in going into the subject more deeply.

¹ The figures were produced by the working party on standards revision policy in March 2002. They have been adjusted to cover the instruments adopted since then.

The ILO and its procedures concerning international labour standards

This section is very brief. After basic information on the ILO's mandate and structure, it gives a short explanation of each procedure, backed up by the relevant articles in the ILO constitution and a summarizing or descriptive table.

Acknowledgements

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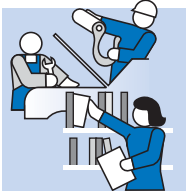
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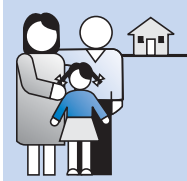
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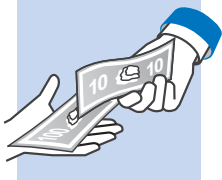
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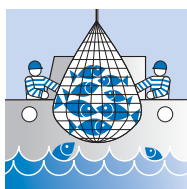
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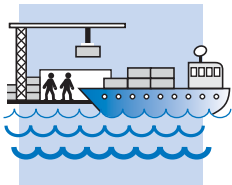
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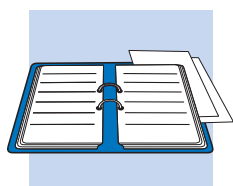
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Section 1

INTERNATIONAL LABOUR STANDARDS





1. Fundamental Conventions on freedom of association

Convention No. 87



Freedom of Association and Protection of the Right to Organise Convention, 1948

- ★ Workers and employers, without distinction whatsoever, have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing for furthering and defending their interests without previous authorization.
- ★ However, the extent to which the guarantees provided for in the Convention will apply to the armed forces and the police will be determined by national laws or regulations.
- ★ Workers' and employers' organizations have the right to establish and join federations and confederations. They also have the right, in the same way as federations and confederations, to affiliate with international organizations of workers and employers.
- ★ Furthermore, these organizations, federations and confederations have the right to:
 - ➔ draw up their constitutions and rules;
 - ➔ elect their representatives in full freedom;
 - ➔ organize their administration and activities; and
 - ➔ formulate their programmes.
- ★ The public authorities have to refrain from any interference which would restrict this right or impede the lawful exercise thereof.
- ★ The acquisition of legal personality by workers' and employers' organizations, federations and confederations may not be made subject to conditions of such a character as to restrict the rights enumerated above. Furthermore, they may not be dissolved or suspended by administrative authority.
- ★ In exercising the rights provided for in the Convention, workers and employers and their respective organizations have to respect the law of the land. However, the law of the land must not be such, nor

may it be so applied as to impair the guarantees provided for in the Convention.

- ★ In general, any State which ratifies the Convention undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize.



Convention No. 98

Right to Organise and Collective Bargaining Convention, 1949

- ★ Workers must be protected against acts of anti-union discrimination, and particularly acts calculated to:
 - make their employment subject to the condition that they shall not join a union or shall relinquish membership thereof;
 - cause the dismissal 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.
- ★ Workers' and employers' organizations must enjoy adequate protection against any acts of interference by each other, and particularly acts which are designed to promote the domination, financing or control of workers' organizations by employers or employers' organizations.
- ★ Measures appropriate to national conditions have to be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between, on the one hand employers, and on the other hand employers' and workers' organizations with a view to the regulation of terms and conditions of employment by means of collective agreements.
- ★ The Convention leaves it to national laws or regulations to determine the extent to which it applies to the armed forces and the police. Furthermore, it does deal with the position of public servants engaged in the administration of the State, nor may it be construed as prejudicing their rights or status in any way.

2. Freedom of association (agriculture)

Convention No. 141



Rural Workers' Organisations Convention, 1975

Rural workers: any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to certain conditions, a self-employed person (tenant, sharecropper or small owner-occupier).

- ★ Rural workers must have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.
- ★ Rural workers' organisations shall remain free from all interference, coercion or repression.
- ★ The Convention establishes the principle of respect for freedom of association and the acquisition of legal personality by the organizations of these categories of workers (see above, Convention No. 87)
- ★ Any State which ratifies the Convention has to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations to ensure the participation of rural workers, without discrimination, in economic and social development and in the benefits resulting therefrom.
- ★ It has to eliminate obstacles to the establishment of such organizations and any discrimination against them or their members.

RECOMMENDATION No. 149



Rural Workers' Organisations Recommendation, 1975

- The Recommendation contains detailed guidance on the role that should be played by organizations of rural workers, including:
 - ➔ representing and defending the interests of rural workers by undertaking negotiations and consultations at all levels on their behalf;

- representing them in connection with the formulation, implementation and evaluation of programmes of rural development;
 - promoting the access of rural workers to services such as credit, supply, marketing and transport, as well as to technological services;
 - playing an active part in the improvement of general and vocational education and training in rural areas;
 - contributing to the improvement of the conditions of work and life of rural workers, including occupational safety and health;
 - promoting the extension of social security and basic social services to such fields as housing, health and recreation.
- It also contains indications on the means of encouraging the growth of these organizations, including:
- the establishment of appropriate machinery, such as labour inspection services, to ensure the effective implementation of laws and regulations concerning rural workers' organizations and their membership;
 - the effective consultation with these organizations on all matters relating to conditions or work and life in rural areas;
 - the training of the leaders and members of these organizations.
- The principles of Conventions Nos. 87 and 98 should be made fully effective by their application to the rural sector.
- Appropriate measures should be taken to make possible the effective participation of such organisations in the formulation, implementation and evaluation of agrarian reform programmes.

3. Industrial relations

Convention No. 135



Workers' Representatives Convention, 1971

Workers' representatives: persons who are recognized as such under national law or practice, whether they are:

- representatives designated or elected by trade unions or their members; or
- representatives who are freely elected by the workers in the enterprise.

★ In so far as they act in conformity with existing laws or collective agreements, workers' representatives in the enterprise must enjoy effective protection against any act prejudicial to them, including dismissal, based on:

- ➔ their status or activities as a workers' representative;
- ➔ their union membership; or
- ➔ their participation in union activities.

★ Facilities have to be afforded to workers' representatives to enable them to carry out their functions promptly and efficiently, account being taken of the characteristics of the industrial relations system of the country and possibilities of the enterprise. The granting of such facilities must not impair the efficient operation of the enterprise.

★ Where there exist in the same enterprise both trade union representatives and other representatives elected by the workers, measures have to be taken to ensure that the existence of the latter is not used to undermine the position of the trade unions concerned or their representatives and to encourage cooperation between these two categories of representatives.



RECOMMENDATION No. 143

Workers' Representatives Recommendation, 1971

- Measures to ensure effective protection of workers' representatives might include:
 - ➔ the precise definition of the reasons justifying their termination of employment;
 - ➔ a requirement of consultation or to obtain the agreement of an independent body or a joint body before such a dismissal becomes final;
 - ➔ a special recourse procedure open to these representatives;
 - ➔ effective remedies in the event of unjustified termination of employment;
 - ➔ the obligation for the employer to prove, in the case of any alleged discriminatory dismissal or unfavourable change in the conditions of employment of a workers' representative, that such action was justified;
 - ➔ priority to be given to workers' representatives with regard to their retention in employment in case of reduction of the workforce.
- This protection should also apply to workers who are candidates for election or appointment as workers' representatives. It might also be afforded to former workers' representatives.
- The facilities to be afforded to workers' representatives include:
 - ➔ the necessary time off from work, without loss of pay or social and fringe benefits, for carrying out their representative functions;
 - ➔ where necessary, access to all workplaces, to the management of the enterprise and to management representatives empowered to take decisions;
 - ➔ authorization to collect trade union dues on the premises of the enterprise;
 - ➔ the posting of trade union notices;
 - ➔ the distribution of documents among workers;
 - ➔ material facilities and information as may be necessary for the exercise of their functions.
- Trade union representatives who are not employed in the enterprise, but whose trade union has members employed in it, should be granted access to the enterprise.

Convention No. 151



Labour Relations (Public Service) Convention, 1978

- ★ The Convention applies to all persons employed by public authorities. However, national laws or regulations are to determine the extent to which it applies to:
 - ➔ high-level public employees (whose functions are related to policy-making or are managerial);
 - ➔ employees whose duties are of a highly confidential nature;
 - ➔ the armed forces; and
 - ➔ the police.
- ★ Public employees must enjoy adequate protection against acts of anti-union discrimination.
- ★ They must benefit, as other workers, from the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

Public employees' organization: any organization, however composed, the purpose of which is to further and defend the interests of public employees.

- ★ Public employees' organizations must be protected against any acts of interference by a public authority in their establishment, functioning or administration.
- ★ Such facilities have to be afforded to enable the representatives of these organizations to carry out their functions promptly and efficiently, without impairing the efficient operation of the administration or service concerned.
- ★ The participation of representatives of public employees in the determination of their terms and conditions of employment has to be encouraged, either by means of negotiation between the public authorities and public employees' organizations or by any other method.
- ★ The settlement of disputes arising in connection with the determination of terms and conditions of employment has to be sought through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration.



RECOMMENDATION No. 159

Labour Relations (Public Service) Recommendation, 1978

- Where procedures for the recognition of public employees' organizations apply with a view to determining the organizations to be granted, on a preferential or exclusive basis, the rights provided for in Convention No. 151, such determination should be based on objective and pre-established criteria with regard to the organizations' representative character.
- In determining the nature and scope of the facilities to be afforded to representatives of public employees' organizations, regard should be had to the Workers' Representatives Recommendation, 1971 (No. 143) (see above).



Convention No. 154

Collective Bargaining Convention, 1981

Collective bargaining: all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other, for:

- determining working conditions and terms of employment; and/or
- regulating relations between employers and workers; and/or
- regulating relations between employers or their organizations and one or more workers' organizations.

Under certain conditions, it also has to extend to negotiations with workers' representatives other than trade union representatives, as defined in Convention No. 135 (see above).

- ★ The Convention applies to all branches of economic activity. However, national laws or regulations or national practice may:
 - ➔ determine the extent to which it applies to the armed forces and the police;
 - ➔ fix special modalities for its application to the public service.
- ★ The public authorities have to take measures to promote collective bargaining, after consultation and, whenever possible, agreement with employers' and workers' organizations.

- ★ These measures may not hamper the freedom of collective bargain. Their aims must include:
 - ➔ making collective bargaining possible for all employers and all groups of workers covered by the Convention;
 - ➔ progressively extending collective bargaining to the three matters referred to above (see box);
 - ➔ encouraging the establishment of rules of procedure between employers' and workers' organizations;
 - ➔ ensuring that procedures for the settlement of labour disputes contribute to the promotion of collective bargaining.

RECOMMENDATION No. 163

Collective Bargaining Recommendation, 1981

- The means of promoting collective bargaining enumerated in the Recommendation include:
 - ➔ measures to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organizations;
 - ➔ the recognition of employers' and workers' organizations for the purposes of collective bargaining;
 - ➔ the determination of organizations benefiting from the right to bargain collectively based on pre-established and objective criteria with regard to the representative character of these organizations;
 - ➔ the possibility to undertake collective bargaining at any level whatsoever and the co-ordination between these levels;
 - ➔ measures to provide negotiators with appropriate training;
 - ➔ the possibility for the parties to have access to the information required for meaningful negotiations;
 - ➔ measures to ensure that the procedures for the settlement of disputes assist the parties to find a solution themselves to disputes relating to the negotiation, interpretation and application of agreements.



RECOMMENDATION No. 91

Collective Agreements Recommendation, 1951

Collective agreements: all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more representative workers' organizations, or, in the absence of such organizations, the representatives of the workers duly elected and authorized by them in accordance with national laws and regulations, on the other.

- The Recommendation advocates the establishment of machinery either for the negotiation, conclusion, revision and renewal of collective agreements or to assist the parties for these purposes.
- It also contains provisions relating to the effects of the collective agreements. In this respect, all collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded.
- Stipulations in contracts of employment which are contrary to a collective agreement should be regarded as null and void and automatically replaced by the corresponding stipulations of the collective agreement. However, where such stipulations in contracts of employment are more favourable to the workers, they should not be regarded as contrary to the collective agreement.
- Collective agreements should apply to all workers of the classes concerned employed in the establishments covered by the agreement, unless the agreement specifically provides to the contrary.
- Where appropriate, measures should be taken to extend the application, under certain conditions, of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial or territorial scope of the agreement.
- Disputes arising out of the interpretation of a collective agreement should be submitted to an appropriate settlement procedure.
- The supervision of the application of collective agreements should be ensured:
 - by the employers' and workers' organizations parties to it; or
 - by the bodies existing for this purpose or by bodies established ad hoc.
- Finally, national laws or regulations may make provision, among other things, for requiring employers to bring to the notice of the workers concerned the texts of the collective agreements applicable to their establishments.

RECOMMENDATION No. 113 **Consultation (Industrial and National Levels) Recommendation, 1960**

- The Recommendation calls for the adoption of measures to promote effective consultation and cooperation at the industrial and national levels between public authorities and employers' and workers' organizations, as well as between these organizations themselves.
- These measures should be applied without discrimination of any kind against these organizations or amongst them on grounds such as the race, sex, religion, political opinion or national extraction of their members.
- The consultation and cooperation envisaged by the Recommendation should not derogate from freedom of association or from the rights of employers' and workers' organizations, including their right of collective bargaining.
- They should have the objective of:
 - promoting mutual understanding and good relations between public authorities and employers' and workers' organizations, as well as between these organizations, with a view to developing the economy, improving conditions of work and raising standards of living;
 - permitting the joint consideration by employers' and workers' organizations of matters of mutual concern with a view to arriving, to the fullest possible extent, at agreed solutions; and
 - ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organizations in respect of such matters as the preparation and implementation of laws and regulations affecting their interests.



Fundamental Conventions on forced labour (and related Recommendation)

Convention No. 29



Forced Labour Convention, 1930

Forced or compulsory labour: 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 her or himself voluntarily.

- ★ Each State which ratifies the Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
- ★ The illegal exaction of forced or compulsory labour must be punishable as a penal offence with penalties that are really adequate and strictly enforced.
- ★ However, certain types of labour are excluded from the scope of the Convention:
 - ➔ work of a purely military character exacted in virtue of compulsory military service laws;
 - ➔ work which forms part of the normal civic obligations of citizens;
 - ➔ work exacted from any person as a consequence of a conviction in a court of law, provided that:
 - said work 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;
 - ➔ work exacted in cases of emergency (war, calamity and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population);
 - ➔ minor communal services (services performed by the members of the community in the direct interest of the said community,

provided that the members of the community or their direct representatives have the right to be consulted in regard to the need for such services).



RECOMMENDATION No. 35

Forced Labour (Indirect Compulsion) Recommendation, 1930

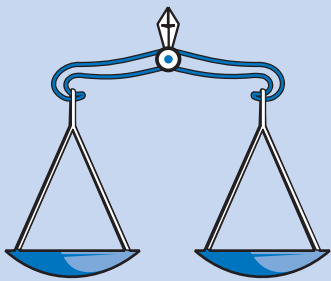
- The recommendation states a number of principles aimed at guiding the policy of the Member States in endeavouring to avoid any indirect compulsion to labour which would lay too heavy a burden upon the population.
- In particular, it advocates the avoidance of indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, in particular imposing such restrictions on the possession of land as would have the effect of rendering difficult the gaining of a living by independent cultivation.
- The Recommendation also advocates the avoidance of any restrictions on the voluntary flow of labour from one form of employment to another or from one district to another which would compel 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

Abolition of Forced Labour Convention, 1957

- ★ Any State which ratifies the Convention undertakes to suppress and not to make use of any form of forced or compulsory labour:
 - ➔ as a means of political coercion or education or as a punishment for holding or expressing political or views ideologically opposed to the established political, social or economic system;
 - ➔ as a method of mobilizing and using labour for purposes of economic development;
 - ➔ as a means of labour discipline;
 - ➔ as a punishment for having participated in strikes;
 - ➔ as a means of racial, social, national or religious discrimination.



1. Fundamental Conventions on equality of opportunity and treatment (and related Recommendations)

Convention No. 100



Equal Remuneration Convention, 1951

Remuneration: 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 workers' employment.

For the purpose of the Convention, the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based, directly or indirectly, on sex.

- ★ Each State party to the Convention has to ensure, in so far as is consistent with the methods in operation for determining rates of remuneration, the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
- ★ One of the means recommended for assisting in giving effect to the Convention is the objective appraisal of jobs on the basis of the work to be performed.
- ★ Where differential rates between workers correspond, without regard to sex, to differences in the work to be performed, as determined by such objective appraisal, these must not be considered as being contrary to the principle of equal remuneration.
- ★ Governments have to cooperate with employers' and workers' organizations for the purpose of giving effect to the provisions of the Convention.

**RECOMMENDATION No. 90****Equal Remuneration Recommendation, 1951**

- Action should be taken by States, after consultation with the workers' organizations concerned 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;
 - ➔ encourage its application to employees of provincial or local government, where it has jurisdiction over rates of remuneration;
 - ➔ ensure, as rapidly as practicable, the application of the principle in all other occupations in which rates of remuneration are subject to statutory regulation or public control.
- Where appropriate in the light of the methods in operation for the determination of rates of remuneration, provision should be made for the general application of the principle by legal enactment, of which employers and workers should be fully informed.
- When, after consultation with the organizations of workers and employers concerned, it is not deemed feasible to implement immediately the principle of equal remuneration, provision should be made for its progressive application.
- Where appropriate, States should, in agreement with the employers' and workers' organizations concerned, establish or encourage the establishment of methods for objective appraisal of the work to be performed, in accordance with the provisions of Convention No. 100.
- The Recommendation also advocates other measures, such as the access of women to vocational guidance, the provision of welfare and social services which meet their needs, particularly where they have family responsibilities, and the promotion of equality of men and women workers as regard access to the various occupations.



Discrimination (Employment and Occupation) Convention, 1958

Discrimination: any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin (or such other ground as may be specified by the State concerned), which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

- ★ Each State which ratifies the Convention undertakes to declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating any discrimination in respect of:
 - ➔ access to vocational training;
 - ➔ access to employment and to particular occupations; and
 - ➔ terms and conditions of employment.
- ★ In particular, it has to:
 - ➔ seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of its policy;
 - ➔ repeal any statutory or administrative provisions which are inconsistent with the policy;
 - ➔ enact legislation and promote educational programmes to secure its acceptance;
 - ➔ ensure observance of the policy in employment, vocational guidance, vocational training and placement services under the direction of a national authority;
 - ➔ indicate in its annual reports on the application of the Convention the action taken in pursuance of this policy.
- ★ The Convention establishes the following three types of measures which are not deemed to be discrimination:
 - ➔ measures designed to meet the particular requirements for specific work;
 - ➔ measures which might be justified to protect the security of the State;
 - ➔ measures of protection or assistance.

**RECOMMENDATION No. 111****Discrimination (Employment and Occupation) Recommendation, 1958**

- The Recommendation indicates the fields in which all persons should, without discrimination, enjoy equality of opportunity and treatment, which include security of tenure of employment, remuneration for work of equal value and conditions of work (such as hours of work, occupational safety and health and social security).
- It also emphasizes that employers should not practice or countenance discrimination in engaging and training any person for employment, in advancing or retaining such person in employment, or in fixing terms and conditions of employment.
- The principle of equality of opportunity and treatment should also be respected in collective negotiations and industrial relations.
- Moreover, employers' and workers' organizations should not practise or countenance discrimination in respect of membership or participation in their affairs.
- States should establish appropriate agencies for the purpose of promoting application of the policy of non-discrimination in all fields of public and private employment, and particularly to examine complaints.
- The authorities responsible for action against discrimination in employment and occupation should cooperate closely and continuously with the authorities responsible for action against discrimination in other fields to coordinate the measures that they adopt.

2. Workers with family responsibilities

Convention No. 156



Workers with Family Responsibilities Convention, 1981

Workers with family responsibilities: men and women workers with responsibilities in relation to their dependent children or 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.

- ★ Convention No. 156 is intended to create effective equality of opportunity and treatment in employment and occupation:
 - ➔ between men and women workers with family responsibilities; and
 - ➔ between such workers and other workers.
- ★ Each State party to the Convention must have the objective of enabling persons with family responsibilities to engage in employment without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.
- ★ For this purpose, all possible measures have to be taken to:
 - ➔ enable these workers to exercise their right to free choice of employment, to become integrated in the labour force and to re-enter the labour force after an absence due to these responsibilities;
 - ➔ take account of their needs in terms and conditions of employment, social security and community planning;
 - ➔ develop or promote community services, such as child-care.
- ★ The competent national authorities shall promote:
 - ➔ 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;
 - ➔ a climate of opinion conducive to overcoming these problems.
- ★ Family responsibilities must not, as such, constitute a valid reason for termination of employment.

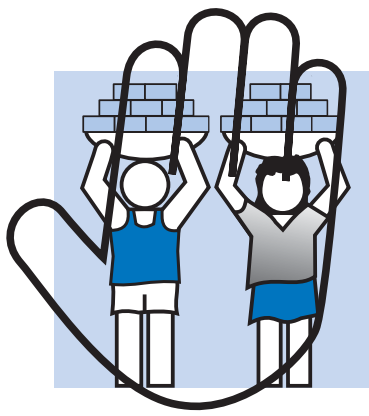
- ★ Employers' and workers' organizations must have the right to participate in devising and applying the measures envisaged by the Convention.
- ★ The provisions of the Convention may be applied by stages, if necessary, provided that such measures of implementation as are taken shall apply in any case to all the workers with responsibilities in relation to their dependent children.



RECOMMENDATION No. 165

Workers with Family Responsibilities Recommendation, 1981

- The Recommendation calls for the adoption and application of measures with a view to preventing direct or indirect discrimination on the basis of marital status or family responsibilities.
- The competent authorities should take appropriate measures to encourage the sharing of family responsibilities between men and women and to enable the workers concerned to better meet their employment and family responsibilities.
- These workers should be able to benefit from vocational training facilities and, where possible, paid educational leave arrangements. They should also have access to such services as may be necessary to enable them to enter or re-enter employment.
- Particular attention should be given to general measures for improving working conditions and the quality of working life, including measures aimed at the progressive reduction of hours of work and more flexible arrangements as regards working schedules.
- Measures should be taken to protect part-time workers, temporary workers and homeworkers, many of whom have family responsibilities.
- The Recommendation calls for the establishment of parental leave and leave of absence for a worker whose dependent child or another member of the immediate family needs his or her care or support.
- It also provides that social security benefits, tax relief or other appropriate measures should, when necessary, be available to workers with family responsibilities.
- Finally, the competent authorities should promote such public and private action as is possible to lighten the burden deriving from the family responsibilities of workers, particularly through the development of home help and home care services.



1. Fundamental Conventions on child labour (and related Recommendations)

Convention No. 138



Minimum Age Convention, 1973

National policy

- ★ Each State which ratifies Convention No. 138 undertakes to pursue a national policy designed to:
 - ➔ ensure the effective abolition of child labour; and
 - ➔ 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.

Minimum ages for admission to employment or work

	General minimum age	Light work	Hazardous work
General rule Not less than the age of completion of compulsory schooling and, in any case, not less than:	15 years	13 years	18 years (16 years under certain conditions)
Where the economy and educational facilities are insufficiently developed Initially not less than:	14 years	12 years	18 years (16 years under certain conditions)

General minimum age

- ★ The general minimum age for admission to employment or work has to be specified in a declaration appended to the ratification. The minimum age may subsequently be raised by further declarations.
- ★ After consultation with organizations of employers and workers, the competent authority may allow exceptions in individual cases to the general minimum age for such purposes as participation in artistic performances. The permits so granted have to limit the number of hours and conditions in which such work is allowed.

Higher minimum age for hazardous work

Hazardous work: Any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons. They are to be determined at the national level, after consultation with the organizations of employers and workers.

- ★ The employment of young persons as from the age of 16 years may be authorized, after consultation with organizations of employers and workers, on condition that:
 - ➔ their health, safety and morals are fully protected; and
 - ➔ they have received adequate specific instruction or vocational training in the relevant branch of activity.

Lower minimum age for light work

- ★ Light work is work which is not likely to be harmful to the health or development of the young persons concerned and is not such as to prejudice their attendance at school or their participation in vocational orientation or training programmes.
- ★ The competent national authority has to determine the activities which are so authorized and prescribe the hours of work and conditions.

Scope of application of the Convention

- ★ The Convention applies to any type of employment or work.
- ★ States whose economy and administrative facilities are insufficiently developed may however, after consultation with organizations of employers and workers, initially limit the scope of

application of the Convention by specifying, in a declaration appended to their ratification, the branches of economic activity or types of enterprises to which it applies.

- ★ In that case, the provisions of the Convention have to be applicable as a minimum to:
 - ➔ mining and quarrying;
 - ➔ manufacturing;
 - ➔ construction;
 - ➔ electricity, gas and water;
 - ➔ sanitary services;
 - ➔ transport, storage and communication; and
 - ➔ plantations and other agricultural enterprises mainly producing for commercial purposes (but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers).

- ★ Moreover, in so far as necessary and after consultation with organizations of employers and workers, the competent national authority may exclude from the application of the Convention limited categories of employment or work in respect of which special and substantial problems of application arise. The excluded categories have to be listed in the first report on the application of the Convention. Furthermore, this exclusion may not cover hazardous work.

- ★ Lastly, the Convention does not apply to:
 - ➔ work done in schools for general, vocational or technical education or in other training institutions;
 - ➔ work done by persons at least 14 years of age in enterprises, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers, 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 enterprise, 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 type of training.

Enforcement of the Convention

- ★ All necessary measures, including the provision of appropriate penalties, have to be taken by the competent authority to ensure the effective enforcement of the Convention.
- ★ National laws or regulations or the competent authority must:
 - ➔ define the persons responsible for compliance with the provisions giving effect to the Convention;
 - ➔ prescribe the registers or other documents which have to be kept and made available by the employer.



RECOMMENDATION No. 146

Minimum Age Recommendation, 1973

- To achieve the objective of the effective abolition of child labour, high priority should be given in national development programmes to measures designed to meet the needs of children and youth, and particularly those intended to alleviate poverty and ensure family living standards such as to make it unnecessary to have recourse to the economic activity of children.
- The minimum age should be the same for all sectors of economic activity and States should take as their objective its progressive raising to 16 years.
- In determining the types of hazardous work covered by Convention No. 138, full account should be taken of relevant international labour standards, such as those concerning dangerous substances, the lifting of heavy weights and underground work.
- 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 and are supervised closely.
- In prescribing rules relating to the authorization of light work, the competent national authority should pay special attention to a number of aspects relating to remuneration, hours of work, social security and standards of safety and health.
- Finally, the Recommendation enumerates a number of measures to ensure the enforcement of the Convention, including the strengthening of labour inspection and services for the improvement of training in enterprises.



Worst Forms of Child Labour Convention, 1999

Child: all persons under the age of 18 years.

The worst forms of child labour:

- 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;
- the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- 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;
- 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.

★ Each State which ratifies the Convention has to:

- ➔ take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency;
- ➔ design and implement, in consultation with relevant government institutions and employers' and workers' organizations, programmes of action to eliminate as a priority the worst forms of child labour;
- ➔ establish, after consultation with employers' and workers' organizations, appropriate mechanisms to monitor the implementation of the provisions giving effect to the Convention;
- ➔ ensure the effective implementation and enforcement of these provisions, including the provision and application of penal or, if need be, other sanctions.

★ It also has to take effective and time-bound measures to:

- ➔ prevent the engagement of children in the worst forms of child labour;
- ➔ 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;

- ensure access to free basic education, and, wherever possible, vocational training, for all children removed from the worst forms of child labour;
- identify and reach out to children at special risk; and
- take account of the special situation of girls.

These measures have to be implemented taking into account the importance of education.

- ★ States have to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation and/or assistance, including support for social and economic development, poverty eradication programmes and universal education.



RECOMMENDATION No. 190

Worst Forms of Child Labour Recommendation, 1999

- The Recommendation contains guidance on the programmes of action provided for by Convention No. 182, which should aim at, inter alia:
 - ➔ identifying and denouncing the worst forms of child labour;
 - ➔ preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals;
 - ➔ providing for their rehabilitation and social integration;
 - ➔ giving special attention to particularly vulnerable children, including younger children and the girl child;
 - ➔ sensitizing and mobilizing public opinion and concerned groups, including children and their families.
- In determining hazardous types of work, consideration should be given, inter alia, to:
 - ➔ work which exposes children to physical, psychological or sexual abuse;
 - ➔ work underground, under water, at dangerous heights or in confined spaces;
 - ➔ work with dangerous machinery and heavy loads;
 - ➔ work in an unhealthy environment or which may expose children to temperatures, noise levels, or vibrations damaging to their health;

- 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.
- The Recommendation also provides for the compilation of data on the nature and extent of child labour and on violations of national provisions for the prohibition and elimination of the worst forms of child labour. These data should be communicated to the ILO on a regular basis.
- States should also:
 - designate 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;
 - determine the persons to be held responsible in the event of non-compliance with these provisions.
- The first three categories of the worst forms of child labour referred to above (see box) should constitute criminal offences. With regard to hazardous types of work (the last category), States should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for their prohibition and elimination.
- Other measures might include, among others:
 - training, especially for inspectors and law enforcement officials, and for other relevant professionals;
 - the simplification of legal and administrative procedures;
 - the establishment of special complaints procedures and provisions to protect those who legitimately expose violations of the provisions of the Convention, as well as the establishment of points of contact and ombudspersons.
- International cooperation and/or assistance among States for the prohibition and elimination of the worst forms of child labour should include:
 - mobilizing resources for national or international programmes;
 - mutual legal assistance;
 - technical assistance;
 - support for poverty eradication programmes and universal education.

2. Protection of children and young persons



Convention No. 77

Medical Examination of Young Persons (Industry) Convention, 1946

- ★ The Convention applies to children and young persons working in industrial enterprises, whether public or private.
- ★ Children and young persons under 18 years of age may not be admitted to employment unless they have been found fit for the work by a thorough medical examination.
- ★ Medical examinations for fitness for employment have to be repeated up to the age of 18 years at intervals of not more than one year.
- ★ In occupations which involve high health risks these examinations have to be required until at least the age of 21 years.
- ★ They must not involve any expense for the young person or her or his parents.
- ★ The competent national authority has to take appropriate measures for vocational guidance and physical and vocational rehabilitation of children and young persons found by medical examination to be unfit for certain types of work.



Convention No. 78

Medical Examination of Young Persons (Non-industrial Occupations) Convention, 1946

- ★ Convention No. 78 sets out similar rules to those of Convention No. 77, concerning non-industrial occupations, that is all occupations other than industrial, agricultural and maritime occupations.
- ★ However, national laws or regulations may exempt from the application of the Convention employment, on work which is

recognized as not being dangerous to the health of the children or young persons, in family enterprises in which only parents and their children are employed.

RECOMMENDATION No. 79

Medical Examination of Young Persons Recommendation, 1946

- Recommendation No. 79 supplements Convention No. 77 and Convention No. 78. Whereas these two Conventions leave to national laws or regulations the choice of practical methods for the application of their provisions, the Recommendation is intended to assure reasonably uniform application for the purpose of maintaining at the highest possible level the protection of children and young persons.
- It specifies the notion of “Non-Industrial Occupations” to which Convention No. 78 should apply. These should include in particular:
 - commercial establishments;
 - postal and telecommunication services;
 - establishments and administrative services in which the persons employed are mainly engaged in clerical work;
 - newspaper undertakings;
 - hotels, restaurants, and similar establishments;
 - hospitals;
 - theatres and places of public entertainment;
 - itinerant trading, and any other occupation or service carried on in the streets or in places to which the public have access;
 - all other jobs, occupations or services which are neither industrial nor agricultural nor maritime.
- It also specifies provisions concerning medical examinations and advocates their extension until 21 years of age at least.
- The measures to be taken for persons found to be unfit or only partially fit for employment should include: medical treatment, encouragement to return to school or guidance towards other occupations, and financial aid if necessary.
- Measures should be taken to train a body of examining doctors who are qualified in industrial hygiene and have wide experience of the medical problems relating to the health of children and young persons.

- Employers should be required to send to a specified authority a notification of the employment of all young workers under the age-limit up to which a medical examination is required.
- Finally, the Recommendation provides for the adoption of specific measures, including a system of individual licences for children and young persons engaged, either on their own account or on account of their parents, in itinerant trading or any other occupation carried on in the streets or in places to which the public have access.



Convention No. 124

Medical Examination of Young Persons (Underground Work) Convention, 1965

- ★ Persons under 21 years of age have to undergo a thorough medical examination, and period re-examinations at intervals of not more than one year, for fitness for employment or work underground in mines.
- ★ The adoption of alternative arrangements for young persons aged between 18 and 21 years is, however, permitted, provided that they are equivalent or more effective and with the agreement of the most representative organizations of employers and workers.
- ★ The medical examinations must not involve the young person, or her or his parents, in any expense.
- ★ The competent national authority has to take all necessary measures, including the provision of appropriate penalties, to ensure the effective enforcement of the provisions of the Convention.
- ★ Each State which ratifies the Convention has to maintain an appropriate inspection service for the purpose of supervising the application of its provisions.
- ★ Employers have to keep, and make available to inspectors, records of persons under 21 years of age who are employed or work underground.

**Conditions of Employment of Young Persons (Underground Work)
Recommendation, 1965**

- Training programmes for young persons employed or to be employed underground in mines should include practical and theoretical instruction in the health and safety hazards to which workers are exposed, first aid and the precautions to be taken.
- Officials in charge of safety, including safety and health committees and the national inspection service, should give particular attention to measures designed to safeguard the life and health of young persons employed or working underground in mines.
- Persons under 18 years of age employed or working underground in mines should be entitled to:
 - ➔ an uninterrupted weekly rest which should not be less than 36 hours in the course of each period of seven days (this period should be progressively extended to at least 48 hours);
 - ➔ annual holiday with pay of not less than 24 working days for 12 months of service.
- The competent national authorities should take the necessary measures to ensure that young persons employed or to be employed underground in mines receive vocational training and enjoy opportunities for further technical training enabling them to develop their occupational capacities.



1. Priority Conventions on Labour Inspection (and related instruments)

Convention No. 81



Labour Inspection Convention, 1947

- ★ The objective of Convention No. 81 is the establishment of a system of labour inspection responsible for securing the enforcement and bringing to the notice of the competent authority possible loopholes in existing legal provisions relating to conditions of work and the protection of workers in industrial workplaces, from which mining and transport enterprises may, however, be excluded.
- ★ Ratification of the Convention also results in its application to commercial workplaces, unless this is explicitly excluded at the time of ratification.
- ★ For this purpose, the principal functions of the system of labour inspection are:
 - ➔ securing the enforcement of legal provisions, particularly through inspection visits, as well as the investigation of complaints and material, technical and administrative examinations;
 - ➔ supplying technical information and advice to employers, workers and their respective organizations;
 - ➔ bringing to the notice of the competent authority defects or abuses not covered by existing legal provisions.
- ★ The structure of the labour inspection system consists principally of a central authority and services placed under its supervision and control. Moreover, the competent authority has to make appropriate arrangements to promote:
 - ➔ cooperation between the inspection services and other government services and public or private institutions engaged in similar activities; and
 - ➔ collaboration between officials of the labour inspectorate and employers and workers or their organizations.

- ★ The establishment of the inspection system requires human and material resources to be placed at its disposal. The staff of the labour inspection services shall be mixed and determined in accordance with:
 - the importance of the duties to be performed (the number, nature, size and situation of the workplaces liable to inspection);
 - the number and classes of workers employed in such workplaces;
 - the number and complexity of the legal provisions to be enforced by labour inspectors;
 - the practical conditions under which inspection visits must be carried out in order to be effective.
- ★ The premises of inspection services must be suitably equipped and accessible to all persons concerned. Furthermore, labour inspectors must have available the transport facilities necessary to ensure the mobility that is essential to their profession and must in any case be reimbursed their travelling expenses.
- ★ The recruitment of labour inspectors must be subject to conditions regarding their qualifications, which must be ascertained by the competent authority. They must be trained for the performance of their duties.
- ★ The status and conditions of services of inspection staff must be such as to assure them of stability of employment and independence of any change of government or of improper external influences.
- ★ Labour inspectors:
 - may not have any direct or indirect interest in the enterprises under their supervision;
 - must be bound, on pain of appropriate penalties or disciplinary measures, not to reveal any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;
 - must treat as confidential the source of any complaint, just as they must refrain from giving any intimation to the employer that a visit was made in consequence of a complaint;
 - have to submit, at least once a year, reports on the results of their inspection activities to the central inspection authority.

- ★ The central inspection authority has to publish an annual general report on the work of the inspection services under its control, and communicate the report to the International Labour Office. These reports have to contain information on the laws and regulations covered, as well as statistics of the workplaces liable to inspection and the workers employed therein and, finally, statistics of inspection visits, violations and penalties imposed, industrial accidents and occupational diseases.
- ★ For the effective discharge of their inspection functions in workplaces, labour inspectors also have to be empowered with a number of rights:
 - ➔ right to enter freely at any hour of the day or night any workplace liable to inspection, and by day any premises which they may have reasonable cause to believe to be liable to inspection;
 - ➔ right to carry out any examination and to interrogate the employer, her or his representative and the staff of the enterprise;
 - ➔ right to take or remove for purposes of analysis samples of materials and substances used or handled, subject to the notification of the employer or her or his representative;
 - ➔ right to enforce the posting of certain notices required by the legal provisions.
- ★ Labour inspectors must also be empowered either directly, or indirectly by applying to the competent authority for this purpose, to make orders to eliminate the defects observed in plant, layout or working methods which may be liable to constitute a threat to the health or safety of the workers.
- ★ These measures shall take the form of orders to be carried out within a specified time limit to secure compliance with the legal provisions relating to the health and safety of the workers, or measures with immediate executory force in event of imminent danger to the health or safety of the workers.
- ★ These powers are to be exercised subject to any right of appeal to a judicial or administrative authority which may be provided by law.
- ★ In principle, any violation of the legal provisions covered by the Convention may result in legal proceedings, unless the labour inspector decides to opt for a warning or advice.

- ★ Adequate penalties, including penalties for obstructing labour inspectors in the performance of their duties, have to be provided for by national laws or regulations and effectively enforced.

Protocol of 1995 to the Labour Inspection Convention, 1947

- ★ Each State which ratifies the Protocol undertakes to extend the application of the provisions of Convention No. 81 to activities in the non-commercial services sector, that is to all categories of workplaces that are not considered as industrial or commercial for the purposes of Convention No. 81.
- ★ A State may, by a declaration appended to its instrument of ratification and after consulting the most representative organizations of employers and workers, exclude wholly or partly from the its scope the following categories of services:
 - ➔ essential national (federal) government administration;
 - ➔ the armed services, whether military or civilian personnel;
 - ➔ the police and other public security services;
 - ➔ prison services, whether prison staff or prisoners when performing work.
- ★ A State which makes exclusions as referred to above must, to the extent possible, provide for alternative inspection arrangements for any categories of workplaces thus excluded.
- ★ A State may also make special arrangements for the inspection of workplaces of essential national (federal) government administration, the armed services, the police and other public security services, and the prison services, so as to regulate or limit the powers of labour inspectors as provided for in the Convention.



RECOMMENDATION No. 81

Labour Inspection Recommendation, 1947

- The Recommendation calls for labour inspectors to play a preventive role in the field of safety and health when any industrial or commercial establishment is opened, or any activity is commenced in such an establishment, any new plant installed or any new processes of production introduced.

- It calls on States to encourage arrangements for cooperation between employers and workers for the purpose of improving conditions affecting the health and safety of workers and recommends that the functions of labour inspectors should not include those of acting as conciliator or arbitrator in proceedings concerning labour disputes.
- Finally, the Recommendation provides guidance on the nature and details of the information which should be included in the annual reports on the work of the inspection services.

RECOMMENDATION No. 82

Labour Inspection (Mining and Transport) Recommendation, 1947

- Convention No. 81 authorizes the exemption by national laws or regulations of mining and transport enterprises from its application. Recommendation No. 82 calls upon member States to apply to these categories of enterprises appropriate systems of labour inspection, as rapidly as national conditions allow, to ensure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.

Convention No. 129

Labour Inspection (Agriculture) Convention, 1969

- ★ Each State that is party to the Convention must maintain a system of labour inspection in agriculture which applies to agricultural enterprises in which work employees or apprentices, however they may be remunerated and whatever the type, form or duration of their contract.

Agricultural enterprises: enterprises or parts of enterprises engaged in cultivation, animal husbandry, forestry, horticulture, the primary processing of agricultural products by the operator of the holding or any other form of agricultural activity.

- ★ In addition to the principal functions of the inspection system as set out in Convention No. 81, Convention No. 129 provides that labour inspectors may also be entrusted with the enforcement of the legal provisions relating to conditions of life of workers and their families.

- ★ It also sets out the obligation, in such cases and in such manner as may be determined by the competent authority, for labour inspectors in agriculture to be associated in the preventive control of agricultural enterprises in relation to safety and health. It is also recommended that labour inspectors be associated with any inquiry into the causes of the most serious occupational accidents or occupational diseases.
- ★ The extension is suggested of the system of labour inspection in agriculture to the categories of persons working in agricultural enterprises (tenants, sharecroppers, members of cooperatives, members of the family of the operator).
- ★ The operation of the labour inspection system in agriculture is placed under the control of a central body which may be:
 - ➔ a single labour inspection department responsible for all the other sectors of economic activity;
 - ➔ a single labour inspection department with a functional or institutional specialization; or
 - ➔ a specialized structure placed under the supervision of a central body vested with the same prerogatives as the central inspection authority determined by Convention No. 81.
- ★ Furthermore, certain inspection functions may be entrusted at the regional or local level on an auxiliary basis to appropriate government services or associate these services with the exercise of the functions in question, in accordance with the principles of the Convention.
- ★ The Convention also provides for the possibility, alongside public officials, of including in the labour inspection system officials or representatives of occupational organizations who are assured of stability of tenure and independence. Moreover, the necessary measures have to be taken to ensure the collaboration of duly qualified technical experts and specialists.
- ★ In addition to the adequate training which has to be provided for labour inspectors when they are recruited, the Convention also requires measures to be taken to provide them with further training in the course of their employment.
- ★ Finally, the powers and obligations of labour inspectors are governed by provisions similar to those of Convention No. 81.

**Labour Inspection (Agriculture) Recommendation, 1969**

- The Recommendation advocates the extension of the functions of the labour inspectorate in agriculture so as to include collaboration with the competent technical services with a view to helping the agricultural producer, whatever her or his status, to improve the holding and the conditions of life and work of the persons working on it.
- It is recommended that the labour inspectorate in agriculture be associated in the enforcement of legal provisions on such matters as:
 - training of workers;
 - social services in agriculture;
 - cooperatives; and
 - compulsory school attendance.
- Guidance is also provided on education campaigns intended to inform the parties concerned with a view to the strict application of the legal provisions, particularly with regard to the health and safety of persons working in agricultural enterprises.

2. Labour administration



Convention No. 150

Labour Administration Convention, 1978

Labour administration: public administration activities in the field of national labour policy.

System of labour administration: all public administration bodies responsible for and/or engaged in labour administration, and any institutional framework for the coordination of the activities of such bodies and for consultation with and participation by employers and workers and their organizations.

- ★ Any State party to the Convention has to ensure the organization and effective operation of a system of labour administration, the functions and responsibilities of which are properly coordinated.
- ★ It has to secure, within the system of labour administration, consultation, cooperation and negotiation between the public authorities and the most representative organizations of employers and workers.
- ★ It may delegate or entrust, in accordance with national laws or regulations, or national practice, certain activities of labour administration to non-governmental organizations, particularly employers' and workers' organizations, or where appropriate to employers' and workers' representatives.
- ★ It may also regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organizations.
- ★ The principal functions of the competent bodies within the system of labour administration are as follows:
 - ➔ participating in the preparation, administration, coordination, checking and review of national labour and employment policy;
 - ➔ studying the situation of employed, unemployed and underemployed persons, taking into account the relevant national laws and regulations and national practice, drawing

attention to defects and abuses observed in this field and submitting proposals on means to overcome them;

- ➔ making their services available to employers, workers and their organizations with a view to the promotion of effective consultation and cooperation between public authorities and bodies and employers' and workers' organizations, as well as between such organizations; and
 - ➔ responding to requests for technical advice from employers and workers and their respective organizations.
- ★ When national conditions so require, a State party to the Convention has to promote the extension of the functions of the system of labour administration to include activities relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons.
 - ★ The staff of the labour administration system has to be composed of persons who are suitably qualified for the activities to which they are assigned, who have access to training necessary for such activities and who are independent of improper external influences.
 - ★ Such staff must have the status, material means and financial resources necessary for the effective performance of their duties.

RECOMMENDATION No. 158

Labour Administration Recommendation, 1978

- The Recommendation emphasizes that the system of labour administration should include a system of labour inspection, as well as a free public employment service.
- It also contains further guidance on the various functions of the national system of labour administration. The competent bodies within the system of labour administration should:
 - ➔ take an active part in the preparation, development, adoption, application and review of labour standards, in consultation with organizations of employers and workers;
 - ➔ participate in the determination and application of such measures as may be necessary to ensure the free exercise of employers' and workers' right of association;
 - ➔ be responsible for or participate in the preparation, administration, coordination, checking and review of national employment policy.

- They should also promote the full development and utilization of machinery for voluntary negotiation. In case of collective disputes, they should be in a position to provide conciliation and mediation facilities appropriate to national conditions.
- Measures should be taken to ensure appropriate representation of the system of labour administration in the bodies in which decisions are prepared and taken and measures of implementation are devised with respect to social and economic policies.
- Appropriate arrangements should be made to provide the system of labour administration with the necessary financial resources and an adequate number of suitably qualified staff to promote its effectiveness.
- The system of labour administration should normally comprise specialized units for each of the major programmes of labour administration entrusted to it by national laws or regulations.



Convention No. 160

Labour Statistics Convention, 1985

- ★ Each State party to the Convention undertakes that it will regularly collect, compile and publish, and communicate to the ILO, as soon as practicable, basic labour statistics which are to be progressively extended to cover the following subjects:
 - ➔ economically active population, employment, unemployment and, where possible, visible underemployment;
 - ➔ structure and distribution of the economically active population;
 - ➔ average earnings and hours of work;
 - ➔ wage structure and distribution;
 - ➔ labour cost;
 - ➔ consumer price indices;
 - ➔ household expenditure and, where possible, household income;
 - ➔ occupational injuries and, as far as possible, occupational diseases; and
 - ➔ industrial disputes.

- ★ In designing or revising the concepts, definitions and methodology used for this purpose, States parties have to:
 - ➔ take into consideration the latest standards and guidelines established under the auspices of the International Labour Organization; and
 - ➔ consult the representative organizations of employers and workers.
- ★ Each State which ratifies the Convention has to accept the specific obligations in respect of one or more of the Articles of Part II of the Convention. This provides that certain statistics have to be compiled, as appropriate, covering all important categories of employees and all important branches of economic activity, important occupations or groups of occupations in important branches of economic activity, significant population groups or the country as a whole.

RECOMMENDATION No. 170

Labour Statistics Recommendation, 1985

- The Recommendation contains guidance on the frequency and classification of statistics in the various fields. It also calls for all States to progressively develop the appropriate national statistical infrastructure for the purposes of collecting and compiling labour statistics.



Priority Convention on tripartite consultation (and related Recommendation)

Convention No. 144



Tripartite Consultation (International Labour Standards) Convention, 1976

- ★ Each State party to the Convention undertakes to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers with respect to the following activities of the ILO:
 - ➔ government replies to questionnaires concerning items on the agenda of the Conference and government comments on proposed texts to be discussed by the Conference;
 - ➔ the submission of Conventions and Recommendations to the competent authorities pursuant to article 19 of the Constitution;
 - ➔ the re-examination of unratified Conventions and of Recommendations;
 - ➔ reports on the application of ratified Conventions;
 - ➔ proposals for the denunciation of ratified Conventions.
- ★ These consultations have to be undertaken at appropriate intervals fixed by agreement, but at least once a year.
- ★ The representatives of employers and workers have to be freely chosen by their representative organizations.
- ★ The competent authority shall:
 - ➔ assume responsibility for the administrative support of the procedures provided for in this Convention;
 - ➔ make appropriate arrangements with the representative organisations, for the financing of any necessary training of participants in these procedures;

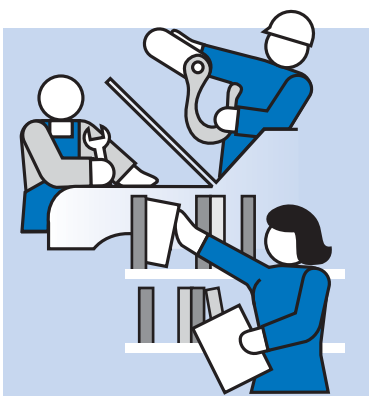
- ➔ issue an annual report on the working of the procedures, when this is considered appropriate after consultation with the representative organisations.



RECOMMENDATION No. 152

Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976

- Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.
- The Recommendation enumerates various procedures through which tripartite consultations may be held, including:
 - ➔ a committee specifically constituted for questions concerning the activities of the ILO;
 - ➔ a body with general competence in the economic, social or labour fields;
 - ➔ a number of bodies with special responsibility for particular subject areas; or
 - ➔ written communications, where those involved in the consultative procedures are agreed that they are appropriate and sufficient.
- Each State should operate procedures which ensure effective consultations between representatives of the government, of employers and of workers on the preparation and implementation of the measures to give effect to ILO Conventions and Recommendations, in particular to ratified Conventions.
- The competent national authority, after consultation with the representative organizations of employers and workers, should determine the extent to which these procedures should be used for other matters of mutual concern, such as:
 - ➔ the preparation, implementation and evaluation of ILO technical cooperation activities;
 - ➔ the action to be taken in respect of resolutions and conclusions adopted by the Conference, regional conferences and other meetings convened by the ILO;
 - ➔ the measures to be taken to promote a better knowledge of ILO activities.



1. Priority Convention on employment policy (and related Recommendations)

Convention No. 122



Employment Policy Convention, 1964

- ★ Convention No. 122 aims to stimulate economic growth based on full, productive and freely chosen employment.
- ★ With a view to achieving this objective, each State party to the Convention has to declare and pursue a policy designed to:
 - ➔ stimulate economic growth and development;
 - ➔ raise levels of living;
 - ➔ meet labour force requirements and overcome unemployment and underemployment.
- ★ This policy has to be aimed at ensuring that:
 - ➔ there is work for all who are available for and seeking work;
 - ➔ such work is as productive as possible;
 - ➔ there is freedom of choice of employment and opportunity for each worker to qualify for, and to use her or his skills and endowments in, a job for which she or he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.
- ★ It has to take account of:
 - ➔ the stage and level of economic development of the country concerned; and
 - ➔ the mutual relationships between employment objectives and other economic and social objectives.
- ★ Each State party to the Convention has to decide on and keep under review, within the framework of a coordinated economic and social policy, the measures to be adopted for attaining the objectives set out above; and also take such steps as may be needed for the application of these measures.

- ★ Representatives of the persons affected, and in particular representatives of employers and workers, have to be consulted concerning employment policies, with a view to securing their full cooperation in their formulation.



RECOMMENDATION No. 122

Employment Policy Recommendation, 1964

- The Recommendation indicates the objectives and general principles of employment policy, as well as the measures to be taken in the context of this policy.
- It addresses employment problems associated with underdevelopment and provides that measures should be taken by employers and workers in the public and private sectors, and their organizations, to promote the achievement and maintenance of full, productive and freely chosen employment.
- It also calls for the participation of States in international action to promote the achievement of employment policy objectives.
- Finally, the Annex to the Recommendation contains detailed suggestions concerning methods of application of this policy.



RECOMMENDATION No. 169

Employment Policy (Supplementary Provisions) Recommendation, 1984

- The promotion of full, productive and freely chosen employment should be the priority in the economic and social policies of States and full recognition by States of the right to work should be linked with the implementation of the policies adopted for this purpose.
- States should take measures to:
 - combat effectively illegal employment and enable the progressive transfer of workers from the informal sector to the formal sector;
 - encourage multinational enterprises to promote 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 their investments on employment are avoided and that positive effects are encouraged;

- respond to the needs of categories of persons frequently having difficulties in finding lasting employment (certain women, certain young workers, disabled persons, older workers, the long-term unemployed and migrant workers lawfully within their territory).
- The technology policies of member States 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.
- States should also recognize the importance of balanced regional development as a means of correcting the uneven spread of growth and employment between regions and areas within a country.
- They might also implement public investment and special public works programmes, particularly with a view to creating and maintaining employment, reducing poverty and better meeting basic needs in areas of widespread unemployment and underemployment.
- Among the measures related to international economic cooperation, States should cooperate in international bodies which are engaged in facilitating sustainable and mutually beneficial increases in international trade, technical assistance and investment.
- One of their objectives should be to recognize that the interdependence between States, resulting from the increasing integration of the world economy, should help to create a climate in which States can define joint policies designed to promote a fairer international distribution of income and wealth.
- Other measures include, for example, the transfer of technologies, and a reduction of the debt burden of developing countries.
- States concerned by significant flows of migrants should, taking account of ILO Conventions and Recommendations on migrant workers, adopt policies designed 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;
 - ensure that international migration takes place under conditions designed to promote full, productive and freely chosen employment.

2. Employment promotion



RECOMMENDATION No. 189

Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998

- States should, in consultation with the most representative organizations of employers and workers, defined small and medium-sized enterprises by reference to criteria appropriate to national conditions.
- They should adopt appropriate measures in order to recognize and promote the fundamental role that small and medium-sized enterprises can play including as regards:
 - ➔ the promotion of full, productive and freely chosen employment;
 - ➔ greater access to income-earning opportunities and wealth creation leading to productive and sustainable employment;
 - ➔ training and development of human resources;
 - ➔ 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;
 - ➔ the promotion of good relations between employers and workers.
- For this purpose, States should adopt measures to safeguard the interests of workers in such enterprises by providing them with the basic protection available under other relevant instruments.
- They should also adopt policies for the promotion of efficient and competitive small and medium-sized enterprises able to provide productive and sustainable employment under adequate social conditions. These policies should create conditions which ensure the non-discriminatory application of labour legislation.
- For this purpose, States should review labour and social legislation, in consultation with the most representative organizations of employers and workers, to determine whether:
 - ➔ it meets the needs of small and medium-sized enterprises, while ensuring adequate protection and working conditions for their workers;
 - ➔ there is a need for supplementary measures as regards social protection, such as voluntary schemes, cooperative initiatives and others;

- 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 times of economic difficulties, governments should seek to provide strong and effective assistance to small and medium-sized enterprises and their workers.
- In formulating their policies, States:
 - may consult, in addition to the most representative organizations of employers and workers, other concerned and competent parties as they deem appropriate;
 - 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;
 - should establish mechanisms to review these policies, in consultation with the most representative organizations of employers and workers, and to update them.
- States 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.
- 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 these enterprises and their workers.
- Organizations of employers or workers should consider contributing to the development of small and medium-sized enterprises, for example by 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.
- 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.
- Appropriate international cooperation should be encouraged with regard, among other matters, to exchange of information 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, and research 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.



RECOMMENDATION No. 193

Promotion of Cooperatives Recommendation, 2002

Cooperative: autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

- The Recommendation applies to all types and forms of cooperatives.
- The promotion and strengthening of the identity of cooperatives should be encouraged on the basis of:
 - ➔ cooperative values (including self-responsibility, democracy, equality, solidarity and ethical values based on openness and social responsibility);
 - ➔ cooperative principles (including voluntary and open membership, democratic member control, autonomy and independence and concern for community).
- Measures should be adopted to promote the potential of cooperatives in all countries, irrespective of their level of development.
- Governments should provide a supportive policy and legal framework consistent with the nature and function of cooperatives and guided by cooperative values and principles.
- The promotion of cooperatives guided by cooperative values and principles should be considered as one of the pillars of national and international economic and social development.
- Cooperatives should be treated in accordance with national law and practice on terms no less favourable than those accorded to other forms of enterprise and social organization.
- States should adopt specific legislation and regulations on cooperatives, which are guided by cooperative values and principles, and revise them when appropriate. Cooperative organizations, as well as the employers' and workers' organizations concerned, should be consulted in the formulation and revision of legislation, policies and regulations applicable to cooperatives.

- Employers' and workers' organizations should seek, together with cooperative organizations, ways and means of their promotion, recognizing their significance for sustainable development.
- International cooperation should be facilitated through:
 - ➔ exchanging information on policies and programmes that have proved to be effective in employment creation and income generation for members of cooperatives;
 - ➔ encouraging and promoting relationships between national and international bodies and institutions involved in the development of cooperatives;
 - ➔ access of cooperatives to national and international data, such as market information, legislation, training methods and techniques, technology and product standards;
 - ➔ developing, where it is warranted and possible, and in consultation with cooperatives, employers' and workers' organizations concerned, common regional and international guidelines and legislation to support cooperatives.

Convention No. 181



Private Employment Agencies Convention, 1997

Private employment agency: any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to hereinafter as a "user enterprise") which assigns their tasks and supervises their execution;
- other services relating to job seeking, determined by the competent authority after consulting the most representative employers' and workers' organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

- ★ Convention No. 181 is based both on the recognition of the role which private employment agencies may play in a well-functioning labour market, and the need to protect workers against risks of abuses.

- ★ Each State party to the Convention has to determine the conditions governing the operation of private employment agencies.
- ★ It has to:
 - ➔ ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability;
 - ➔ adopt all necessary measures, after consulting the most representative organizations of employers and workers, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies;
 - ➔ take measures to ensure that child labour is not used or supplied by private employment agencies;
 - ➔ ensure that adequate machinery and procedures, involving as appropriate the most representative employers' and workers' organizations, exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies.
- ★ Private employment agencies:
 - ➔ must respect workers' privacy in relation to the processing of their personal data;
 - ➔ must not charge any fees or costs to workers, in any form, subject to certain exceptions permitted by the Convention.
- ★ Each State which ratifies the Convention has to ensure adequate protection for the workers employed by private employment agencies with a view to making them available to a third party in relation to:
 - ➔ freedom of association;
 - ➔ collective bargaining;
 - ➔ minimum wages;
 - ➔ working time and other working conditions;
 - ➔ social security benefits;
 - ➔ access to training;
 - ➔ occupational safety and health;
 - ➔ compensation in case of occupational accidents or diseases;

- ➔ compensation in case of insolvency and protection of workers' claims;
- ➔ maternity protection and benefits, and parental protection and benefits.

RECOMMENDATION No. 188

Private Employment Agencies Recommendation, 1997

- Tripartite bodies or organizations of employers and workers should be involved as far as possible in the formulation and implementation of provisions to give effect to Convention No. 181.
- States should:
 - ➔ adopt appropriate measures to prevent and to eliminate unethical practices by private employment agencies;
 - ➔ combat unfair advertising practices and misleading advertisements;
 - ➔ prohibit private employment agencies from publishing offers of employment in ways that directly or indirectly result in discrimination on grounds such as race, colour, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation or membership of a workers' organization.
- Private employment agencies:
 - ➔ should not make workers available to a user enterprise to replace workers of that enterprise who are on strike;
 - ➔ should not knowingly recruit, place or employ workers for jobs involving unacceptable risks or where they may be subjected to abuse or discriminatory treatment;
 - ➔ should inform migrant workers of the nature of the position offered and the applicable terms and conditions of employment;
 - ➔ should ensure protection for the personal data of workers;
 - ➔ should promote the utilization of proper, fair and efficient selection methods
- Workers employed by private employment agencies with a view to making them available to a third party should have a written contract of employment specifying their terms and conditions of employment. As a minimum requirement, these workers should be informed of their conditions of employment before the effective beginning of their assignment.

- Agencies should not prevent the user enterprise from hiring an employee assigned to it, nor restrict the occupational mobility of an employee, having due regard to the rights and duties laid down in national law concerning termination of contracts of employment.
- Cooperation between the public employment service and private employment agencies in relation to the implementation of a national policy on organizing the labour market should be encouraged.



Convention No. 159

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983

- ★ Convention No. 159 followed the adoption by the United Nations of the World Programme of Action concerning Disabled Persons, the goals of which were equality and full participation of disabled persons in social life and development. Its objective is to ensure for disabled persons suitable employment and social integration.

Disabled person: an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment.

- ★ The purpose of vocational rehabilitation is to enable a disabled person to secure, retain and advance in suitable employment and thereby to further their integration or reintegration into society.
- ★ Each State undertakes to formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons, in accordance with national conditions, practice and possibilities.
- ★ This policy must aim at:
 - ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons; and
 - promoting employment opportunities for disabled persons in the open labour market.
- ★ The policy has to be based on the following principles:
 - equal opportunity between disabled workers and workers generally (special positive measures aimed at effective equality of opportunity and treatment between disabled workers and

other workers must not be regarded as discriminating against other workers);

- ➔ equality of opportunity and treatment for disabled men and women workers.
- ★ The representative organizations of employers and workers, and the representative organizations of and for disabled persons, have to be consulted on the implementation of this policy.
- ★ The competent authorities have to provide and evaluate vocational guidance, vocational training, placement and employment services for disabled persons; existing services for workers generally must, wherever possible and appropriate, be used with necessary adaptations.
- ★ States parties to the Convention have to take measures to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.
- ★ They also have to ensure the training and availability to disabled workers of rehabilitation counsellors and other suitably qualified staff.

RECOMMENDATION No. 168

Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983

- In providing vocational rehabilitation and employment services for disabled persons, existing services for workers generally should, wherever possible, be used with any necessary adaptations.
- In promoting employment opportunities for disabled persons, measures should be taken which conform to the employment and salary standards applicable to workers generally.
- Vocational rehabilitation services in both urban and rural areas and in remote communities should be organized and operated with the fullest possible community participation, in particular with that of the representatives of employers', workers' and disabled persons' organizations. Disabled persons in rural areas and in remote communities should be provided with vocational rehabilitation services at the same level and on the same terms as those provided for urban areas.

- The training, qualifications and remuneration of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons with similar responsibilities engaged in general vocational training. These persons should also have specific knowledge.
- Employers' and workers' organizations should take measures to contribute to the development of vocational rehabilitation services, including through the adoption of a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers. Measures should also be taken to encourage the involvement of disabled persons and their organizations in the development of these services.
- Social security schemes should provide or contribute to the development of training, placement and employment programmes and vocational rehabilitation services for disabled persons. They should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.
- Measures should be taken to ensure, as far as practicable, that policies and programmes concerning vocational rehabilitation are coordinated with policies and programmes of social and economic development.



RECOMMENDATION No. 99

Vocational Rehabilitation (Disabled) Recommendation, 1955

Vocational rehabilitation: that part of the continuous and coordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement, designed to enable a disabled person to secure and retain suitable employment.

- Recommendation No. 99 is based on the idea that the rehabilitation of disabled persons is essential so that they can be restored to the fullest possible physical, mental, social, vocational and economic usefulness of which they are capable.
- Vocational rehabilitation services for disabled children and young persons of school age should be organized and developed in close cooperation between the authorities responsible for education and those responsible for vocational rehabilitation.
- The education, vocational guidance, training and placement of disabled children and young persons should be developed within the general framework of such services to non-disabled children and young

persons, and should be conducted, wherever possible and desirable, under the same conditions as, and in company with, non-disabled children and young persons. Special provision should be made for those disabled children and young persons whose disabilities prevent their participation in such services under the same conditions as, and in company with, non-disabled children and young persons.

- Vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively. The main objectives of this progressive development should be to: demonstrate and develop the working qualities of disabled persons; promote, in the fullest possible measure, suitable employment opportunities for them; and overcome, in respect of training or employment, discrimination on account of their disability.
- Vocational rehabilitation services should be made available to all disabled persons, whatever the origin and nature of their disability and whatever their age, provided they can be prepared for, and have reasonable prospects of securing and retaining, suitable employment.
- All necessary and practicable measures should be taken to establish or develop specialized vocational guidance services for disabled persons who require them.
- Wherever possible, disabled persons should receive training with and under the same conditions as non-disabled persons. Wherever possible, this training should enable them to carry on an economic activity in which they can use their vocational qualifications or aptitudes in the light of employment prospects.
- Employers should be encouraged to provide training for disabled persons, including such measures as financial, technical, medical or vocational assistance.
- States should take measures for the effective placement of disabled persons.
- The Recommendation calls for observance of certain rules relating to the administrative organization of vocational rehabilitation services. It also for calls for the closest cooperation between, and the maximum coordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons. In addition, it enumerates measures to facilitate the use of these services by disabled persons, including information and the provision of financial assistance.
- Disabled persons should not, as a result of their disability, be discriminated against in respect of wages and other conditions of employment if their work is of equal value to that of non-disabled persons.

- Measures should be taken, in close cooperation with employers' and workers' organizations, to promote maximum opportunities for disabled persons to secure and retain suitable employment.
- The competent authorities should also take measures, in cooperation, as appropriate, with private organizations, to organize and develop arrangements for training and employment under sheltered conditions for those disabled persons who cannot be made fit for ordinary competitive employment.



RECOMMENDATION No. 198

Employment Relationship Recommendation, 2006

The Recommendation provides Members with guidelines on deciding whether an employment relationship exists when the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or when inadequacies or gaps exist in the legal framework, its interpretation or its application.

I. NATIONAL POLICY OF PROTECTION FOR WORKERS IN AN EMPLOYMENT RELATIONSHIP

Members should formulate and apply a *national policy* of reviewing relevant laws and regulations at appropriate intervals and, if necessary, clarify them and adapt their scope, in order to guarantee effective protection for people who perform work in the context of an employment relationship.

The nature and extent of that protection should be determined by national law or practice, or both. It should draw on the relevant international labour standards in a clear and adequate manner.

The national policy should:

- be formulated and implemented in consultation with the most representative organizations of employers and workers;
- at least include measures to:
 - ➔ provide guidance for the parties concerned on effectively establishing the existence of an employment relationship and on distinguishing between employed and self-employed workers;
 - ➔ combat hidden employment relationships, i.e. those in which an employer treats an employee as though he or she were not one, in a way that disguises his or her legal status;

- adopt standards which apply to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have due protection, and which stipulate who is responsible for providing that protection;
- give those involved, especially employers and workers, effective access to swift, cheap, fair and effective procedures and mechanisms for settling disputes over the existence and terms of an employment relationship;
- ensure the observance and effective implementation of legislation on the employment relationship;
- provide for appropriate, adequate training in the relevant international labour standards, comparative law and case law for the judiciary, arbitrators, mediators, labour inspectors and other people responsible for settling disputes and enforcing national employment laws and standards.

Moreover, it should specifically seek:

- to offer effective protection to workers especially affected by uncertainty over the existence of an employment relationship: women workers, the most vulnerable workers, young workers, older workers, workers in the informal economy, migrant workers and workers with disabilities;
- to deal with the gender dimension, because women workers predominate in certain occupations and sectors with a high proportion of disguised employment relationships or a lack of clarity in employment relationships;
- to establish clear policies on gender equality and enforce the relevant laws and agreements at national level better.

Regarding transnational movement of workers:

- Members should consider adopting appropriate measures within their jurisdiction, where appropriate in conjunction with other Members, that effectively protect and prevent abuse of migrant workers in their territory who may be affected by uncertainty over the existence of an employment relationship;
- when workers are recruited in one country for work in another, the Members concerned may make bilateral agreements to prevent abuses and fraudulent practices designed to evade existing arrangements to protect workers in an employment relationship.

The national policy should not interfere with true civil and commercial relationships, and should ensure that individuals in an employment relationship have the protection due to them.

II. DETERMINING WHETHER AN EMPLOYMENT RELATIONSHIP EXISTS

For the purposes of the national policy, the *existence* or otherwise of an employment relationship should be determined 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, agreed between the parties.

To make it easier to determine whether an employment relationship exists, Members should:

- promote methods for guiding workers and employers on how to do so;
- within the framework of the policy, think about:
 - ➔ allowing a broad range of ways to determine whether an employment relationship exists;
 - ➔ having a legal presumption that an employment relationship exists where one or more indicators is present; and
 - ➔ after consultations with the most representative organizations of employers and workers, determining that workers with certain characteristics, in general or in a particular sector, must be deemed to be either employed or self-employed;
- consider clearly defining the conditions that determine the existence of an employment relationship, for example subordination or dependence;
- consider defining in their legislation, or by other means, specific indicators of the existence of an employment relationship, in terms of the way the work is carried out and in terms of remuneration.

Sample indicators

(a) **work** carried out according to the instructions and under the control of another party; involving the integration of the worker into the organization of the enterprise; performed solely or mainly for the benefit of another person; carried out personally by the worker, within specific working hours or at a workplace specified or agreed by the party requesting the work; of a specific duration and continuity; requiring the worker's availability; involving the provision of tools, materials and machinery by the party requesting the work

(b) periodic **remuneration** of the worker; such remuneration being the worker's sole or principal source of income; 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 by the worker to do the work; absence of financial risk for the worker.

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.

Measures should be adopted that ensure observation and implementation of legislation on the various aspects of the employment relationship covered by the Recommendation, for example through labour inspection services in conjunction with social security officials and the tax authorities.

National labour administrations and their associated services should regularly monitor their employment relationship enforcement programmes and processes, paying special attention to occupations and sectors with a high proportion of women workers.

Effective measures should be taken to remove incentives to disguise an employment relationship.

Collective bargaining and social dialogue should be promoted as one means of finding solutions to questions concerning the scope of the employment relationship at the national level.

III. MONITORING AND IMPLEMENTATION

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.

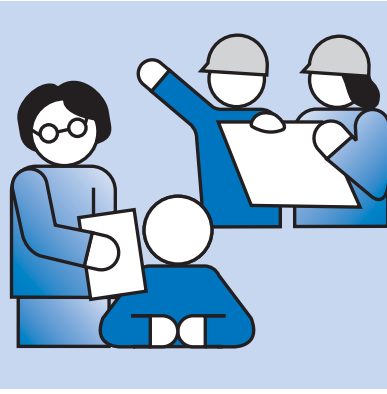
Within this mechanism, the most representative organizations of employers and of workers should be represented on an equal footing, and should be consulted as often as necessary and, wherever possible and useful, on the basis of expert reports or technical studies.

As far as possible, Members should 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.

Members should also establish *specific national mechanisms* to ensure that employment relationships can be effectively identified within the framework of the transnational provision of services, and to ensure systematic contact and exchange of information on the subject with other States.

IV. FINAL PARAGRAPH

23. The Recommendation *does not revise* the Private Employment Agencies Recommendation, 1997 (No. 188), *nor can it revise* the Private Employment Agencies Convention, 1997 (No. 181).



Convention No. 142

**Human Resources Development Convention, 1975**

- ★ Each State which ratifies the Convention has to adopt and develop policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.
- ★ These policies and programmes must:
 - ➔ take account of employment needs, opportunities and problems, the level of development of the country and its other economic, social and cultural objectives;
 - ➔ be pursued by methods that are appropriate to national conditions;
 - ➔ enable all persons, without discrimination, to develop and use their capabilities for work in accordance with their own aspirations, account being taken of the needs of society;
 - ➔ be formulated and implemented in cooperation with employers' and workers' organizations and, as appropriate, with other interested bodies.
- ★ For this purpose, each State party to the Convention has to:
 - ➔ establish and develop systems of general, technical and vocational education, educational and vocational guidance and vocational training;
 - ➔ gradually extend its systems of vocational guidance and employment information, including appropriate programmes for disabled persons; and
 - ➔ gradually extend, adapt and harmonize 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 at all levels of skill and responsibility.



RECOMMENDATION No. 195

Human Resources Development Recommendation, 2004

- The Recommendation contains guidance for Members on how to formulate, apply and review national human resources development, education, training and lifelong learning policies which are consistent with economic, fiscal and social policies, as part of an approach based on social dialogue.

Lifelong learning encompasses all learning activities undertaken throughout life to develop competencies and qualifications.

Competencies covers the knowledge, skills and know-how mastered and applied in a specific context.

Qualification means a formal acknowledgement of the vocational or professional abilities of a worker which is recognized at international, national or sectoral levels.

Employability means having portable competencies and qualifications that enhance an individual's capacity to make use of education and training opportunities to secure and retain decent work, to progress within an enterprise and between jobs, and to cope with changing technology and labour market conditions.

- Members should identify human resources development policies which:
 - form part of a range of measures designed to create decent jobs and to achieve sustainable economic and social development;
 - give equal consideration to economic and social objectives and emphasize sustainable economic development in the context of a globalizing economy;
 - stress the importance of innovation, competitiveness and productivity;
 - address the challenge of transforming activities in the informal sector into decent work that is fully integrated into mainstream economic life;
 - promote and sustain public and private investment in the infrastructure needed to use information and communication technology in education and training;
 - reduce inequality in participation in education and training.

- Members should recognize that education and training are a right for all, and that lifelong learning should be based on explicit commitments: by governments, to invest in creating conditions that enhance education and training at all levels; by enterprises, to train their employees; and by individuals, to develop their competencies and careers.
- The Recommendation lists a range of measures and issues that should be considered when designing a national strategy. These measures cover the following areas:
 - design and implementation of education and training policies;
 - education and pre-employment training;
 - development of competencies;
 - training for decent work and social inclusion;
 - a framework for recognition and certification of skills;
 - training providers;
 - career guidance and training support;
 - research on human resources development, education, training and lifelong learning;
 - international and technical cooperation.



Convention No. 140

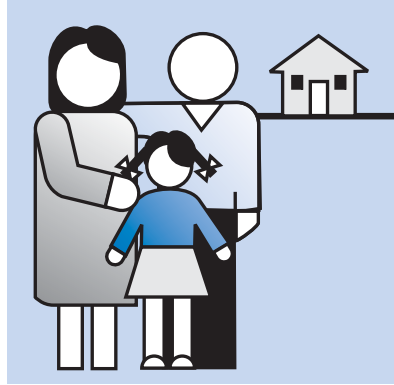
Paid Educational Leave Convention, 1974

Paid educational leave: leave granted to a worker for educational purposes for a specified period during working hours, with adequate financial entitlements.

- ★ The objective of Convention No. 140 is the promotion of continuing education and training of workers.
- ★ Each State which ratifies the Convention has to formulate and apply a policy designed to promote the granting of paid educational leave for the purpose of:
 - ➔ training at any level;
 - ➔ general, social and civic education;
 - ➔ trade union education.

However, the conditions of eligibility for paid educational leave may vary when such leave is intended for each of the above purposes.

- ★ The policy has to:
 - ➔ take account of the stage of development and needs of the country;
 - ➔ be coordinated with general policies concerning employment, education, training and hours of work;
 - ➔ be formulated and applied in association with employers' and workers' organizations and institutions providing training.
- ★ Such leave must not be denied to workers on the ground of their race, colour, sex, religion, political opinion, national extraction or social origin.
- ★ A period of paid educational leave must be assimilated to a period of effective service for the purpose of establishing claims to social benefits and other rights deriving from the employment relation.



Convention No. 117

Social Policy (Basic Aims and Standards) Convention, 1962

- ★ Convention No. 117 revises social policy (Non-Metropolitan Territories) Convention (No. 82) 1947, primarily with a view to making its continued application and ratification possible for independent States.
- ★ It requires that all policies must be primarily directed to the well-being and development of the population. Furthermore, all policies of more general application must be formulated with due regard to their effect upon the well-being of the population.

Improvement of standards of living

- ★ The improvement of standards of living must be the principal objective in the planning of economic development.
- ★ For this purpose, the planning of economic development has to be harmonized with the healthy evolution of the communities concerned and, in particular, efforts have to be made to avoid the disruption of family life and of traditional social units.
- ★ The Convention also enumerates measures to be adopted for the improvement of standards of living of agricultural producers.
- ★ Finally, measures have to be taken to secure minimum standards of living for independent producers and wage earners, account being taken of their essential family needs, including food, housing, clothing, medical care and education.

Migrant workers

- ★ The terms and conditions of employment of migrant workers have to take account of their normal family needs.
- ★ The transfer of part of the workers' wages and savings from the area of labour utilization to the area of labour supply has to be encouraged.

- ★ Whenever necessary, the competent authorities of the countries concerned have to enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the Convention.
- ★ These agreements must ensure that migrant workers enjoy protection and advantages not less than those enjoyed by workers resident in the area of labour utilization.

Remuneration of workers

- ★ The fixing of minimum wages by collective agreements freely negotiated between trade unions and employers or employers' organizations has to be encouraged.
- ★ Where this is not possible, minimum rates of wages have to be fixed in consultation with representatives of the employers and workers.
- ★ Measures have to be taken to ensure the proper payment of wages and that they are not paid at less than these minimum rates.
- ★ Wages must normally be paid in legal tender, regularly and directly to the worker.
- ★ Employers are required to keep registers of wage payments and to issue to workers statements of such payments. Furthermore, all practicable measures have to be taken to inform the workers of their wage rights and to prevent any unauthorized deductions from wages.

The principle of non-discrimination

- ★ It must be the aim of social policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of:
 - ➔ labour legislation and agreements (which have to afford equitable economic treatment to all those lawfully resident or working in the country);
 - ➔ admission to public or private employment;
 - ➔ conditions of engagement and promotion;
 - ➔ opportunities for vocational training;
 - ➔ conditions of work;
 - ➔ health, safety and welfare measures;
 - ➔ discipline;

- ➔ participation in the negotiation of collective agreements;
- ➔ wage rates (which have to be fixed according to the principle of “equal pay for work of equal value”).

- ★ These provisions are without prejudice to such measures as the competent authority may take for the safeguarding of motherhood and for ensuring the health, safety and welfare of women workers.

Education and vocational training

- ★ To the maximum extent possible under local conditions, broad systems of education, vocational training and apprenticeship must be progressively developed with a view to the preparation of children and young persons of both sexes for a useful occupation.
- ★ National laws or regulations must prescribe:
 - ➔ the school leaving age;
 - ➔ the minimum age for admission to employment; and
 - ➔ conditions of employment.

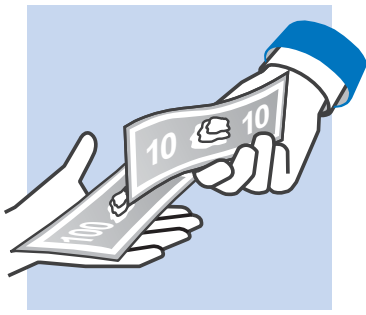


RECOMMENDATION No. 115

Workers' Housing Recommendation, 1961

- It should be an objective of the national housing policy to:
 - ➔ promote the construction of housing;
 - ➔ ensure the upkeep, improvement and modernization of housing;
 - ➔ ensure that adequate and decent accommodation does not cost the worker more than a reasonable proportion of her or his income.
- The competent national authorities should set up a central body with responsibility for assessing housing needs and formulating housing programmes in conformity with sound town, country and regional planning practice and in association with representative employers' and workers' organizations, as well as other organizations concerned.
- It should be recognized that it is generally not desirable that employers should provide housing for their workers directly, except when so required by the circumstances, for example when an enterprise is located at a long distance from normal centres of population or where the nature of the employment requires that the worker should be available at short notice.

- In cases where housing is provided by the employer, the fundamental human rights of the workers, in particular freedom of association, should be recognized.
- In addition, national law and custom should be fully respected on termination of the contract of employment where termination of the lease or occupancy of such housing is required at the same time.
- Rents should not be more than a reasonable proportion of the income of workers, and in any case should not include a speculative profit.
- The provision by employers of accommodation and communal services in payment for work should be prohibited or regulated to the extent necessary to protect the interests of the workers.
- The Recommendation also contains detailed suggestions concerning methods of application of its provisions.



Convention No. 94



Labour Clauses (Public Contracts) Convention, 1949

- ★ The objective of Convention No. 94 is to ensure respect for minimum labour standards in the execution of public contracts.

Public contracts: contracts to which one at least of the parties is a central public authority, the execution of which involves the expenditure of public funds and the employment of workers by the other party to the contract and which is concluded for:

- the construction, alteration, repair or demolition of public works;
- the manufacture, assembly, handling or shipment of materials, supplies or equipment; or
- the performance or supply of services.

- ★ The Convention also applies to work carried out by subcontractors and contracts awarded by authorities other than the central authorities under conditions to be determined by the competent authority.
- ★ It does not cover contracts relating to the conditions of labour of public officials or Government employees.
- ★ Furthermore, a State may, after consultation with the organizations of employers and workers concerned, exclude from the application of the Convention:
 - ➔ contracts involving the expenditure of public funds of an amount not exceeding a certain limit;
 - ➔ persons occupying positions of management or of a technical, professional or scientific character and who do not ordinarily perform manual work.
- ★ Public contracts have to include clauses ensuring to the workers concerned wages, hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the same district:
 - ➔ by collective agreement;

- by arbitration award; or
- by national laws or regulations.
- ★ The terms of the clauses to be included in contracts have to be determined by the competent authority, in the manner considered most appropriate to the national conditions, after consultation with the organizations of employers and workers concerned.
- ★ Appropriate measures have to be taken, by advertising specifications or otherwise, to ensure that persons tendering for contracts are aware of the terms of the clauses.
- ★ The competent authority has to take adequate measures to ensure fair and reasonable conditions of health, safety and welfare for these workers where appropriate provisions relating to these matters are not applicable in virtue of national laws or regulations, collective agreement or arbitration award.
- ★ The Convention also provides for measures to give effect to its provisions, including:
 - the publication of the measures to give it effect;
 - the maintenance of a system of inspection;
 - the application of adequate sanctions for failure to observe and apply the provisions of labour clauses in public contracts;
 - measures to enable the workers concerned to obtain the wages to which they are entitled, for example by the withholding of payments due to the employer under the contract.



RECOMMENDATION No. 84

Labour Clauses (Public Contracts) Recommendation, 1949

- The Recommendation indicates that labour clauses in public contracts should prescribe:
 - ➔ the normal and overtime rate of wages to be paid to the various categories of workers;
 - ➔ the manner in which hours of work are to be regulated;
 - ➔ holiday and sick leave provisions.
- It also provides that, in cases where private employers are granted subsidies or are licensed to operate a public utility, provisions substantially similar to those of the labour clauses in public contracts should be applied.



Protection of Wages Convention, 1949

- ★ The objective of Convention No. 95 is to guarantee the payment of wages in full and in a timely manner.

Wages: remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.

- ★ The Convention applies to all persons to whom wages are paid or payable. Although the competent national authority may, after consultation with the organizations of employers and employed persons, exclude from the application of all or any of the provisions of the Convention, categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are:
 - ➔ not employed in manual labour; or
 - ➔ are employed in domestic service.
- ★ Workers have to be informed of the conditions in respect of wages under which they are employed and the particulars of their wages in so far as they may be subject to change.
- ★ Wages payable in money have to be paid only in legal tender. However, the competent authority may permit their payment by cheque in certain circumstances. Furthermore, the payment of wages when made in cash has to be on working days only and in principle at or near the workplace, but never in taverns.
- ★ The partial payment of wages in the form of allowances in kind may be authorized under the following conditions:
 - ➔ it is customary or desirable in the industry or occupation concerned;
 - ➔ they are in no case paid in the form of liquor of high alcoholic content or of noxious drugs;
 - ➔ they are appropriate for the personal use and benefit of the worker and her or his family;

- the value attributed to such allowances is fair and reasonable.
- ★ Wages have to be paid regularly. Upon the termination of a contract of employment, a final settlement of all wages due has to be made within a reasonable period of time.
- ★ Wages normally have to be paid directly to the worker, and employers may not limit in any manner the freedom of the workers to dispose of their wages.
- ★ Workers must be free from any coercion to make use of works stores. Where they do not have access to other stores, works stores must not be operated for the purpose of securing a profit for the employer, but for the benefit of the workers concerned.
- ★ Deductions from wages may be permitted only under conditions and to the extent prescribed by national laws or regulations, or fixed by collective agreement or arbitration award, and must not be made for the purpose of obtaining or retaining employment.
- ★ Wages may only be attached or assigned in a manner and within limits prescribed by national laws or regulations, and must be protected to the extent deemed necessary for the maintenance of the worker and her or his family.
- ★ In the event of the bankruptcy or judicial liquidation of an enterprise, the workers concerned must be treated as privileged creditors as regards:
 - the wages due for service rendered during such period prior to the bankruptcy or judicial liquidation as may be prescribed by national laws or regulations; or
 - wages up to a prescribed amount as may be determined by national laws or regulations.
- ★ The relative priority of wages constituting a privileged debt has to be determined by national laws or regulations.
- ★ The laws or regulations giving effect to the provisions of the Convention must:
 - be made available for the information of persons concerned;
 - define the persons responsible for compliance therewith; and
 - prescribe adequate penalties for any violation thereof.

RECOMMENDATION No. 85

Protection of Wages Recommendation, 1949

- The Recommendation provides for the adoption of measures to limit deductions from wages, and particularly those made for the reimbursement of loss of or damage to the products, goods or installations of the employer.
- It also contains provisions on the maximum intervals for the payment of wages.
- It enumerates the information which should be brought to the knowledge of the workers concerning wage conditions before they are assigned to employment and with each payment of wages.
- Finally, it calls for the adoption of appropriate measures to encourage the association of representatives of the workers concerned in the general administration of works stores.

Convention No. 173

Protection of Workers' Claims (Employer's Insolvency) Convention, 1992

Insolvency: situations in which, in accordance with national law and practice, proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of its creditors.

For the purposes of the Convention, a State may extend this term to other situations in which workers' claims cannot be paid by reason of the financial situation of the employer, for example where the amount of the employer's assets is recognized as being insufficient to justify the opening of insolvency proceedings.

- ★ In principle, the Convention applies to all employees and to all branches of economic activity. However, the competent authority, after consulting the organizations of employers and workers, may exclude from its provisions specific categories of workers, in particular public employees, by reason of the particular nature of their employment relationship, or if there are other types of guarantee affording them protection equivalent to that provided by the Convention.

- ★ In the event of an employer's insolvency, workers' claims arising out of their employment have to be protected:
 - either by means of a privilege, so that they are paid out of the assets of the insolvent employer before non-privileged creditors (Part II of the Convention);
 - or by a guarantee institution (Part III).
- ★ A State which ratifies the Convention has to indicate whether it accepts the obligations of Part II, Part III or of both Parts. A State which has initially accepted the obligations for only one of these Parts may at any time extend its acceptance to the other Part of the Convention.
- ★ Protected claims have to cover at least workers' claims for:
 - wages relating to prescribed period prior to the insolvency or to the termination of the employment;
 - holiday pay;
 - amounts due in respect of other types of paid absence;
 - severance pay due to workers upon termination of their employment.
- ★ A State may limit the claims protected to a prescribed amount, which must not be below a socially acceptable level and has to be adjusted as necessary so as to maintain its value.
- ★ In the case of protection by means of a privilege, national laws or regulations have to give workers' claims a higher rank of privilege than most other privileged claims, and in particular those of the State of the social security system. However, where such claims are also protected by a guarantee institution, they may be given a lower rank of privilege than those of the State and the social security system.
- ★ In the case of protection by a guarantee institution, its organization, management, operation and financing have to be determined by the public authorities.

**Protection of Workers' Claims (Employer's Insolvency)
Recommendation, 1992**

- The Recommendation extends the list of claims which should be protected by a privilege or a guarantee institution, as appropriate, to include:
 - bonuses due;
 - payments due in lieu of notice of termination of employment;
 - compensation for unfair dismissal;
 - compensation payable directly by the employer in respect of occupational accidents and diseases.
- It also provides for the establishment of a procedure for accelerated payment of workers' claims.
- In cases where protection is afforded by means of a privilege and the enterprise concerned is authorized to continue its activities, workers' claims arising out of work performed as from that date should not be subject to the insolvency proceedings and should be paid out of the funds available as and when they fall due.
- The Recommendation enumerates the principles upon which guarantee institutions should operate, including:
 - administrative, financial and legal independence from the employer;
 - the contribution of employers to their financing, unless this is fully covered by the public authorities;
 - the assumption of their obligations vis-à-vis protected workers irrespective of whether any obligation the employer may have of contributing to their financing has been met;
 - the assumption of a subsidiary responsibility for the liabilities of insolvent employers and, by way of subrogation, the capacity to act in place of the workers concerned;
 - the prohibition of the use of the funds managed by these institutions, other than those from general revenues, for purposes other than those for which they were collected.
- Finally, workers or their representatives should receive timely information and be consulted with regard to insolvency proceedings which have been opened and to which the workers' claims pertain.



Convention No. 131

Minimum Wage Fixing Convention, 1970

Minimum wage: minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his/her family, in the light of national economic and social conditions.

- ★ Each State which ratifies the Convention has to:
 - ➔ establish a system of minimum wages which covers all groups of wage earners for whom coverage would be appropriate;
 - ➔ create, maintain or modify machinery for the fixing and adjustment of minimum wages with the direct participation and in full consultation with organizations of employers and workers for these groups of wage earners.
- ★ The groups of wage earners to be covered are to be determined by the competent authority in each country, in agreement or after full consultation with organizations of employers and workers.
- ★ Once they have been fixed, minimum must have the force of law and failure to apply them must be sanctioned by appropriate penalties.
- ★ The elements to be taken into consideration in determining the level of minimum wages have to, so far as possible and appropriate, include:
 - ➔ the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups;
 - ➔ economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.
- ★ Finally, appropriate measures, such as adequate inspection, have to be taken to ensure the effective application of all provisions relating to minimum wages.

**Minimum Wage Fixing Recommendation, 1970**

- Minimum wage fixing should constitute one element in a policy designed to overcome poverty and to ensure the satisfaction of the needs of all workers and their families. Its fundamental purpose should be to give wage earners necessary social protection as regards wages.
- The Recommendation calls for the number and groups of wage earners who are not covered by Convention No. 131 to be kept to a minimum.
- Consultation of employers' and workers' organizations should normally cover:
 - the selection and application of the criteria for determining the level of minimum wages;
 - the rate or rates of minimum wages to be fixed;
 - the adjustment from time to time of the rate or rates of minimum wages;
 - problems encountered in the enforcement of minimum wage legislation;
 - the collection of data and the carrying out of studies for the information of minimum wage fixing authorities.
- Minimum wage rates should be adjusted from time to time to take account of changes in the cost of living and other economic conditions.
- The Recommendation enumerates a number of measures to ensure the effective application of provisions relating to minimum wages, including:
 - the employment of inspectors;
 - adequate penalties for infringement of the provisions relating to minimum wages;
 - simplification of legal provisions and procedures to enable workers effectively to exercise their rights;
 - the association of employers' and workers' organizations in efforts to protect workers against abuses;
 - adequate protection of workers against victimization.



1. Hours of work and paid leave

RECOMMENDATION No. 116

Reduction of Hours of Work Recommendation, 1962

- The Recommendation does not apply to the following branches of economic activity: agriculture, maritime transport and maritime fishing for which special provisions should be formulated.
- Each State should promote and, where possible, ensure the application of the principle of the progressive reduction of normal hours of work with a view to attaining the 40 hour week, without any reduction in the wages of workers.
- Where the duration of the normal working week exceeds 48 hours, immediate steps should be taken to bring it down to this level, without any reduction in the wages of the workers.
- The measures adopted for this purpose should take into account:
 - ➔ the level of economic development attained and the extent to which the country is in a position to bring about a reduction in hours of work without reducing total production or productivity, or endangering its economic growth;
 - ➔ the progress achieved and which it is possible to achieve in raising productivity by the application of modern technology;
 - ➔ the need in the case of countries still in the process of development for improving the standards of living of their peoples; and
 - ➔ the preferences of employers' and workers' organizations in the different branches of activity concerned as to the manner in which the reduction in working hours might be brought about.
- In carrying out these measures, priority should be given to industries and occupations which involve a particularly heavy physical or mental strain, or health risks for the workers concerned.
- The Recommendation also contains detailed provisions on the methods of application of the principle of the reduction of hours of work, including the calculation of normal hours of work as an average over a period longer than one week, processes which have to be carried on continuously by a succession of shifts, possible exceptions and overtime, including the rates of remuneration for overtime work.

- Generally speaking, the competent authority should systematically consult the most representative organizations of employers and workers on questions relating to the application of the Recommendation.
- Appropriate measures should be taken to:
 - ➔ ensure the effective enforcement of the provisions concerning hours of work by means of adequate inspection or otherwise;
 - ➔ provide for appropriate sanctions for violations of the provisions giving effect to the Recommendation.
- Employers should be required to notify the workers concerned of relevant information concerning hours of work, rest periods and wages.



Convention No. 14

Weekly Rest (Industry) Convention, 1921

- ★ Workers employed in any industrial enterprise (undertaking), public or private, must benefit in every period of seven days from a period of rest comprising at least 24 consecutive hours.
- ★ This period of weekly rest, wherever possible, has to:
 - ➔ be granted simultaneously to the whole of the staff of each enterprise;
 - ➔ coincide with the days already established by the traditions or customs of the country or district.
- ★ However, a State may:
 - ➔ except from this rule persons employed in industrial enterprises in which only the members of one single family are employed;
 - ➔ authorize total or partial exceptions (including suspensions or diminutions), special regard being had to all proper humanitarian and economic considerations, and after consultation of associations of employers and workers.
- ★ Where a State authorizes suspensions or diminutions of weekly rest, it must make provision for compensatory periods of rest, as far as possible.
- ★ Employers are under the obligation to:
 - ➔ make known to the staff the days and hours of weekly rest by means of notices posted in the establishment, where rest is granted collectively; and

- ➔ draw up a roster of special systems of rest in other cases.

Convention No. 106



Weekly Rest (Commerce and Offices) Convention, 1957

- ★ The Convention applies to all persons, including apprentices, employed in the following establishments, whether public or private:
 - ➔ trading establishments;
 - ➔ establishments, institutions and administrative services in which the persons employed are mainly engaged in office work;
 - ➔ other similar services or establishments of a mixed commercial and industrial nature, in so far as they are not subject to national regulations concerning weekly rest in industry, mines, transport or agriculture.
- ★ It also applies to other types of establishments, such as public entertainment enterprises, specified by a given State in a declaration accompanying its ratification, or communicated subsequently to the ILO.
- ★ The competent authority in each country may exclude from the provisions of the Convention:
 - ➔ establishments in which only members of the employer's family who are not or cannot be considered to be wage earners are employed;
 - ➔ persons holding high managerial positions.
- ★ Workers to whom the Convention applies must be entitled to a weekly rest period comprising not less than 24 hours in the course of each period of seven days.
- ★ This weekly rest period must, whenever possible:
 - ➔ be granted simultaneously to all the persons concerned in each establishment;
 - ➔ coincide with the day of the week established as a day of rest by the traditions or customs of the country or district; and
 - ➔ respect the traditions and customs of religious minorities.
- ★ Where the nature of the work or the service performed, the size of the population to be served, or the number of persons employed is

such that this general rule cannot be applied, the competent authority in each country may apply special weekly rest schemes to specified categories of persons or establishments, regard being paid to all proper social and economic considerations.

- ★ In such cases, the persons concerned must be entitled, in respect of each period of seven days, to an uninterrupted rest period comprising not less than 24 hours.
- ★ Any measures regarding the application of the provisions on special weekly rest schemes have to be taken in consultation with the representative employers' and workers' organizations concerned.
- ★ A State may also grant temporary exemptions, total or partial (including the suspension or reduction of the rest period):
 - in case of accident, force majeure or urgent work to premises and equipment, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment;
 - in the event of abnormal pressure of work due to special circumstances, in so far as the employer cannot ordinarily be expected to resort to other measures; and
 - in order to prevent the loss of perishable goods.

Except in the case of an accident, force majeure or urgent work, consultation of the representative employers' and workers' organizations concerned is required to determine the circumstances in which temporary exemptions may be granted.

- ★ Where temporary exemptions are made, a compensatory rest period of a total duration at least equivalent to 24 consecutive hours in the course of each period of seven days must be granted to the workers concerned.
- ★ In so far as wages are regulated by laws or regulations or subject to the control of the administrative authorities, there must be no reduction of the income of workers as a result of the application of the rules on weekly rest.
- ★ States have to take appropriate measures to ensure the proper administration of provisions concerning weekly rest, by means of adequate inspection or otherwise, supplemented by adequate penalties.

Weekly Rest (Commerce and Offices) Recommendation, 1957

- The weekly rest envisaged by Convention No. 106 should, as far as possible, be raised to not less than 36 hours, wherever practicable in an uninterrupted period.
- Young persons under 18 years of age should, wherever practicable, be granted an uninterrupted weekly rest of two days. Furthermore, exemptions from the rules on weekly rest should not be applied to them.
- The special schemes authorized by Convention No. 106 should ensure:
 - ➔ that the persons concerned do not work for more than three weeks without receiving the rest periods to which they are entitled;
 - ➔ that in any case rest periods comprise not less than 12 hours of uninterrupted rest.
- Employers should notify the staff of any weekly rest period that differs from the period established by national practice.
- Appropriate measures should be taken to ensure the maintenance of the records as may be necessary for the proper administration of weekly rest arrangements and in particular of records of the arrangements made with respect to persons to whom a special weekly rest scheme applies or to whom temporary exemptions apply.
- Measures should be taken to ensure that the application of weekly rest measures does not result in a reduction of the income of the persons concerned, including in cases where the wages are not regulated by laws and regulations or subject to the control of administrative authorities.

Convention No. 132**Holidays with Pay Convention (Revised), 1970**

- ★ The Convention applies to all employed persons, with the exception of seafarers. However, the competent national authorities may, after consultation with the organizations of employers and workers, exclude from its application limited categories of employed persons in respect of whose employment special problems of a substantial nature arise relating to enforcement or to legislative or constitutional matters.

- ★ When ratifying the Convention, a State may accept its obligations separately in respect of employed persons in economic sectors other than agriculture, on the one hand, and in respect of employed persons in agriculture, on the other hand.
- ★ Every person to whom the Convention applies is entitled to an annual paid holiday which shall in no case be less than three working weeks for one year of service.
- ★ A person whose length of service in any year is less than that required for the full entitlement is entitled to a reduced holiday with pay proportionate to the length of service during that year.
- ★ A minimum period of service, which must not exceed six months, and for which the manner of its calculation is determined by the competent authority, may be required for entitlement to any annual holiday with pay.
- ★ The competent authority in each country may authorize the division of the holiday. In such cases, one of the parts must consist of at least two uninterrupted working weeks, unless otherwise provided in an agreement applicable to the employer and the worker.
- ★ The uninterrupted part of the annual holiday must be granted and taken no later than one year, and the remainder of the annual holiday no later than 18 months, from the end of the year in respect of which the holiday entitlement has arisen.
- ★ Any part of the annual holiday which exceeds a stated minimum prescribed at the national level may be postponed, with the consent of the employed person concerned, for a limited period beyond the period of 18 months.
- ★ Absences from work for reasons beyond the control of the employed person (sick leave, etc.) must be counted as part of the period of service, under conditions to be determined by the competent authority.
- ★ The following are not counted as part of the minimum annual holiday with pay of three weeks:
 - public and customary holidays;
 - periods of incapacity for work resulting from sickness or injury, under conditions to be determined by the competent authority in each country.
- ★ Workers taking their annual holiday must receive in advance their normal or average remuneration for the full period of the holiday, unless otherwise provided in an agreement applicable to the employer and the employed person.

- ★ The time at which the holiday is to be taken is in principle to be determined by the employer after consultation with the employed person concerned or her or his representatives, taking into account work requirements and the opportunities for rest and relaxation available to the employed person.
- ★ In the event of termination of employment, an employed person who has completed the minimum period of service prescribed must receive:
 - ➔ a holiday with pay proportionate to the length of service for which that person has not received such a holiday;
 - ➔ compensation in lieu thereof; or
 - ➔ the equivalent holiday credit.
- ★ Any agreement for a worker to relinquish the right to the minimum annual holiday with pay or to forgo the holiday for compensation shall be null and void or be prohibited.
- ★ Special rules may be laid down by the competent authority in each country in respect of cases in which the employed person engages, during the holiday, in a gainful activity conflicting with the purpose of the holiday.
- ★ Effective measures have to be taken to ensure the enforcement of provisions concerning holidays with pay, for example by means of adequate inspection.

Convention No. 175

Part-Time Work Convention, 1994

Part-time worker: an employed person whose normal hours of work are less than those of comparable full-time workers that is to say:

- who has the same type of employment relationship;
- who is engaged in the same or a similar type of work or occupation; and
- who is employed in the same establishment or, when there is no comparable full-time worker, in the same enterprise or, in the same branch of activity.

Full-time workers affected by partial unemployment: full-time workers affected by a collective and temporary reduction in their normal hours of work for economic, technical or structural reasons.

Full-time workers affected by partial unemployment are not considered to be part-time workers.

- ★ The Convention applies to all part-time workers. However, a State 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.
- ★ Measures have to be taken to ensure that part-time workers do not, solely because they work part time, receive a basic which, calculated proportionately on an hourly, performance-related, or price-rate basis, is lower than the basic wage of comparable full-time workers.
- ★ Furthermore, they have to receive the same protection as that accorded to comparable full-time workers in respect of:
 - ➔ the right to organize, the right to bargain collectively and the right to act as workers' representatives;
 - ➔ occupational safety and health;
 - ➔ discrimination in employment and occupation.
- ★ They also have to receive conditions equivalent to those of comparable full-time workers in the fields of:
 - ➔ statutory social security schemes based on occupational activity;
 - ➔ maternity protection;
 - ➔ termination of employment;
 - ➔ paid annual leave and paid public holidays; and
 - ➔ sick leave.

However, pecuniary entitlements may be determined in proportion to hours of work or earnings.
- ★ Furthermore, part-time workers whose hours of work or earnings are below specified thresholds may, after consultation with the most representative organizations of employers and workers, be excluded from these benefits, with the exception of:
 - ➔ employment injury benefits;
 - ➔ maternity protection measures other than those provided under statutory social security schemes.
- ★ These thresholds have to be sufficiently low as not to exclude an unduly large percentage of part-time workers. The Convention also

provides for the periodic review of the thresholds after consultation of the most representative organizations of employers and workers.

- ★ Finally, measures have to be taken to:
 - ➔ facilitate access to productive and freely chosen part-time work; and
 - ➔ ensure that the transfer from full-time to part-time work or vice versa is voluntary.

RECOMMENDATION No. 182

Part-Time Work Recommendation, 1994

- Employers should consult the representative of the workers concerned on the introduction or extension of part-time work on a broad scale, and on the rules and procedures and protective measures applying to such work.
- In general, part-time workers should be informed of their specific conditions of employment.
- Measures should be taken with a view to:
 - ➔ progressively reducing threshold requirements based on earnings or hours of work as a condition for coverage by statutory social security schemes and/or private occupational schemes;
 - ➔ granting to part-time workers minimum or flat-rate benefits, in particular old-age, sickness, invalidity and maternity benefits, as well as family allowances;
 - ➔ accepting that part-time workers whose employment has come to an end and who are seeking only part-time employment meet the condition of availability for work required for the payment of unemployment benefits.
- Part-time workers should benefit on an equitable basis from certain entitlements, including access to the welfare facilities and social services of the establishment concerned and to all forms of leave available to comparable full-time workers.
- The same rules should apply to part-time workers as to comparable full-time workers with respect to the scheduling of annual leave and work on customary rest days and public holidays.
- The number and scheduling of hours of work of part-time workers should be established taking into account their interests as well as the needs of the establishment.

- Measures should be taken to overcome specific constraints on the access of part-time workers to training, career opportunities and occupational mobility.
- Measures should be considered by employers to facilitate access to part-time work at all levels of the enterprise.
- Employers should give consideration to requests by workers for transfer from full-time to part-time work that becomes available in the enterprise and vice versa.

Convention No. 153

Hours of Work and Rest Periods (Road Transport) Convention, 1979

Hours of work: time spent by wage-earning drivers on:

- driving and other work during the running time of the vehicle;
- subsidiary work in connection with the vehicle, its passengers or its load.

Other periods of mere attendance or stand-by, either on the vehicle or at the workplace and during which the drivers are not free to dispose of their time as they please, may be regarded as hours of work to an extent to be prescribed in each country by the competent authority.

- ★ The Convention applies to wage-earning drivers working on motor vehicles engaged professionally in the transport by road of goods or passengers.
- ★ However, the competent authority in each country may exclude from the application of the provisions of the Convention, or certain of them, persons who drive vehicles engaged in certain types of transport, such as urban transport, fire-fighting vehicles or ambulances, police cars and taxis. These authorities have to lay down adequate standards concerning driving time and rest periods of drivers who are thus excluded.
- ★ In general, the competent authority in each country has to consult organizations of employers and workers before decisions are taken on any matters covered by the provisions of the Convention.
- ★ Every wage-earning driver is entitled to a break after:
 - a continuous period of five hours of work;

- ➔ a continuous period of driving of a maximum of four hours (in this case, the break is compulsory).
- ★ With regard to the period of driving following which a break is compulsory, the competent authority in each country:
 - ➔ may authorize the period to be exceeded by not more than one hour, taking into account particular national conditions;
 - ➔ has to determine the length of the envisaged break;
 - ➔ may specify cases in which the rule is inapplicable because drivers have sufficient breaks.
- ★ The maximum total driving time, including overtime, must not exceed nine hours per day, or 48 hours per week. Total driving times may be calculated as an average over a number of days of weeks to be determined by the competent authority in each country.
- ★ These total driving times have to be reduced in the case of transport activities carried out in particularly difficult conditions.
- ★ The daily rest of drivers must be at least ten consecutive hours during any 24-hour period. It may be calculated as an average over periods to be determined by the competent authority in each country, provided that the daily rest is in no case less than eight hours and is not reduced to eight hours more than twice a week.
- ★ The competent authority in each country may permit temporary exceptions, but only in so far as may be necessary, from the rules respecting driving time, continuous working time and the duration of daily rest periods in case of:
 - ➔ accident, breakdown, unforeseen delay, dislocation of service or interruption of traffic;
 - ➔ force majeure; and
 - ➔ urgent and exceptional necessity for ensuring the work of services of public utility.
- ★ Each employer has to keep and place at the disposal of the supervisory authorities a record indicating the hours of work and of rest of every driver employed. The traditional means of supervision must, if this proves to be necessary, be replaced or supplemented as far as possible by recourse to modern methods, such as tachographs.
- ★ The competent authority in each country has to make provision for:
 - ➔ an individual control book to be kept by drivers;

- ➔ a procedure for notification of the hours worked in the context of temporary exceptions;
- ➔ an adequate inspection system, with verification carried out in the enterprise and on the roads; and
- ➔ appropriate penalties in the event of breaches of the requirements.

RECOMMENDATION No. 161

Hours of Work and Rest Periods (Road Transport) Recommendation, 1979

- The scope of the Recommendation includes drivers and drivers' mates, attendants and other comparable persons.
- The Recommendation provides for the possibility of including in the definition of hours of work the time spent by workers on vocational training, when agreed upon between the organizations of employers and workers concerned, to an extent to be prescribed by the competent authority in each country.
- Normal hours of work should not exceed 40 per week. Under certain conditions, this standard may be applied as an average over a maximum period of four weeks.
- Normal hours of work should not exceed eight per day as an average.
- When normal weekly hours of work are unevenly distributed over the various days of the week, the normal hours of work should not exceed ten per day.
- The competent authority in each country should prescribe for the various branches of the road transport industry the maximum number of hours which may separate two successive daily rest periods.
- The total driving times, including overtime, may be calculated as an average over a maximum period of four weeks.
- The daily rest should be at least 11 consecutive hours during any 24-hour period.
- The Recommendation also provides for weekly rest, the minimum duration of which should be 24 consecutive hours, preceded or followed by the daily rest. In long distance transport, weekly rest may be cumulated over two consecutive weeks or over a longer time.
- In addition to the temporary exceptions envisaged by Convention No. 153, the Recommendation provides for the possibility for the competent authority in each country to provide for such exceptions

where these are necessary to enable the crew to reach a suitable stopping place or the end of their journey, provided that road safety is not thereby jeopardized.

- The authority may also grant temporary authorizations for an extension of the normal hours of work in case of abnormal pressure of work. In addition, it should lay down a procedure for authorizing the hours that may be worked in such cases, as well as the number of hours for which the authorization may be granted, according to the nature of the transport operations and the method of calculating the hours of work.
- Hours worked in excess of normal hours of work should be considered as overtime and, as such, remunerated at a higher rate or otherwise compensated.
- The provisions of the Recommendation which have a direct bearing on road safety should preferably be applied by laws or regulations.

2. Night work



Convention No. 171

Night Work Convention, 1990

- ★ The Convention applies to all employed persons except those employed in agriculture, stock raising, fishing, maritime transport and inland navigation.
- ★ A State may also, after consulting the representative organizations 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.

Night work: all work which is performed during a period of not less than seven consecutive hours, including the interval from midnight to 5 a.m.

Night worker: employed person whose work requires the performance of a substantial number of hours of night work which exceeds a specified limit.

These two elements (the period and the specified limit) have to be determined by the competent authority after consulting the most representative organizations of employers and workers, or by collective agreements.

- ★ Specific measures required by the nature of night work have to be taken for night workers. They may be applied progressively.
- ★ These measures must have the objectives of:
 - ➔ protecting their health;
 - ➔ assisting them to meet their family and social responsibilities;
 - ➔ providing opportunities for occupational advancement;
 - ➔ compensating them appropriately;
 - ➔ ensuring safety; and
 - ➔ protecting maternity.

- ★ They have to include:
 - ➔ a health assessment without charge and preventive advice for night workers at their request;
 - ➔ suitable first-aid facilities;
 - ➔ recognition of the nature of night work in the compensation accorded to these workers in the form of working time, pay or similar benefits;
 - ➔ appropriate social services.
- ★ Furthermore, the Convention requires that, before introducing night work schedules, the employer has to consult the workers' representatives concerned on the implementation of such schedules.
- ★ Moreover, specific measures have to be taken to ensure that a night workers certified as temporarily unfit for night work for reasons of health:
 - ➔ are given the same protection against dismissal or notice of dismissal as other workers who are prevented from working for the same reasons;
 - ➔ are transferred, whenever practicable, to a similar job for which they are fit;
 - ➔ are granted the same benefits as other workers who are unable to work or to secure employment where such a transfer is not practicable.
- ★ With regard to the protection of maternity, the Convention provides that an alternative to night work must be available:
 - ➔ before and after childbirth for a period of at least 16 weeks, of which at least 8 weeks must be before the expected date of childbirth;
 - ➔ during pregnancy and during a specified time beyond the above period of 16 weeks upon production of a medical certificate.
- ★ This alternative may include transfer to day work where this is possible, the provision of social security benefits or an extension of maternity leave.
- ★ During these various periods, a women worker may not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth.
- ★ The income of the woman worker has to be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living.

★ She must not lose the benefits regarding status, seniority and access to promotion which may attach to her regular night work position.

★ The above measures must not have the effect of reducing the protection and benefits connected with maternity leave.



RECOMMENDATION No. 178

Night Work Recommendation, 1990

- Normal hours of work for night workers should not exceed eight in any 24-hour period. They should generally be less on average than those of workers performing the same work by day.
- 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.
- The Recommendation also calls for the avoidance of overtime by night workers and the organization of breaks.
- Night workers should benefit, like other workers, from training opportunities including paid educational leave.
- Night work should generally give rise to appropriate financial compensation respecting the principle of equal pay for men and women for the same work, or for work of equal value. This compensation may by agreement be converted into reduced working time.
- The Recommendation contains certain measures respecting the protection of safety and health, including the possibility for employers and workers' representatives to consult the occupational health services.
- It specifies the social services which should be made available to night workers, particularly in relation to travelling between their residence and workplace, the possibility to obtain meals and beverages, the improvement of the quality of rest and the establishment of crèches responding to the specific needs of night workers.
- With regard to maternity protection, women night workers who are pregnant and who so request should be assigned to day work, as far as practicable.
- In general, workers should be given reasonable notice of a requirement to perform night work, except in cases of force majeure or of accident.

- 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.
- Preparations should be made for such transfers by facilitating the training of night workers where necessary for tasks normally performed by day. 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.
- Finally, 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.

Convention No. 89

Night Work (Women) Convention (Revised), 1948

- ★ The Convention prohibits the employment of women, without distinction of age, during the night in any public or private industrial enterprise, other than an enterprise in which only members of the same family are employed.
- ★ However, the Convention does not apply to:
 - ➔ women holding responsible positions of a managerial or technical character; and
 - ➔ women employed in health and welfare services who are not ordinarily engaged in manual work.

Night: a period of at least eleven consecutive hours, including an interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

This interval has to be prescribed by the competent national authority, which is under the obligation to consult employers' and workers' organizations in cases where the interval begins after eleven o'clock in the evening.

- ★ The night period may be reduced:
 - ➔ to ten hours on 60 days of the year in industrial enterprises which are influenced by the seasons and in all cases where exceptional circumstances demand it;

- in countries where the climate renders work by day particularly trying, provided that compensatory rest is accorded during the day.
- ★ The prohibition of night work does not apply:
 - in case of force majeure, when in any enterprises there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;
 - where it is necessary to prevent the loss of raw materials which are subject to rapid deterioration.

Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

- ★ The Protocol broadens the possibilities for exemptions from the prohibition of the night work of women and variations in the duration of the night period, as envisaged in Convention No. 89.
- ★ 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 and exemptions from the prohibition of night work may be introduced by decision of the competent authority:
 - a) in a specific branch of activity or occupation, provided that the representative organisations 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;
 - ii) the representative organisations of the employers and 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 representative organisations 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.

- ★ The Protocol prohibits the application of these variations and exemptions to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks must be before the expected date of childbirth.
- ★ However, this prohibition may be lifted at the express request of the women worker concerned on condition that neither her health nor that of her child will be endangered.
- ★ The application of variations and exemptions is also prohibited during additional periods for which a medical certificate is produced stating that this is necessary for the health of the mother or child:
 - ➡ during pregnancy; or
 - ➡ during a specified time prolonging the period after childbirth referred to above.
- ★ The Protocol also provides for other maternity protection measures (prohibition of dismissal, maintenance of income at a sufficient level), which are practically identical to those set out in Convention No. 171.



1. General provisions

Convention No. 155



Occupational Safety and Health Convention, 1981

- ★ The Convention applies to all workers in all branches of economic activity.
- ★ However, where there exist particular difficulties of application, a State may, after consultation with organizations of employers and workers, exclude from its application, in part or in whole:
 - ➔ particular branches of economic activity;
 - ➔ limited categories of workers.

Principles of National Policy

- ★ Each State which ratifies the Convention has to, in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy to prevent accidents and injury to health by minimizing hazards, so far as is reasonably practicable.
- ★ This policy shall take account of the following main spheres of action in so far as they affect occupational safety and health and the working environment:
 - ➔ material elements of work (workplaces, working environment, tools, machinery and equipment, chemical, physical and biological substances and agents, work processes);
 - ➔ relationships between the material elements of work and the persons who carry out or supervise the work;
 - ➔ adaptation of machinery, equipment, working time, organisation of work and work processes to the physical and mental capacities of the workers;
 - ➔ training, including necessary further training, qualifications and motivations of persons involved in safety and health;
 - ➔ communication and co-operation at the level of the undertaking and at all other appropriate levels up to and including the national level;

- the protection of workers and their representatives from disciplinary measures as a result of actions properly taken by them in conformity with the national policy above-mentioned.
- ★ It has to indicate the respective responsibilities of public authorities, employers, workers and others.
- ★ The situation regarding occupational safety and health and the working environment has to be reviewed at appropriate intervals, either over-all or in respect of particular areas, with a view to:
 - identifying major problems;
 - evolving effective methods for dealing with them and priorities of action;
 - evaluating results.

Action at the National Level

- ★ States have to:
 - maintain an adequate and appropriate system of inspection;
 - take measures to provide guidance to employers and workers.
- ★ The national competent authorities have to ensure that the following functions are progressively carried out:
 - the design of enterprises, the commencement of their operations and the safety of technical equipment used at work;
 - the determination of work processes and of substances covered by prohibitions or limitations;
 - the establishment of procedures for the notification of occupational accidents and diseases;
 - the annual publication of information on measures taken and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work.
- ★ Measures have to be taken with a view to ensuring that those who design, manufacture, import, provide or transfer machinery, equipment or substances for occupational use:
 - (a) satisfy themselves that the machinery, equipment or substance does not entail dangers for the safety and health of those using it correctly;
 - (b) make available information concerning their correct use, as well as information on hazards and instructions on how they are to be avoided;

(c) keep abreast of the scientific and technical knowledge necessary to comply with subparagraphs (a) and (b).

- ★ Measures must be taken with a view to promoting the inclusion of questions of occupational safety and health and the working environment at all levels of education and training.
- ★ With a view to ensuring the coherence of the national policy and of measures for its application, each State which ratifies the Convention must, after consultation at the earliest possible stage with the most representative organizations of employers and workers, and with other bodies as appropriate, make arrangements to ensure the necessary co-ordination between various authorities and bodies called upon to give effect to the Convention. Whenever circumstances so require and national conditions and practice permit, these arrangements must include the establishment of a central body.

Action at the Level of the Enterprise

- ★ Employers have to:
 - ➞ ensure that the workplaces, machinery, equipment and processes under their control are safe and without risk to health and that chemical, physical and biological substances and agents are without risk to health when the appropriate measures of protection are taken;
 - ➞ provide, where necessary, adequate protective clothing and equipment;
 - ➞ provide for measures to deal with emergencies and accidents.
- ★ Whenever two or more enterprises engage in activities simultaneously at one workplace, they have to collaborate in applying the requirements of the Convention.
- ★ Workers and/or their representatives must be given adequate information and appropriate training and be consulted by the employer. They also have to cooperate with the employer.
- ★ Workers have to report forthwith to their immediate supervisor any situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health.
- ★ Until remedial action has been taken, the employer cannot require workers to return to a work situation where there is continuing danger.

- ★ A worker who has removed him or herself from such a work situation has to be protected from undue consequences.
- ★ Occupational safety and health measures must not involve any expenditure for the workers.

Protocol of 2002 to the Occupational Safety and Health Convention, 1981

- ★ Each State which ratifies the Protocol has to, in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for the recording and notification of:
 - ➔ occupational accidents;
 - ➔ occupational diseases; and
 - ➔ as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational diseases.
- ★ It also has to publish annually the statistics that are compiled.
- ★ The requirements and procedures for notification have to determine the responsibilities of employers, the arrangements for notification and the criteria according to which such notifications have to be made.



RECOMMENDATION No. 164

Occupational Safety and Health Recommendation, 1981

- To the greatest extent possible:
 - ➔ the provisions of Convention No. 155 and the Recommendation should be applied to all branches of economic activity and to all categories of workers;
 - ➔ analogous protection should be provided to self-employed persons.
- The Recommendation enumerates a number of fields in which additional measures should be taken in accordance with the policy envisaged by Convention No. 155, and particularly:
 - ➔ workplaces and means of access thereto and egress therefrom;
 - ➔ lighting and temperature in the workplace;

- dangerous substances and agents;
 - noise and vibration;
 - fires and explosions;
 - personal protective equipment.
- It sets out additional obligations upon employers, particularly with regard to workplaces and the training and protective equipment to be provided to workers.
 - The measures taken to facilitate cooperation between employers and workers should, where appropriate and necessary, include the appointment of joint safety and health committees (or other similar bodies), the functions of which are enumerated.
 - As necessary in regard to the activities of the enterprise and practicable in regard to its size, provision should be made for an occupational health service and a safety service; these services may be specific to a single enterprise or common to several of them, or provided by an outside body.
 - Finally, in the development and application of the national policy referred to in Convention No. 155, and without prejudice to their obligations under Conventions they have ratified, Members should refer to the Conventions and Recommendations listed in the Appendix of the Recommendation.

Convention No. 161



Occupational Health Services Convention, 1985

- ★ Each State which ratifies the Convention has to formulate, implement and periodically review a coherent national policy on occupational health services.

Occupational health services: services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the enterprise on:

- the requirements for establishing and maintaining a safe and healthy working environment;
- the adaptation of work to the physical and mental capabilities of workers.

- ★ It undertakes to develop progressively occupational health services for all workers, in all branches of economic activity and all enterprises.

- ★ These services may be organized as a service for a single enterprise or for a number of enterprises and must have the following functions:
 - ➔ identification and assessment of the risks from health hazards in the workplace;
 - ➔ surveillance of the factors in the working environment and working practices which may affect workers' health;
 - ➔ participation in the development of programmes for the improvement of working practices and promotion of the adaptation of work to the worker;
 - ➔ advice on planning and organization of work, ergonomics and individual and collective protective equipment;
 - ➔ surveillance of workers' health in relation to work;
 - ➔ contribution to measures of vocational rehabilitation;
 - ➔ collaboration in providing information and training to workers on the hazards inherent in their work;
 - ➔ organization of first aid and emergency treatment;
 - ➔ participation in analysis of occupational accidents and occupational diseases.
- ★ The Convention sets out conditions of operation of these services, particularly with regard to their personnel and the information that has to be provided to them.
- ★ The surveillance of workers' health in relation to work must involve no loss of earnings for them, be free of charge and take place as far as possible during working hours.
- ★ The competent national authority has to consult the most representative organizations of employers and workers on the measures to be taken to give effect to the provisions of the Convention.



Occupational Health Services Recommendation, 1985

- The Recommendation contains detailed provisions on the functions to be carried out by occupational health services, particularly with regard to surveillance of the working environment (identification and evaluation of hazards), and the powers with which they should be endowed (free access to workplaces, the possibility to take samples and access to information).
- The surveillance of workers' health should include all assessments necessary to protect their health:
 - ➔ before their assignment to specific tasks which may involve a danger to their health or that of others;
 - ➔ at periodic intervals during employment which involves exposure to a particular hazard to health;
 - ➔ on resumption of work after a prolonged absence for health reasons for the purpose of determining its possible occupational causes, of recommending appropriate action to protect the workers and of determining the worker's suitability for the job and needs for reassignment and rehabilitation;
 - ➔ on and after the termination of assignments involving hazards which might cause future health impairment.
- Where the continued employment of the worker in a particular job is contra-indicated for health reasons, the occupational health service should collaborate in efforts to find alternative employment in the enterprise, or another appropriate solution.
- The Recommendation also contains detailed provisions on the functions of occupational health services with regard to information and training on health and hygiene in relation to work and ergonomics, and calls for them to have sufficient technical personnel with specialized training and experience, who are required to observe professional secrecy.
- Provisions should be adopted to protect the privacy of the workers and to ensure that health surveillance is not used for discriminatory purposes or in any other manner prejudicial to their interests.
- The employer, the workers and their representatives should cooperate and participate in the implementation of the organizational and other measures relating to occupational health services on an equitable basis.
- The occupational health services of a national or multinational enterprise with more than one establishment should provide the highest

standard of services, without discrimination, to the workers in all its establishments, regardless of the place or country in which they are situated.



Convention No. 187

Promotional Framework for Occupational Safety and Health Convention, 2006

National policy is the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155).

National preventative safety and health culture is a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

- ★ States shall promote continuous improvement of occupational safety and health (OSH) to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme.
- ★ States shall take active steps towards achieving progressively a safe and healthy working environment through a national system and national programmes on OSH by taking into account the principles set out in relevant instruments of the ILO.
- ★ States, in consultation with the most representative organizations of employers and workers, shall periodically consider what measures could be taken to ratify relevant OSH Conventions of the ILO.

NATIONAL POLICY

- ★ States shall promote a safe and healthy working environment by formulating a national policy.
- ★ States shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

- ★ In formulating its national policy, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, States shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.

NATIONAL SYSTEM

- ★ States shall establish, maintain, progressively develop and periodically review a national system for OSH, in consultation with the most representative organizations of employers and workers.
- ★ The national system for OSH shall include among others:
 - ➔ laws and regulations, collective agreements where appropriate, and any other relevant instruments on OSH;
 - ➔ an authority or body, or authorities or bodies, responsible for OSH, designated in accordance with national law and practice;
 - ➔ mechanisms for ensuring compliance with national laws and regulations, including systems of inspection;
 - ➔ arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.
- ★ The national system for OSH shall include, where appropriate:
 - ➔ a national tripartite advisory body, or bodies, addressing OSH issues;
 - ➔ information and advisory services on OSH;
 - ➔ the provision of OSH training;
 - ➔ OSH in accordance with national law and practice;
 - ➔ research on OSH;
 - ➔ a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;
 - ➔ provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases;
 - ➔ support mechanisms for a progressive improvement of OSH conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

NATIONAL PROGRAMME

- ★ States shall formulate, implement, monitor, evaluate and periodically review a national programme on OSH in consultation with the most representative organizations of employers and workers.
- ★ The national programme shall:
 - promote the development of a national preventative safety and health culture;
 - contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;
 - be formulated and reviewed on the basis of analysis of the national situation regarding OSH, including analysis of the national system for OSH;
 - include objectives, targets and indicators of progress;
 - be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.
- ★ The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.



RECOMMENDATION No. 197

Promotional Framework for Occupational Safety and Health Recommendation, 2006

NATIONAL POLICY

- The national policy should take into account the principles of national policy and the relevant rights, duties and responsibilities of workers, employers and governments in Convention No. 155.

NATIONAL SYSTEM

- In establishing, maintaining, progressively developing and periodically reviewing the national system for OSH, States
 - ➔ should take into account the instruments of the ILO listed in the Annex, in particular Conventions Nos. 155, 81 and 129;

- may also consult with other interested parties on the review of the national system.
- The national system should provide appropriate measures for the protection of all workers, in particular, workers in high-risk sectors, and vulnerable workers such as those in the informal economy and migrant and young workers and States should take measures to protect the safety and health of workers of both genders, including the protection of their reproductive health.
- In promoting a national preventative safety and health culture States should seek to:
 - raise workplace and public awareness on OSH through national campaigns linked with, where appropriate, workplace and international initiatives;
 - promote mechanisms for delivery of OSH education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health;
 - introduce OSH concepts and, where appropriate, competencies, in educational and vocational training programmes;
 - facilitate the exchange of OSH statistics and data among relevant authorities, employers, workers and their representatives;
 - provide information and advice to employers and workers and their respective organizations and to promote or facilitate cooperation among them with a view to eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks;
 - promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers' OSH representatives, in accordance with national law and practice;
 - address the constraints of micro-enterprises and small and medium-sized enterprises and contractors in the implementation of OSH policies and regulations, in accordance with national law and practice.
 - Members should promote a management systems approach to OSH, such as the approach set out in the Guidelines on OSH management systems (ILO-OSH 2001).

NATIONAL PROGRAMME

- The national programme on OSH should
 - be based on principles of assessment and management of hazards and risks, in particular at the workplace level;

- identify priorities for action, which should be periodically reviewed and updated;
 - actively promote workplace prevention measures and activities that include the participation of employers, workers and their representatives
 - be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.
- In formulating and reviewing the national programme, States may extend consultations to other interested parties and should take into account the relevant ILO instruments listed in the Annex.

NATIONAL PROFILE

- Members should prepare and regularly update a national profile summarizing the existing OSH situation and the progress made towards a safer and healthier working environment. The profile should be used as a basis for formulating and reviewing the national programme.
- The national profile on OSH should include information on
- laws and regulations, collective agreements where appropriate, and any other relevant OSH instruments;
 - the authority or body, or the authorities or bodies, responsible for OSH, designated in accordance with national law and practice;
 - the mechanisms for ensuring compliance with national laws and regulations, including the systems of inspection;
 - the arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures;
 - the national tripartite advisory body, or bodies, addressing OSH issues;
 - the information and advisory services on OSH;
 - the provision of OSH training;
 - the occupational health services in accordance with national law and practice;
 - research on OSH;
 - the mechanism for the collection and analysis of data on occupational injuries and diseases and their causes, taking into account relevant ILO instruments;
 - the provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases;

- the support mechanisms for a progressive improvement of OSH conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.
- The national OSH profile should also, where appropriate, include information on the following elements:
 - coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;
 - technical standards, codes of practice and guidelines on OSH;
 - educational and awareness-raising arrangements, including promotional initiatives;
 - specialized technical, medical and scientific institutions with linkages to various aspects of OSH, including research institutes and laboratories concerned with OSH;
 - personnel engaged in the area of OSH, such as inspectors, safety and health officers, and occupational physicians and hygienists;
 - occupational injury and disease statistics;
 - OSH policies and programmes of organizations of employers and workers;
 - regular or ongoing activities related to OSH, including international collaboration;
 - financial and budgetary resources with regard to OSH; and
 - data addressing demography, literacy, economy and employment, as available, as well as any other relevant information.

ANNEX

RELEVANT ILO INSTRUMENTS

Conventions Nos. 81 (and 1995 Protocol), 115, 120, 121, 129, 139, 148, 152, 155 (and 2002 Protocol), 161, 162, 167, 170, 176, and 184 and Recommendations Nos: 81, 82, 97, 102, 114, 115, 120, 121, 133, 147, 156, 160, 164, 171, 172, 175, 177, 181, 183, 192, and 194.



RECOMMENDATION No. 97

Protection of Workers' Health Recommendation, 1953

- National laws or regulations should provide for methods of preventing, reducing or eliminating risks to health in places of employment.
- The Recommendation enumerates a series of technical measures that should be taken by the employer to ensure adequate protection of the health of the workers and provides that workers should be informed and consulted on protective measures and recalls their obligation to cooperate.
- The competent authority should:
 - draw the attention of employers and workers concerned to the special risks and the precautions to be taken;
 - provide for consultation at the national level between the labour inspectorate or other authority concerned with the protection of the health of workers and the employers' and workers' organizations concerned.
- National laws or regulations should contain special provisions concerning medical examinations in respect of workers employed in occupations involving special risks to their health.
- Medical examinations made in accordance with the Recommendation should not involve any expense for the worker concerned.
- National laws or regulations should require the notification of cases and suspected cases of occupational disease to the labour inspectorate or other authority concerned with the protection of the health of workers in places of employment. The Recommendation also indicates the information that should be contained in the notification.
- The competent authority should, after consultation with the workers' and employers' organizations concerned, draw up a list of notifiable occupational diseases or classes of cases, and regularly make the necessary modifications.
- Facilities for first aid and emergency treatment in case of accident, occupational disease, poisoning or indisposition should be provided in places of employment.

RECOMMENDATION No. 102

Welfare Facilities Recommendation, 1956

- The Recommendation applies to manual and non-manual workers employed in public or private enterprises, excluding workers in agriculture and sea transport.
- It is intended to define certain principles and establish standards concerning welfare facilities for workers related to:
 - feeding facilities in or near enterprises (canteens, messroom facilities, etc.);
 - rest rooms and facilities in or near enterprises and recreation facilities excluding holiday facilities;
 - transportation facilities to and from work where ordinary public transport is inadequate or impracticable.

RECOMMENDATION No. 194

List of Occupational Diseases Recommendation, 2002

- The Recommendation is intended to strengthen identification, recording and notification procedures for occupational accidents and diseases, and to establish a simplified procedure for updating a list of occupational diseases.
- In the establishment, review and application of systems for the recording and notification of occupational accidents and diseases, the competent authority should take account of the 1996 Code of Practice on the recording and notification of occupational accidents and diseases, and other codes of practice or guides relating to this subject that are approved in the future by the International Labour Organization.
- The list of occupational diseases established at the national level, which should be regularly updated, should include:
 - at least the diseases enumerated in Schedule I of Convention No. 121;
 - to the extent possible, other diseases contained in the list of occupational diseases annexed to the Recommendation; and
 - to the extent possible, a section entitled “Suspected occupational diseases”.
- Each Member State should furnish annually to the ILO comprehensive statistics on occupational accidents and diseases and, as appropriate, dangerous occurrences and commuting accidents.

2. Protection against specific risks



Convention No. 115

Radiation Protection Convention, 1960

- ★ A State which ratifies the Convention undertakes to give effect to its provisions in consultation with representatives of employers and workers.
- ★ The Convention applies to all activities involving exposure of workers to ionizing radiations in the course of their work.
- ★ The exposure of workers has to be reduced to a minimum and any unnecessary exposure avoided.
- ★ In the light of knowledge available at the time, all appropriate steps have to be taken to ensure effective protection of the health and safety of workers assigned to work involving exposure to ionizing radiations.
- ★ No worker under the age of 16 may be engaged in work involving ionizing radiations.
- ★ Exposure limits have to be fixed and reviewed in the light of current knowledge. Limits have to be established separately for workers under the age of 18, and for those aged 18 and over.
- ★ Appropriate monitoring must be carried out in order to measure the exposure of workers and ascertain that all the required measures have been taken and are being respected.
- ★ All workers directly engaged in radiation work have to be adequately instructed, before and during such employment, in the precautions to be taken and they have to undergo an appropriate medical examination prior to or shortly after taking up such work, and then periodically at appropriate intervals.
- ★ No worker may be employed or continue to be employed in work subject to exposure to ionizing radiations contrary to qualified medical advice.

RECOMMENDATION No. 114



Radiation Protection Recommendation, 1960

- Employers and workers should engage in the closest cooperation in carrying out the measures for protection against ionizing radiations.
- In view of the special medical problems involved in the employment of women of child-bearing age in radiation work, every care should be taken to ensure that they are not exposed to high radiation risks.
- The exposure limits envisaged in Convention No. 115 should be fixed with due regard to the relevant values recommended by the International Commission on Radiological Protection.
- The Recommendation also contains detailed provisions on collective (preferably) and individual methods of protection. Methods of protection should be chosen with a view to minimizing the risk of entry of radioactive substances into the body and the spread of radioactive contamination.
- It also contains provisions on the inspection of workplaces, the examination of appliances and monitoring equipment, and medical examinations.
- Finally, each State should provide for measures to control the distribution and use of sources of ionizing radiations, particularly through notification to the competent national authority.

Convention No. 139



Occupational Cancer Convention, 1974

- ★ Each State which ratifies the Convention must, among other measures:
 - ➔ periodically determine the carcinogenic substances and agents to which occupational exposure is to be prohibited or made subject to authorization or control;
 - ➔ encourage their replacement by other substances or agents;
 - ➔ reduce to the minimum the number of workers exposed and the duration and degree of such exposure;
 - ➔ prescribe the measures to be taken to protect workers against the risks of exposure and establish an appropriate system of records;

- provide for the information of workers exposed to the dangers involved in these substances and agents and the measures to be taken;
- ensure that exposed workers are provided with medical examinations or biological tests during their employment and thereafter;
- ensure that appropriate inspection is carried out.

★ In determining the carcinogenic substances and agents to which occupational exposure is to be prohibited or made subject to authorization or control, consideration must be given to the latest information contained in the codes of practice or guides which may be established by the ILO, as well as to information from other competent bodies.

RECOMMENDATION No. 147

Occupational Cancer Recommendation, 1974

- Employers should make every effort to use work processes which do not cause the formation, and particularly the emission in the working environment, of carcinogenic substances or agents.
- Workers and others involved in occupational situations in which the risk of exposure to carcinogenic substances or agents may occur should conform to the safety procedures laid down and make proper use of all equipment furnished for their protection or the protection of others.
- The Recommendation indicates the conditions for individual exemptions from the prohibition of occupational exposure and indicates measures to be taken in the case of substances and agents subject to authorization or control.
- It encourages the supervision of the health of workers by providing for a pre-assignment medical examination and then periodical examinations.
- If as the result of any action taken in pursuance of the Recommendation it is inadvisable to subject a worker to further exposure to carcinogenic substances or agents in that workers' normal employment, every reasonable effort should be made to provide such worker with suitable alternative employment.
- The competent national authority should establish and maintain, in association with employers and representatives of workers, a system for the prevention and control of occupational cancer.

- The competent authority should disseminate information relevant to occupational cancer risks, with the assistance as appropriate of international and national organizations, including organizations of employers and workers, and should draw up educational guides on substances and agents liable to give rise to occupational cancer.
- Employers should:
 - seek information on carcinogenic hazards with regard to any substance or agent introduced or to be introduced into the enterprise;
 - ensure that, in the case of any substance or agent which is carcinogenic, there is at the workplace an appropriate indication of the danger which may arise to any worker who may be liable to exposure;
 - instruct workers on the dangers and the measures to be taken.
- Employers' and workers' organizations should take positive action to carry out programmes of information and education with regard to the hazards of occupational cancer and should encourage their members to participate fully in programmes of prevention and control.

Convention No. 148



Working Environment (Air Pollution, Noise and Vibration) Convention, 1977

- ★ The Convention applies to all branches of economic activity.
- ★ However, a State may, after consultation with the representative organizations of employers and workers concerned, exclude from the application of the Convention particular branches of economic activity in respect of which special problems of a substantial nature arise.
- ★ It may, at the time of ratification and after consultation with the representative organizations of employers and workers, accept the obligations of the Convention separately in respect of:
 - ➔ air pollution;
 - ➔ noise; and
 - ➔ vibration.

- ★ Each State which ratifies the Convention has to:
 - by laws or regulations or any other method consistent with national practice and conditions take such steps, including the provision of appropriate penalties, as may be necessary to give effect to the Convention;
 - provide appropriate inspection services for the purpose of supervising its application, or satisfy itself that appropriate inspection is carried out.
- ★ In giving effect to the provisions of the Convention, and particularly in the elaboration and application of the measures (technical and relating to the organization of work) for the prevention of hazards, the competent authority must act in consultation with the most representative organizations of employers and workers concerned.
- ★ Employers have to be made responsible for compliance with the prescribed measures and workers must be required to comply with safety procedures.
- ★ Where these measures do not reduce air pollution, noise and vibration within the limits specified, the employer must provide workers with suitable personal protective equipment.
- ★ The competent national authority has to:
 - establish criteria for determining the hazards of exposure to air pollution, noise and vibration in the working environment;
 - specify exposure limits on the basis of these criteria.
- ★ The health of workers exposed or liable to be exposed to occupational hazards due to air pollution, noise and vibration in the working environment must be medically supervised free of charge at suitable intervals, including a pre-assignment medical examination and periodical examinations.
- ★ Where the continued assignment of a worker to work involving exposure is found to be medically inadvisable, every effort must be made, consistent with national practice and conditions, to provide the worker concerned with suitable alternative employment or to maintain his or her income through social security measures or otherwise.
- ★ The measures taken to implement the Convention must not adversely affect the rights of workers under social security or social insurance legislation.
- ★ Workers or their representatives must have the right to present proposals, to obtain information and training and to appeal to

appropriate bodies so as to ensure protection against occupational hazards covered by the Convention.

- ★ The use of processes, substances, machinery and equipment, to be specified by the competent authority, which involve exposure of workers to such occupational hazards, must be notified to the competent authority which, as appropriate, may authorize the use on prescribed conditions or prohibit it.

RECOMMENDATION No. 156

Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977

- To the greatest extent possible, the provisions of Convention No. 148 and the Recommendation should be applied to all branches of economic activity.
- Self-employed workers should benefit from protection analogous to that provided for in these instruments.
- The competent authority should prescribe the nature, frequency and other conditions of monitoring of air pollution, noise and vibration in the working environment to be carried out on the employer's responsibility.
- The Recommendation indicates the preventive and protective measures that should be taken, such as special monitoring when machinery is first put into use or re-introduced, the replacement of polluting processes and the prohibition or restriction of the use of certain substances.
- The employer has to inform workers of the hazards involved and their representatives of any projects, measures and decisions which are liable to have harmful consequences on their health.
- Employers' and workers' organizations should take positive action to carry out programmes of training and information with respect to the prevention and control of, and protection against, existing and potential occupational hazards.
- The provisions of the Recommendation which relate to the design, manufacture and supply of machinery and equipment should apply forthwith to newly manufactured machinery and equipment. The competent authority should, as soon as possible, specify appropriate time limits for the modification of existing machinery and equipment.



Convention No. 162

Asbestos Convention, 1986

- ★ The Convention applies to all activities involving exposure of workers to asbestos in the course of work.
- ★ A State may, after consultation with the most representative organizations of employers and workers concerned, and on the basis of an assessment of the health hazards involved and the safety measures applied, exclude particular branches of economic activity or particular enterprises from the application of certain provisions of the Convention when it is satisfied that their application to these branches or enterprises is unnecessary.
- ★ The competent national authority must consult the most representative organizations of employers and workers on the measures to be taken to give effect to the provisions of the Convention.
- ★ National laws or regulations must prescribe the measures to be taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos. They must be periodically reviewed in the light of technical progress and advances in scientific knowledge.
- ★ They must provide that exposure to asbestos has to be prevented or controlled by technical measures, adequate work practices and the prescription of special rules and procedures, including authorization.
- ★ Where necessary and technically practicable, they must also provide for the replacement of asbestos by other materials and its total or partial prohibition in certain work processes.
- ★ The competent authority may permit temporary derogations from the measures prescribed by national laws or regulations under conditions and within limits of time to be determined after consultation with the most representative organizations of employers and workers concerned.
- ★ The enforcement of national laws and regulations must be secured by an adequate and appropriate system of inspection.
- ★ The competent authority has to prescribe, review and update exposure limits in the light of technological progress and advances in technological and scientific knowledge.

- ★ It also has to develop a system of notification of occupational diseases caused by asbestos.
- ★ The employer has to take all appropriate measures to:
 - ➔ prevent or control the release of asbestos dust into the air;
 - ➔ ensure that the exposure limits are complied with; and
 - ➔ reduce exposure to as low a level as is reasonably practicable.
- ★ The employer must be made responsible for the implementation of the prescribed measures.
- ★ When the measures taken do not bring exposure to asbestos within the exposure limits, the employer must provide, maintain and replace, as necessary, at no cost to the workers, adequate respiratory protective equipment and special protective clothing.
- ★ Respiratory protective equipment must be used only as a supplementary, temporary, emergency or exceptional measure, and not as an alternative to technical control.
- ★ Workers must be required to comply with prescribed safety and hygiene procedures and to cooperate as closely as possible with the employer.
- ★ Workers who are or have been exposed must be provided, without any loss of earnings and, as far as possible during working hours, with such medical examinations as are necessary to supervise their health and to diagnose occupational diseases caused by exposure to asbestos.
- ★ When continued assignment to work involving exposure to asbestos is found to be medically inadvisable, every effort must be made to provide the workers concerned with other means of maintaining their income.
- ★ The competent authority, in consultation and collaboration with the most representative organizations of employers and workers, must promote the dissemination of information and the education of all concerned with regard to health hazards due to exposure to asbestos and to methods of prevention and control.
- ★ The employer has to notify to the competent authority, in a manner and to the extent prescribed by it, certain types of work involving exposure to asbestos.
- ★ Producers and suppliers must be made responsible for adequate labelling of the container and products containing asbestos.



RECOMMENDATION No. 172

Asbestos Recommendation, 1986

- The Recommendation provides that self-employed persons should be afforded protection analogous to that provided for in Convention No. 162.
- The employment of young persons of less than 18 years of age in activities involving a risk of occupational exposure to asbestos should receive special attention.
- The competent national authority should periodically review the measures prescribed, taking into account the Code of practice on safety in the use of asbestos published by the ILO and other codes of practice or guides which may be established by the ILO and the conclusions of meetings of experts which may be convened by it, as well as information from other competent bodies on asbestos and substitute materials.
- The employer should use all appropriate measures, in consultation and collaboration with the workers concerned or their representatives and in the light of advice from competent sources, including occupational health services, to prevent or control exposure to asbestos.
- Workers who have removed themselves from a work situation which they have reasonable justification to believe presents serious danger to their life or health should alert their immediate supervisor and be protected from retaliatory or disciplinary measures, in accordance with national conditions and practice.
- The Recommendation also indicates the measures which should be taken, including in relation to:
 - the prevention and control of the exposure of workers to asbestos;
 - the determination of products the use of which should be subject to authorization or prohibited;
 - the replacement of asbestos by substitute materials;
 - exposure limits;
 - respiratory protective equipment;
 - the inspection system provided for by Convention No. 162;
 - the implementation of a programme for the prevention and control of workers' exposure to asbestos;
 - the demolition of plants containing asbestos materials;
 - the encouragement of research into technical and health problems relating to exposure to asbestos, substitute materials and alternative technologies;
 - the labelling of the container or product.

- Measures are also enumerated relating to the control of the working environment (including the measurement of concentrations of airborne asbestos dust) and the surveillance of workers' health (medical examinations, the notification of occupational diseases).
- A national or multinational enterprise with more than one establishment should be required to provide measures of prevention, control and protection, without discrimination, in all its establishments regardless of the place or country in which they are situated.
- Finally, the Recommendation indicates the measures to be taken with a view to the training and information of all persons concerned.

Convention No. 170



Chemicals Convention, 1990

- ★ The Convention applies to all branches of economic activity in which chemicals are used.
- ★ However, a State may, after consulting the most representative organizations of employers and workers concerned, and on the basis of an assessment of the hazards involved and the protective measures to be applied, exclude particular branches of economic activity, enterprises or products from the application of the Convention, or certain of its provisions, when:
 - ➔ special problems of a substantial nature arise; and
 - ➔ the overall protection afforded in pursuance of national law and practice is not inferior to that which would result from the full application of the provisions of the Convention.
- ★ Each State which ratifies the Convention has to make special provision to protect confidential information whose disclosure to a competitor would be liable to cause harm to an employer's business so long as the safety and health of workers are not compromised thereby.
- ★ It has to formulate, implement and periodically review a coherent policy on safety in the use of chemicals at work in consultation with the most representative organizations of employers and workers.
- ★ The competent national authority must have the power, if justified on safety and health grounds, to prohibit or restrict the use of certain hazardous chemicals, or to require advance notification and authorization before their use.

- ★ It also has to establish classification systems for chemicals according to the type and degree of intrinsic health and physical hazards that they represent.
- ★ All chemicals shall be marked so as to indicate their identity. Hazardous chemicals shall in addition be labelled, in a way easily understandable to the workers, so as to provide essential information regarding their classification, the hazards they present and the safety precautions to be observed.
- ★ Suppliers of chemicals have to ensure that they are:
 - ➔ classified in accordance with the provisions of the Convention;
 - ➔ marked so as to indicate their identity;
 - ➔ labelled in accordance with the provisions of the Convention and accompanied by chemical safety data sheets in the case of hazardous chemicals.
- ★ Employers have to:
 - ➔ ensure that all chemicals used at work are labelled or marked and that chemical safety data sheets are made available to workers and their representatives;
 - ➔ ensure that only chemicals which are classified or identified, and labelled in accordance with the provisions of the Convention, are used and that any necessary precautions are taken when they are used;
 - ➔ maintain a record of hazardous chemicals used at the workplace;
 - ➔ monitor the exposure of workers to chemicals;
 - ➔ assess, monitor and limit (by appropriate preventive and safety measures) the exposure of workers to hazardous chemicals;
 - ➔ provide first aid and make arrangements to deal with emergencies;
 - ➔ inform the workers of the hazards involved and train them to use the information provided on labels and chemicals safety data sheets.
- ★ Workers and their representatives have to cooperate closely with employers and comply with procedures and practices relating to safety in the use of chemicals at work.
- ★ Workers have to take all reasonable steps to eliminate or minimise risk to themselves and to others from the use of chemicals at work.

- ★ Workers must have the right to:
 - ➔ remove themselves from any imminent and serious risk to their safety or health and must be protected against undue consequences;
 - ➔ obtain information on the chemicals used.
- ★ When in an exporting State all or some uses of hazardous chemicals are prohibited for reasons of safety and health at work, the State must communicate this fact and the reasons for it to any importing country.

RECOMMENDATION No. 177

Chemicals Recommendation, 1990

- The provisions of the Recommendation should also apply to such self-employed persons as may be specified by national laws or regulations.
- The competent authority should specify categories of workers who for reasons of safety and health are not allowed to use specified chemicals or are allowed to use them only under conditions prescribed in accordance with national laws or regulations.
- The Recommendation also contains detailed provisions on the manner in which the classification, labelling and marking of chemicals should be carried out and indicates the essential information that should be contained in chemical safety data sheets.
- Where workers are exposed to hazardous chemicals, the employer should be required to:
 - ➔ limit exposure to such chemicals;
 - ➔ assess, monitor and record, as necessary, the concentration of airborne chemicals at the workplace. These records should be made available to workers and their representatives.
- A national or multinational enterprise with more than one establishment should provide preventive, control and protective measures, without discrimination, in all its establishments regardless of the place or country in which they are situated.
- The Recommendation also enumerates the safety criteria which should be established for the use, storage, transport, disposal and treatment of hazardous chemicals.

- It contains indications as to the medical surveillance measures for the assessment of the health of workers and the diagnosis of diseases and injuries caused by exposure to hazardous chemicals.
- Workers should have the right to:
 - obtain chemical safety data sheets and other information from the employers so as to enable them to take adequate precautions;
 - participate in investigations of possible risks resulting from the use of chemicals at work;
 - bring to the attention of their representatives, the employer or the competent authority, potential hazards arising from the use of chemicals at work;
 - remove themselves from danger resulting from the use of chemicals when they have reasonable justification to believe there is an imminent and serious risk to their safety and health, and should inform their supervisor immediately;
 - alternative work where their health condition places them at increased risk of harm from a hazardous chemical, and to compensation in case of loss of employment;
 - adequate medical treatment and compensation for injuries and diseases resulting from the use of chemicals at work.
- Women workers should have the right, in the case of pregnancy or lactation, to alternative work not involving exposure to chemicals hazardous to the health of the unborn or nursing child, where such work is available, and the right to return to their previous jobs at the appropriate time.



Convention No. 174

Prevention of Major Industrial Accidents Convention, 1993

Major hazard installation: installation which produces, processes, handles, uses disposes of or stores, either permanently or temporarily, one or more hazardous substances or categories of substances in quantities which exceed the threshold quantity.

Major accident: a sudden occurrence, such as a major emission, fire or explosion, in the course of an activity within a major hazard installation, involving one or more hazardous substances and leading to a serious danger to workers, the public or the environment, whether immediate or delayed.

- ★ The purpose of the Convention is the prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents.
- ★ It applies to major hazard installations, with certain exceptions, such as nuclear and military installations.
- ★ However, a State may, after consulting the representative organizations of employers and workers, exclude from the application of the Convention installations or branches of economic activity for which equivalent protection is provided.
- ★ In consultation with the most representative organizations of employers and worker and with other interested parties who may be affected, each State which ratifies the Convention has to formulate, implement and periodically review a coherent national policy concerning the protection of workers, the public and the environment against the risk of major accidents.
- ★ This policy has to promote the use of the best available safety technologies.
- ★ After consulting the most representative organizations of employers and workers and other interested parties who may be affected, the competent national authority has to establish a system for the identification of major hazard installations, based on a list of hazardous substances or of categories of hazardous substances or of both.
- ★ Employers have to:
 - ➔ identify and notify the competent authority of any major hazard installation within their control;
 - ➔ notify the competent authority before any permanent closure of such installations;
 - ➔ establish and maintain in respect of each such installation a documented system for prevention and protection;
 - ➔ prepare, review and update safety reports on these installations and make them available to the competent authority;
 - ➔ inform the competent authority as soon as a major accident occurs;
 - ➔ present a detailed report to the competent authority after a major accident containing recommendations detailing actions to be taken to prevent a recurrence.

- ★ The competent national authority must ensure that:
 - emergency plans and procedures containing provisions for outside the site are established and updated;
 - information on safety measures in the case of a major accident is disseminated to members of the public concerned;
 - warning is given as soon as possible in the case of a major accident;
 - the information mentioned above is provided to the States concerned where a major accident could have transboundary effects.

- ★ It must also have properly qualified staff with the appropriate skills and sufficient means to inspect, investigate, assess and advise on the matters dealt with in the Convention and ensure compliance with national laws and regulations.

- ★ It must have the right to suspend any operation which poses an imminent threat of a major accident.

- ★ At a major hazard installation, the workers and their representatives must be consulted in order to ensure a safe system of work. In particular, they must:
 - be informed of the hazards and of any instructions made by the competent authority;
 - be consulted in the preparation of safety reports, emergency plans and procedures, and accident reports;
 - be instructed and trained in the practices and procedures for the prevention of major accidents and in the emergency procedures, and comply with them;
 - within the scope of their job, take corrective action and if necessary interrupt the activity where there is an imminent danger of a major accident, and notify their supervisor or raise the alarm;
 - discuss with the employer any potential hazards capable of generating a major hazard and have the right to notify the competent authority of those hazards.

- ★ When, in an exporting member State, the use of hazardous substances, technologies or processes is prohibited as a potential source of a major accident, the information on this prohibition and the reasons for it must be made available to any importing country.

Prevention of Major Industrial Accidents Recommendation, 1993

- The ILO, in cooperation with other relevant international intergovernmental and non-governmental organizations, should arrange for an international exchange of information on:
 - good safety practices in major hazard installations;
 - major accidents;
 - technologies and processes that are prohibited for reasons of safety and health;
 - the mechanisms and procedures used by competent authorities to give effect to Convention No. 174 and the Recommendation.
- States should develop policies aimed at addressing the major accident risks, hazards and their consequences within the sectors and activities excluded from the scope of Convention No. 174.
- The Recommendation also calls for the establishment of systems to compensate workers as quickly as possible after the major accident and adequately address the effects on the public and the environment.
- Finally, a national or multinational enterprise with more than one establishment should provide preventive and protective measures, without discrimination, to the workers in all its establishments, regardless of the country in which they are situated.

3. Protection in particular branches of activity



Convention No. 120

Hygiene (Commerce and Offices) Convention, 1964

- ★ The Convention is intended to preserve the health and well-being of workers by prescribing elementary hygiene measures.
- ★ It applies to:
 - ➔ trading establishments;
 - ➔ establishments, institutions and administrative services in which the workers are mainly engaged in office work;
 - ➔ other related services in so far as they are not subject to national laws or regulations concerning hygiene in particular sectors.
- ★ However, the competent national authority may, after consultation with the organizations of employers and workers directly concerned, exclude from the application of all or any of the provisions of the Convention specified classes of establishments, institutions or administrative services, or departments thereof, where the circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate.
- ★ The measures of hygiene prescribed by the Convention relate to:
 - ➔ the maintenance and cleanliness of premises and equipment used by workers;
 - ➔ ventilation;
 - ➔ lighting;
 - ➔ temperature;
 - ➔ the lay out of workplaces in such a manner that there is no harmful effect on the health of the worker;
 - ➔ the supply of drinking water;
 - ➔ sanitary facilities;
 - ➔ the supply of seats;
 - ➔ facilities for changing;
 - ➔ the equipment of underground or windowless premises;

- ➔ protection against substances and processes which are obnoxious, unhealthy, toxic or harmful;
 - ➔ protection against noise and vibrations;
 - ➔ first aid installations.
- ★ The laws and regulations giving effect to the provisions of the Convention and, where appropriate, to Recommendation No. 120, must be framed after consultation with the representative organizations of employers and workers.
 - ★ Appropriate measures have to be taken, by adequate inspection or other means, to ensure the proper application of these laws or regulations including, where appropriate, through the establishment of a system of adequate penalties.

RECOMMENDATION No. 120

Hygiene (Commerce and Offices) Recommendation, 1964

- The competent authority, employers and workers should establish mutual contacts in order to ensure the hygiene of workers in connection with their work.
- The scope of application of the Recommendation is broader than that of Convention No. 120 and includes postal services, hotels, restaurants and places of public entertainment.
- In establishments in respect of which the competent authority deems it desirable having regard to the possible degree of risk, a delegate for matters of hygiene or a hygiene committee should be designated.
- In addition to setting out in detail the measures to be taken in each of the fields covered by Convention No. 120, it calls for the adoption of measures in relation to:
 - ➔ mess rooms;
 - ➔ rest rooms;
 - ➔ planning and construction;
 - ➔ measures against the spread of diseases;
 - ➔ instruction in hygiene measures.
- It also provides that appropriate measures should be taken to ensure that the mechanization of operations or methods of accelerating them do not impose a work rate likely to produce harmful effects on workers. The competent national authority should fix a minimum age for employment in such type of operations.



Convention No. 167

Safety and Health in Construction Convention, 1988

Construction activities: building, civil engineering, and erection and dismantling work, including any process, operation or transport on a construction site, from the preparation of the site to the completion of the project.

- ★ The Convention applies to all construction activities. However, a State may, after consultation with the most representative organizations of employers and workers concerned, exclude from the application of the Convention, or certain provisions thereof, particular branches of economic activity or particular enterprises in respect of which special problems of a substantial nature arise, on condition that a safe and healthy working environment is maintained.
- ★ Each State which ratifies the Convention undertakes that it will, in consultation with the most representative organizations of employers and workers, and having due regard to the relevant standards adopted by recognized international organizations in the field of standardization, adopt laws or regulations which ensure the application of its provisions.
- ★ These laws and regulations must set out:
 - ➔ the right and duty of workers to participate in ensuring safe working conditions;
 - ➔ the obligation for employers to:
 - comply with the prescribed safety and health measures at the workplace;
 - stop the operation where there is an imminent danger to the safety of workers and evacuate workers as appropriate;
 - provide personal protective equipment to workers, without cost to them, where protection cannot be ensured by other means;
 - ensure that first aid is available for workers;
 - ➔ the duty of workers to:
 - cooperate with their employer in the application of the prescribed safety and health measures and comply with these measures and report forthwith to their immediate

- supervisor, and to the workers' safety representative where one exists, any situation which could present a risk;
 - take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions;
 - use facilities placed at their disposal;
- ➔ the right of workers to remove themselves from danger when they have good reason to believe that there is an imminent and serious danger to their safety or health;
- ➔ the reporting to the competent authority within a prescribed time of occupational accidents and diseases.
- ★ The State has to take measures to ensure that there is cooperation between employers and workers in order to promote safety and health at construction sites.
- ★ The Convention also provides for the sharing of responsibilities where two or more employers undertake activities simultaneously at one site:
 - ➔ the principal contractor will be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations, for ensuring compliance with such measures;
 - ➔ each employer remains responsible for the application of the prescribed measures in respect of the workers placed under his authority.
- ★ Those concerned with the design and planning of a construction project have to take into account the safety and health of the construction workers.
- ★ The technical preventive and protective measures relate to:
 - ➔ safety of workplaces;
 - ➔ scaffolds and ladders;
 - ➔ lifting appliances and gear;
 - ➔ transport, earth-moving and materials-handling equipment;
 - ➔ plant, machinery, equipment and hand tools;
 - ➔ work at heights including roof work;
 - ➔ excavations, shafts, earthworks, underground works and tunnels;
 - ➔ cofferdams and caissons;
 - ➔ work in compressed air;

- ➔ structural frames and formwork;
- ➔ work over water;
- ➔ demolition;
- ➔ lighting;
- ➔ electricity;
- ➔ explosives;
- ➔ health hazards;
- ➔ fire precautions;
- ➔ personal protective equipment and protective clothing;
- ➔ first aid;
- ➔ welfare;
- ➔ information and training;
- ➔ reporting of accidents and diseases.



RECOMMENDATION No. 175

Safety and Health in Construction Recommendation, 1988

- The measures to be taken to ensure that cooperation is organized between employers and workers to promote safety and health at construction sites should include:
 - ➔ the establishment of safety and health committees representative of employers and workers;
 - ➔ the election or appointment of workers' safety delegates.
- Construction work should be planned, prepared and undertaken in such a way that:
 - ➔ risks liable to arise at the workplace are prevented as soon as possible;
 - ➔ excessively or unnecessarily strenuous work positions and movements are avoided;
 - ➔ organization of work takes into account the safety and health of workers;
 - ➔ materials and products are used which are suitable from a safety and health point of view;
 - ➔ working methods are employed which protect workers against the harmful effects of chemical, physical and biological agents.

- Manufacturers and dealers in products used in the construction industry should provide information with the products on any health risks associated with them and on the precautions to be taken.
- Dangerous substances should be clearly marked and provided with a label giving their relevant characteristics and instructions on their use. They should be handled under conditions prescribed by national laws and regulations or by the competent authority.
- The competent authority should determine which hazardous substances should be prohibited from use in the construction industry.
- The manual lifting of excessive weights which present a safety and health risk to workers should be avoided.
- Stringent safety regulations should be drawn up and enforced by the competent authority with respect to construction workers engaged in any work in which there is a risk of exposure to ionizing radiations, in particular in the nuclear power industry.

Convention No. 176



Safety and Health in Mines Convention, 1995

- ★ The Convention applies to all mines. However, the competent national authority may, after consultations with the most representative organizations of employers and workers concerned, exclude certain categories of mines if the overall protection afforded at these mines under national law and practice is not inferior to that which would result from the full application of the provisions of the Convention.
- ★ Each State which ratifies the Convention, after consultations with the most representative organizations of employers and workers concerned, has to formulate, carry out and periodically review a coherent policy on safety and health in mines.
- ★ The measures for ensuring application of the Convention have to be prescribed by national laws and regulations, where appropriate supplemented by:
 - ➡ technical standards, guidelines or codes of practice; or
 - ➡ other means of application consistent with national practice.
- ★ National laws and regulations must designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines.

- ★ They have to provide for:
 - ➔ the supervision of safety and health in mines and their inspection;
 - ➔ the procedures for reporting and investigating accidents, dangerous occurrences and mine disasters;
 - ➔ the compilation and publication of statistics on accidents, occupational diseases and dangerous occurrences;
 - ➔ the power of the competent authority to suspend or restrict mining activities on safety and health grounds;
 - ➔ the establishment of procedures for the consultation of workers and their representatives.

- ★ They have to provide that the manufacture, storage, transport and use of explosives and initiating devices at the mine must be carried out by or under the direct supervision of competent and authorized persons.

- ★ National laws and regulations have to specify:
 - ➔ requirements relating to mine rescue, first aid and appropriate medical facilities;
 - ➔ an obligation to provide adequate self-rescue respiratory devices for workers in underground coalmines.

- ★ Finally, they have to provide that the employer in charge of the mine must ensure that appropriate plans of workings are prepared before the start of operation and that they are brought up to date periodically and kept available at the mine site.

- ★ Employers have to:
 - ➔ assess, eliminate, control or minimize the risk;
 - ➔ provide for the use of personal protective equipment in so far as the risk remains;
 - ➔ prepare an emergency response plan specific to each mine;
 - ➔ provide information and training to workers on safety and health;
 - ➔ provide workers who have suffered from an injury or illness at the workplace with first aid and access to appropriate medical facilities;
 - ➔ ensure that all accidents and dangerous occurrences are investigated and appropriate remedial action is taken;
 - ➔ ensure the provision of regular health surveillance of workers exposed to occupational health hazards specific to mining.

- ★ Workers must have the right to:
 - ➔ report accidents and hazards to the employer and to the competent authority;
 - ➔ request inspections and investigations to be conducted by the employer and the competent authority where there is cause for concern on safety and health grounds;
 - ➔ know workplace hazards that may affect their safety or health;
 - ➔ remove themselves from any location at the mine when circumstances arise which appear, with reasonable justification, to pose a serious danger to their safety or health;
 - ➔ collectively select safety and health representatives.
- ★ Workers' safety and health delegates must be afforded the right to:
 - ➔ represent workers on all aspects of workplace safety and health;
 - ➔ participate in inspections and investigations conducted by the employer and by the competent authority at the workplace;
 - ➔ have recourse to advisers and independent experts;
 - ➔ consult with the employer and the competent authority in a timely fashion on safety and health matters;
 - ➔ receive notice of accidents and dangerous occurrences.
- ★ Workers have the duty to:
 - ➔ comply with prescribed safety and health measures;
 - ➔ take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions;
 - ➔ report forthwith to their immediate supervisor any situation presenting a risk to their safety or health or that of other persons;
 - ➔ cooperate with employers to permit compliance with their duties.
- ★ Measures have to be taken to encourage cooperation between employers and workers and their representatives to promote safety and health in mines.



RECOMMENDATION No. 183

Safety and Health in Mines Recommendation, 1995

- The consultations provided for by Convention No. 176 should include consultations on the effect of the length of working hours, night work and shift work on workers' safety and health. After such consultations, the State should take the necessary measures in relation to working time.
- Measures should be taken to encourage:
 - specific assistance by the competent authority to small mines;
 - programmes for the rehabilitation and reintegration of workers who have sustained occupational injuries or illnesses.
- Employers should undertake hazard assessment and risk analysis and then develop and implement, where appropriate, systems to manage the risk.
- The Recommendation also contains detailed provisions on the implementation of the various measures envisaged by the Convention.



Convention No. 184

Safety and Health in Agriculture Convention, 2001

Agriculture: agricultural and forestry activities carried out in agricultural undertakings including crop production, forestry activities, animal husbandry and insect raising, the primary processing of agricultural and animal products by or on behalf of the operator of the undertaking as well as the use and maintenance of machinery, equipment, appliances, tools and agricultural installations, including any process, storage, operation or transportation in an agricultural undertaking, which are directly related to agricultural production.

The term does not cover:

- subsistence farming;
- industrial processes that use agricultural products as raw material and the related services; and
- the industrial exploitation of forests.

- ★ The competent national authority may exclude certain agricultural undertakings or limited categories of workers from the application of the Convention or certain provisions thereof, when special

problems of a substantial nature arise. In this case, it has to make plans to cover progressively all undertakings and all categories of workers.

- ★ Each State which ratifies the Convention, after consulting the representative organizations of employers and workers concerned, has to formulate, carry out and periodically review a coherent national policy on safety and health in agriculture.
- ★ This policy must have the aim of preventing accidents and injury to health arising out of, linked with, or occurring in the course of work, by eliminating, minimizing or controlling hazards in the agricultural working environment.
- ★ To this end, national laws and regulations must:
 - ➔ designate the competent authority responsible for the implementation of this policy and for the enforcement of national laws and regulations on occupational safety and health in agriculture;
 - ➔ specify the rights and duties of employers and workers with respect to occupational safety and health in agriculture;
 - ➔ establish mechanisms of inter-sectoral coordination among relevant authorities and bodies for the agricultural sector and define their respective functions and responsibilities.
- ★ National laws and regulations or the competent authority shall provide that whenever in an agricultural workplace two or more employers undertake activities, or whenever one or more employers and one or more self-employed persons undertake activities, they shall cooperate in applying the safety and health requirements.
- ★ Each State which ratifies the Convention has to ensure that an adequate and appropriate system of inspection for agricultural workplaces is in place and is provided with adequate means.
- ★ The employer has to:
 - ➔ ensure the safety and health of workers in every aspect related to the work;
 - ➔ carry out risk assessments in relation to the safety and health of workers and adopt the necessary preventive and protective measures;
 - ➔ ensure the training of workers in agriculture and the provision of any necessary guidance for their work, including information on the risks associated with their work and the action to be taken for their protection;

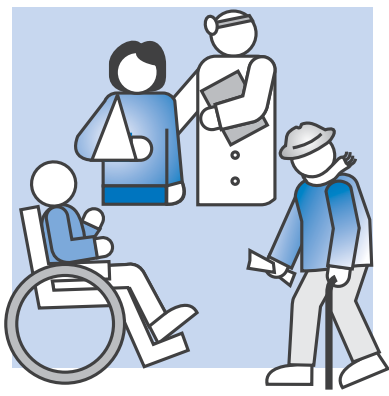
- stop any operation where is an imminent and serious danger to safety and health and evacuate workers as appropriate.
- ★ Workers in agriculture must have the right to:
 - be informed and consulted on safety and health matters;
 - participate in the application and review of safety and health measures;
 - select safety and health representatives and representatives in safety and health committees; and
 - remove themselves from danger resulting from their work activity when there is an imminent and serious risk to their safety and health and so inform their supervisor immediately. They shall not be placed at any disadvantage as a result of these actions.
- ★ Workers in agriculture and their representatives have the duty to comply with safety and health measures and cooperate with employers in order for the latter to comply with their own duties.
- ★ The Convention also provides for the adoption of measures relating to:
 - machinery safety and ergonomics;
 - handling and transport of materials;
 - sound management of chemicals;
 - animal handling and protection against biological risks;
 - welfare and accommodation facilities.
- ★ The installation, maintenance and repair of agricultural machinery has to be in conformity with national laws and regulations and safety and health standards.
- ★ The minimum age for assignment to work in agriculture which is likely to harm the safety and health of young persons must not be less than 18 years.
- ★ Nevertheless, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, authorize the performance of such work as from 16 years of age on condition that appropriate prior training is given and the safety and health of the young workers are fully protected.

- ★ Measures have to be taken to ensure that:
 - ➔ temporary and seasonal workers receive the same safety and health protection as that accorded to comparable permanent workers;
 - ➔ the special needs of women agricultural workers are taken into account in relation to pregnancy, breastfeeding and reproductive health.
- ★ Hours of work, night work and rest periods for workers in agriculture must be in accordance with national laws and regulations or collective agreements.
- ★ Workers in agriculture must be covered by an insurance or social security scheme against occupational injuries and diseases, as well as against invalidity and other work-related health risks, providing coverage at least equivalent to that enjoyed by workers in other sectors.

RECOMMENDATION No. 192

Safety and Health in Agriculture Recommendation, 2001

- The measures concerning labour inspection in agriculture envisaged by Convention No. 184 should be adopted in the light of the principles embodied in the Labour Inspection (Agriculture) Convention (No. 129) and Recommendation (No. 133), 1969.
- Multinational enterprises should provide adequate safety and health protection for their workers in agriculture in all their establishments, without discrimination and regardless of the place or country in which they are situated, in accordance with national law and practice and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.
- The Recommendation also indicates the measures which should be taken in relation to surveillance, prevention and protection.
- The Recommendation emphasizes that measures should be taken to ensure assessment of any workplace risks related to the safety and health of pregnant or nursing women, and women's reproductive health.
- Finally, it provides that States should extend progressively to self-employed farmers the protection afforded by Convention No. 184.



1. Comprehensive standards

RECOMMENDATION No. 67

Income Security Recommendation, 1944

- The Recommendation advocates taking further steps towards the attainment of income security by:
 - ➔ the unification or co-ordination of social insurance schemes;
 - ➔ the extension of such schemes to all workers and their families, including rural populations and the self-employed;
 - ➔ the elimination of inequitable anomalies.
- It therefore recommends member States to apply progressively a number of general guiding principles.
- Income security schemes should relieve want and prevent destitution in cases of inability to work (including old age).
- Such income security should be organised as far as possible on the basis of compulsory social insurance, provision for needs not covered being made by social assistance.
- The Recommendation also defines the range of contingencies that should be covered by social insurance, on the one hand for persons employed for remuneration and, on the other hand, for self-employed persons.
- It contains a number of provisions concerning the financing, administration and management of social insurance systems.
- Finally, the annex to the Recommendation contains a number of suggestions for application of these guiding principles.



Convention No. 102

Social Security (Minimum Standards) Convention, 1952

- ★ The Convention aims at ensuring a minimum level of protection in the following nine branches of social security:
 - a) medical care;
 - b) sickness benefit;
 - c) unemployment benefit;
 - d) old-age benefit;
 - e) employment injury benefit;
 - f) family benefit;
 - g) maternity benefit;
 - h) invalidity benefit;
 - i) survivors' benefit.
- ★ Some of the Conventions and Recommendations adopted subsequently are based on the same concepts and principles while affording a higher level of protection in terms of the persons covered, the benefits and their duration. This section is limited to a presentation of the general principles of Convention No. 102.
- ★ The benefits required by this Convention and each of the other instruments will be described in the following sections of this chapter in order to allow for a comparison between the provisions of Convention No. 102 and those of the subsequent Conventions for the corresponding branches. In addition, the maternity benefits will be examined in a separate chapter, "Maternity Protection", as some of the provisions of the relevant instruments go beyond social security issues and cover for instance the right to maternity leave.

Flexibility clauses

- ★ Convention No. 102 provides for some flexibility in order to take into account the variety of national situations. For example, a State whose economy and/or medical facilities are insufficiently developed can determine the persons protected with reference only to the numbers of employees in industrial workplaces of a certain size.¹¹
- ★ Moreover, the State can, as a temporary exception and in certain branches, provide benefits of a lower level or for a shorter period.

¹¹ In addition, the Convention does not apply to seafarers or seafishermen.

- ★ Flexibility clauses also cover the scope of social security Conventions and Recommendations in terms of the persons protected. The State has to protect a certain proportion of persons in a specific group and can choose between two or three methods related to the employees, the economically active population and the residents in the country respectively.
- ★ Flexibility is also found in the method of calculating the rate of cash benefits. This minimum rate is defined for any given State in relation to the wages in that country. In addition, Convention No. 102¹² provides States with a choice of three methods of calculation. They can decide to set the minimum rate of benefits:
 - a. at a certain percentage of the previous earnings of the beneficiary or breadwinner;
 - b. at a flat rate or by including a minimum amount determined in relation to the wage of an ordinary adult male labourer; or
 - c. according to a prescribed scale which may depend on the level of the other resources of the beneficiary's family (only if all residents are covered).
- ★ Irrespective of the method chosen, the rate of the benefit for a "standard beneficiary" must attain a certain percentage of the reference wage. The standard beneficiary is defined in a specific manner for each contingency. States are permitted to choose their own rules and methods for calculating the rate of benefit, provided only that the resulting rate is at least equal to that laid down in the Convention.

General responsibility of the State

- ★ Irrespective of the administrative system chosen (public or private), the State has to take general responsibility for the proper administration of social security institutions.
- ★ In order to ensure the provision of benefits, irrespective of the method of financing adopted, the competent national authorities are under the obligation to ensure that actuarial studies be made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions or the taxes allocated to cover the contingencies.

Participation of insured persons

- ★ Where the administration is not entrusted to an institution regulated by the public authorities or to a government department responsible

¹² These formulae are valid for all branches of social security, with the exception of family benefit. Of the third generation instruments, only Conventions Nos 168 (unemployment benefit) and 183 (maternity benefit) contain other specific rules.

to a legislature, the representatives of the persons protected must participate in its management or be associated therewith in a consultative capacity.

- ★ The Convention also provides for the participation of representatives of employers and of the public authorities.

Financing of benefits¹³

- ★ The cost of the benefits and of their administration must be borne collectively by way of insurance contributions or taxation, or both.
- ★ The methods of financing must take into account the economic situation of the country and of the persons protected.
- ★ In the case of contributory schemes, the total of the insurance contributions borne by the employees protected must not exceed 50 per cent of the total of the financial resources allocated for protection.

Right of appeal

- ★ Every claimant has a right of appeal in the event of the refusal of a benefit or complaint as to its quality or quantity.

Suspension of benefit

- ★ The benefit to which a person protected would be entitled may be suspended in the following cases:
 - ➔ if the person concerned is absent from the territory of the State in which entitlement to the benefit has been acquired;
 - ➔ if he or she is maintained at public expense, or at the expense of a social security institution, or is in receipt of other benefits or indemnities;
 - ➔ if he or she commits an act such as a fraudulent claim, wilful misconduct which has caused the contingency, or failure to make use of the appropriate services.
- ★ In addition, unemployment benefit may be refused, withdrawn or suspended where the person concerned has deliberately contributed to his or her own dismissal, or has left employment voluntarily without just cause.

¹³ Conventions Nos. 121, 128, 130 and 168, examined below, do not contain provisions on this subject. Convention No. 183 contains specific rules aimed at preventing making the employment of women more expensive for employers, which would lead to the recruitment of fewer women workers.

2. Protection afforded in the different branches of social security

2.1 Medical care



Convention No. 102, part II

Convention No. 130 and Recommendation No. 134

Definition of the contingency

- ★ The contingency covered includes:
 - ➔ any morbid condition, whatever its cause, and the medical care required as a result;
 - ➔ medical care of a preventive nature;
 - ➔ medical care necessitated by pregnancy, confinement and their consequences (Convention No. 102 only).

Benefits

	Convention No. 102	Convention No. 130
Nature of benefits	<ul style="list-style-type: none"> • Preventive care. • General practitioner care, including home visits. • Specialist care in hospitals or outside. • The essential pharmaceutical supplies as prescribed. • Hospitalization where necessary. • Prenatal, confinement and postnatal care either by medical practitioners or by qualified midwives, and hospitalization were necessary. 	<ul style="list-style-type: none"> • The benefits enumerated in Convention No. 102. And also: • Dental care. • Medical rehabilitation.
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility to impose a qualifying period. 	<ul style="list-style-type: none"> • idem.

	Convention No. 102	Convention No. 130
Duration of benefits	<ul style="list-style-type: none"> • Benefit granted throughout the contingency covered. • Possibility of limiting the duration of benefits to 26 weeks. • The duration of medical care is to be prolonged as long as the beneficiary is entitled to sickness benefit (see below) and in case of diseases recognized as entailing prolonged care. 	<ul style="list-style-type: none"> • idem. • Possibility of limiting the duration of benefits to 26 weeks only when the beneficiary ceases to belong to the categories of persons protected in a case of sickness which started while she/he belonged to such categories. • idem.

2.2 Sickness benefit



Convention No. 102, part III
Convention No. 130 and Recommendation No. 134

Definition of the contingency

- ★ The contingency covered includes incapacity for work resulting from a morbid condition involving suspension of earnings.
- ★ Recommendation No. 134 also advocates the granting of cash benefit in cases where absence from work is justified, among other reasons, by the beneficiary being placed under medical supervision for the purpose of rehabilitation or convalescent leave.

Benefits

	Convention No. 102	Convention No. 130
Nature of benefits	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 45% of the reference wage. 	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 60% of the reference wage. • In case of death of the beneficiary, benefit for funeral expenses.

	Convention No.102	Convention No. 130
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility to impose a qualifying period. 	<ul style="list-style-type: none"> • idem.
Duration of benefits	<ul style="list-style-type: none"> • The benefit is to be granted throughout the contingency. • Possibility of establishing a waiting period of three days. • Possibility of limiting the duration of benefits to 26 weeks in each case of sickness. 	<ul style="list-style-type: none"> • idem. • idem. • Possibility of limiting the duration of benefits to 52 weeks in each case of sickness.

2.3 Unemployment benefit



Convention No. 102, part IV
Convention No. 168 and Recommendation No. 176

Definition of the contingency

- ★ The contingency includes suspension or loss of earnings due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for work.
- ★ Convention No. 168 contains a number of specific rules:
 - ➔ the person concerned must be actually seeking work in order to get benefits;
 - ➔ States must endeavour to extend protection to loss of earnings due to partial unemployment and the suspension or reduction of earnings due to a temporary suspension of work;
 - ➔ they also have to provide social benefits to certain categories of persons seeking work who have never been, or have ceased to be recognized as unemployed or have never been, or have ceased to be covered by schemes for the protection of the unemployed.

Benefits

	Convention No. 102	Convention No. 168
Nature of benefits	<ul style="list-style-type: none"> • Periodical payments corresponding to at least 45% of the reference wage. 	<ul style="list-style-type: none"> • Periodical payments corresponding to at least 50% of the reference wage. • Beyond the initial period, possibility of applying special rules of calculation. Nevertheless, the total of benefits to which the unemployed may be entitled must guarantee them healthy and reasonable living conditions in accordance with national standards.
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility of prescribing a qualifying period. 	<ul style="list-style-type: none"> • idem.
Duration of benefits	<ul style="list-style-type: none"> • Possibility of establishing a waiting period of seven days. • The benefits have to be granted in principle throughout the contingency. • Nevertheless, the duration of the benefit can be limited to 13 or 26 weeks, depending on the case, within a period of 12 months. 	<ul style="list-style-type: none"> • idem. • idem. • Possibility of limiting the initial duration of payment of the benefit to 26 weeks in case of unemployment, or to 39 weeks over any period of 24 months. • In the event of unemployment continuing beyond this initial period, the duration of the payment of benefit may be limited to a prescribed period and may be calculated in the light of the resources of the beneficiary and his or her family.

2.4. Old-age benefit



Convention No. 102, part V

Convention No. 128 and Recommendation No. 131

Definition of the contingency

- ★ The contingency covered is survival beyond a prescribed age, which should not normally be more than 65 years.
- ★ However, a higher age can be fixed to take into account the working ability of elderly persons (Convention No. 102) or demographic, economic and social criteria, demonstrated statistically (Convention No. 128).
- ★ Where the prescribed age is 65 years or higher, Convention No. 128 provides for its lowering in respect of persons who have been engaged in occupations that are deemed to be arduous or unhealthy.
- ★ Generally speaking, Recommendation No. 131 advocates the lowering of the pensionable age in respect of categories of persons for which such a measure is justified on social grounds.

Benefits

	Convention No. 102	Convention No. 128
Nature of benefits	<ul style="list-style-type: none">• Periodical payments, at least 40% of the reference wage.• The rates of periodical payments must be revised following substantial changes in the general level of earning and/or in the cost of living.	<ul style="list-style-type: none">• Periodical payments, at least 45% of the reference wage.• idem.

	Convention No. 102	Convention No. 128
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • The prescribed age must not be more than 65 years. • Possibility of fixing a higher age with due regard to the working ability of elderly persons in the country. • Possibility of prescribing a qualifying period: either 30 years of contribution or employment or 20 years of residence. • Where a qualifying period is established, obligation to guarantee a reduced benefit after having completed a qualifying period of 15 years of contribution or employment. 	<ul style="list-style-type: none"> • idem. • Possibility of fixing a higher age with due regard to demographic, economic and social criteria, which shall be demonstrated statistically. If the prescribed age is 65 or higher, the age must be lowered in respect of persons who have been engaged in arduous or unhealthy occupations. • idem. • idem.
Duration of benefits	<ul style="list-style-type: none"> • The benefits have to be granted throughout the contingency. 	<ul style="list-style-type: none"> • idem.

2.5 Employment injury benefit



Convention No. 102, part VI

Convention No. 121 and Recommendation No. 121

Definition of the contingency

- ★ The contingency includes: a morbid condition, incapacity for work, invalidity or a loss of faculty due to an industrial accident or a prescribed occupational disease.
- ★ It also includes loss of support as a result of the death of the breadwinner following an employment injury.
- ★ Convention No. 121 places the obligation upon States to prescribe a definition of “industrial accident”, including the conditions under which a commuting accident is considered to be an industrial accident.
- ★ With regard occupational disease, States are offered three options:
 - ➔ to prescribe in their legislation a list of diseases, comprising at least the diseases enumerated in Schedule I to Convention No. 121, which are to be regarded as occupational diseases;
 - ➔ to include in its legislation a general definition of occupational diseases broad enough to cover at least the diseases enumerated in this Schedule; or
 - ➔ to combine these two methods.
- ★ Schedule I to Convention No. 121 identifies, on the one hand, categories of occupational diseases and, on the other hand, the types of work involving exposure to the risk. A protected person who is a victim of one of these diseases, and employed in work involving exposure to the corresponding risk, benefits from the presumption of the occupational origin of the disease.¹⁴
- ★ Recommendation No. 121 indicates the cases in which accidents should be considered by national legislation as industrial accidents, as well as the conditions under which the occupational origin of the disease should be presumed.

¹⁴ This Schedule was updated in 1980. See also the provisions of the Recommendation concerning the list of occupational diseases (No. 194), 2002 (Chapter “Occupational Safety and Health”).

Benefits

	Convention No. 102	Convention No. 121
Nature of benefits	<ul style="list-style-type: none"> • Medical care (a list of which is contained in the Convention). • Periodical payments, corresponding to at least 50% of the reference wage in cases of incapacity for work or invalidity. • In case of death of the breadwinner, benefits for the widow and dependant children. Periodical payments corresponding to at least 40% of the reference wage. • Except in the case of incapacity for work, obligation to revise the rates of periodical payments following substantial changes in the cost of living. • Possibility of converting periodical payments into a lump sum where: <ol style="list-style-type: none"> (1) the degree of incapacity is slight; or (2) the competent authority is satisfied that the lump sum will be properly utilized. 	<ul style="list-style-type: none"> • idem. In addition, certain types of care at the place of work. • Periodical payments, corresponding to at least 60% of the reference wage in cases of incapacity for work or invalidity. • In case of death of the breadwinner, benefits for the widow, the disabled and dependent widower, dependent children, as well as all other persons, as recognized under national legislation. Periodical payments corresponding to at least 50% of the reference wage. In principle a funeral benefit must be provided. • Obligation to prescribe a minimum amount for these periodical payments. • Idem. • Possibility of converting periodical payments into a lump sum (1) in the case of loss of earning capacity which is not substantial and (2) in exceptional circumstances, and with the agreement of the injured person, when the competent authority has reason to believe that such lump sum will be utilized in a manner which is particularly advantageous for the injured person. • Supplementary benefits for disabled persons requiring the constant help of a third person.

	Convention No. 102	Convention No. 121
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Prohibition to prescribing a qualifying period. • In the case of a widow, the right to benefit may be made conditional on her being presumed to be incapable of self-support. 	<ul style="list-style-type: none"> • idem. Possibility of prescribing a period of exposure for occupational diseases. • Possibility for the national authority to prescribe conditions under which a widow can claim the benefits.
Duration of benefits	<ul style="list-style-type: none"> • No waiting period except in the case of temporary incapacity to work (maximum 3 days). • The benefit has to be granted throughout the contingency. 	<ul style="list-style-type: none"> • Possibility of fixing a waiting period in cases of incapacity to work if the delay was provided for under legislation at the time the Convention entered into force and the reasons for this still exist. • idem.

2.6 Family benefit



Convention No. 102, part VII

Definition of the contingency

- ★ The contingency covered is the responsibility for the maintenance of children as prescribed. The term “child” means a child under school-leaving age or under 15 years of age.
- ★ The Convention leaves it to national laws or regulations to determine the number of children in respect of whom benefits are payable.

Benefits

	Convention No. 102	No third generation instrument
Nature of benefits	<ul style="list-style-type: none"> • (a) Periodical payments; or • (b) the provision of food, clothing, housing, holidays or domestic help; or • (c) a combination of (a) and (b). • Minimum amount for the total value of the benefits granted in the country 	/
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility of prescribing a qualifying period, either three months of contribution or employment, or one year of residence. 	/
Duration of benefits	<ul style="list-style-type: none"> • In the case of periodical payment, it shall be granted throughout the contingency. 	/

2.7 Invalidity benefit



Convention No. 102, part IX

Convention No. 128 and Recommendation No. 131

Definition of the contingency

- ★ The contingency covered is the inability to engage in any gainful activity where such inability is likely to be permanent or persists after the period during which the beneficiary is entitled to benefit for temporary incapacity.
- ★ Recommendation No. 131 also calls for incapacity to engage in an activity involving substantial gain to be taken into account.

Benefits

	Convention No. 102	Convention No. 128
Nature of benefits	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 40% of the reference wage. • The rates of periodical payments must be revised following substantial changes in the general level of earning and/or in the cost of living. 	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 50% of the reference wage. • idem. • Obligation to provide rehabilitation services and take measures to further the placement of disabled persons in suitable employment.
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility of prescribing a qualifying period, either 15 years of contribution or employment, or 10 years of residence. • In this case, obligation to secure a reduced benefits after a qualifying period of five years of contribution or employment. 	<ul style="list-style-type: none"> • idem. • Obligation to secure a reduced benefit after a qualifying period of five years of contribution, employment or residence.
Duration of benefits	<ul style="list-style-type: none"> • The benefits shall be granted throughout the contingency or until old-age benefits become payable. 	<ul style="list-style-type: none"> • idem.

2.8 Survivors' benefit



Convention No. 102, part X
Convention No. 128 and Recommendation No. 131

Definition of the contingency

- ★ The contingency covered is the loss of support suffered by the widow or children as a result of the death of the breadwinner.
- ★ The term "child" means a child under school-leaving age or under 15 years of age, whichever is the higher (Convention No. 102).

- ★ Convention No. 128 provides for a higher age where the child is an apprentice or student, or has a chronic illness or infirmity disabling him or her from any gainful activity.

Benefits

	Convention No. 102	Convention No. 128
Nature of benefits	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 40% of the reference wage. • The rates of periodical payments must be revised following substantial changes in the general level of earning and/or in the cost of living. 	<ul style="list-style-type: none"> • Periodical payments, corresponding to at least 45% of the reference wage. • idem.
Conditions of entitlement to benefits	<ul style="list-style-type: none"> • Possibility of requiring the breadwinner to complete a qualifying period which may be 15 years of contribution or employment, or 10 years of residence. • In this case, obligation to secure reduced benefits if the breadwinner has completed a qualifying period of five years of contribution or employment. • In the case of a widow, the right to benefits may be made conditional on her being presumed to be incapable of self-support. • For childless widows presumed to be incapable of self-support, a minimum duration of the marriage may also be required. 	<ul style="list-style-type: none"> • idem. Nevertheless, the completion by a widow of a prescribed qualifying period of residence may be required instead. • idem. • Possibility of prescribing an age condition for widows (no higher than the age prescribed for old-age benefits), except if they are invalid or caring for a dependent child of the deceased. • Possibility of requiring a minimum duration of the marriage.
Duration of benefits	<ul style="list-style-type: none"> • The benefit has to be granted throughout the contingency. 	<ul style="list-style-type: none"> • idem.

3. Social security of migrant workers

Convention No. 118 *Convention No. 157 and Recommendation No. 167*

- ★ These three instruments aim at settling the specific problems encountered by migrant workers in the field of social security. They contain provisions concerning all of the nine branches of social security. However:
 - ➞ a State which ratifies Convention No. 118 may limit its application to certain of these branches;
 - ➞ a State party to Convention No. 157, and which has legislation in force covering a specific branch, is obliged to apply the provisions of the Convention for that branch.
- ★ Conventions Nos. 118 and 157 establish a system based on a number of basic principles described below. Provided that they these principles are respected, the States parties to these Conventions have the possibility to derogate from their provisions by virtue of special arrangements concluded between them, on condition notably that they settle the issues that they cover in terms which are at least as favourable.
- ★ In addition, with a view to facilitating the conclusion of the agreements envisaged by these instruments and their coordination at the international level, Recommendation No. 167 contains model provisions, in annex, for the conclusion of bilateral and multilateral social security instruments.

3.1 Equality of treatment

- ★ A State party to Convention No. 118 undertakes to grant within its territory to nationals of any other State which has ratified the Convention, in each of the branches accepted by these two States, equality of treatment in social security (coverage and right to benefits) with its own nationals.
- ★ It can however derogate to this rule in retaliation to any other State which does not respect it.
- ★ Furthermore, equality of treatment must be granted to refugees and stateless persons.

3.2. Maintenance of acquired rights and the provision of benefits abroad

- ★ The maintenance of acquired rights permits migrant workers to receive benefits which are due to them from a State, even when they cease to be resident on its territory.

Long-term benefits

(particularly invalidity, old-age and survivors' benefit, and annuities paid as a result of an employment accident or an occupational disease)

- ★ Every State which ratifies Convention No. 118 has to ensure the provision of benefits abroad in a specific branch for its own nationals and the nationals of any other State, which has accepted the obligations of the Convention for the same branch, irrespective of the place of residence of the beneficiary.
- ★ Convention No. 157 establishes a similar obligation. However, as it does not allow for the exclusion of any branches at the time of ratification, the maintenance of acquired rights has to be ensured for the nationals of other States parties to the Convention in any branch of social security in which the States concerned have legislation that is in force.
- ★ Both Convention No. 118 and Convention No. 157 provide that this rule shall also apply to refugees and stateless persons.

Short-term benefits

- ★ States parties to Convention No. 118 or Convention No. 157 have to endeavour to participate in schemes for the maintenance of acquired rights.
- ★ Negotiations must be undertaken in good faith, although failure to conclude an agreement cannot be interpreted as non-compliance with this obligation.
- ★ In any case, the obligation only rests on the States concerned, that is those between which there are movements of persons warranting the conclusion of such arrangements.

3.3 Maintenance of rights in course of acquisition

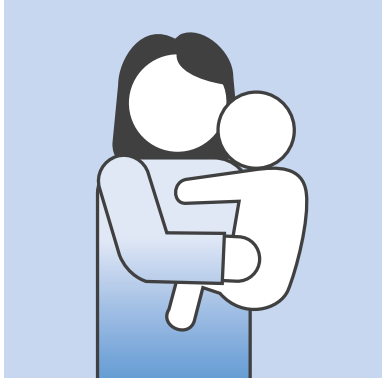
- ★ The maintenance of rights in the course of acquisition makes it possible to add together periods of coverage of migrant workers under the social security legislation of the various countries in which they have lived.
- ★ States parties to Convention No. 118 or Convention No. 157 have to endeavour to participate in a scheme for the maintenance of rights in course of acquisition similar to the system described above for the maintenance of acquired rights.

3.4 Applicable legislation

- ★ Convention No. 157 provides that the States concerned have to determine by common agreement the applicable legislation. This rule is intended to prevent conflicts of laws and the undesirable consequences that might ensue for those concerned either through lack of protection or as a result of undue plurality of contributions or benefits.
- ★ The applicable legislation is normally that of the State in which the persons concerned carry out their occupational activity or, in the case of persons who are not active, in which they are resident.
- ★ However, the States concerned may agree to exceptions from this rule in the interests of the persons concerned.

3.5 Administrative assistance and assistance to persons

- ★ States parties to Convention No.118 shall afford each other administrative assistance, free of charge, with a view to facilitating the application of the Convention and the execution of their respective social security legislation.
- ★ Convention No. 157 also provides for such assistance, in principle free of charge, subject to the reimbursement of certain costs.
- ★ In addition, States parties to Convention No. 157 have to promote the development of social services to assist the persons concerned in their dealings with the authorities.



1. Maternity benefit

***** *Convention No. 102, parts II and VIII*
Convention No. 183 and Recommendation No. 191

Definition of the contingency

- *** The contingency covered must include:
 - ➔ the medical care required by pregnancy, confinement and their consequences;
 - ➔ the resulting suspension of earnings.

Benefits

	Convention No. 102	Convention No. 183
Nature of benefits	<ul style="list-style-type: none"> • Medical care includes at least prenatal, confinement and postnatal care either by medical practitioners or by qualified midwives and hospitalization where necessary. • Periodical payments, at least 45% of the reference wage. 	<ul style="list-style-type: none"> • Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary. • Cash benefits that ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. At least 2/3 of previous earnings or equivalent amount.

	Convention No. 102	Convention No. 183
Conditions of entitlement to benefit	<ul style="list-style-type: none"> • Possibility of prescribing a qualifying period. • Benefit also has to be secured to the wife of a man in the classes protected where the latter has completed the qualifying period. 	<ul style="list-style-type: none"> • Conditions to qualify for cash benefits must be able to be satisfied by a large majority of the women to whom the Convention applies. Where a woman does not meet the conditions to qualify for cash benefits, she must be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.
Duration of benefits	<ul style="list-style-type: none"> • Benefits granted throughout the contingency. • Possibility of limiting periodical payments to 12 weeks, unless a longer period of absence from work is required or authorized by national laws or regulations. 	<ul style="list-style-type: none"> • Benefits granted throughout the contingency; 14 weeks or more in cases of illness or complications.

2. Other protection measures

- ★ Convention No. 102 is devoted exclusively to social security while Convention No. 183 (and its accompanying Recommendation No. 191) addresses maternity protection as a whole and contains provisions which go beyond the scope of social security legislation.

Maternity leave

- ★ All women to whom Convention No. 183 applies must, on production of a medical certificate or other appropriate certification, be entitled to a period of maternity leave of not less than 14 weeks. Recommendation No. 191 advocates the prolongation of maternity leave up to 18 weeks and its extension in the event of multiple births.
- ★ This leave must 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.
- ★ The prenatal portion of maternity leave has to be extended by any period elapsing between the presumed date and the actual date of childbirth.
- ★ In case of illness, complications or risk of complications arising out of pregnancy or childbirth, additional leave must be granted.

Related types of leave

- ★ Recommendation No. 191 also envisages other types of leave:
 - ➔ leave for the father in the case of the death, sickness or hospitalization of the mother before the expiry of postnatal leave;
 - ➔ parental leave during a period following the expiry of maternity leave;
 - ➔ leave in the case of adoption.

Nursing breaks

- ★ Every member State which ratifies Convention No. 183 has to establish the right of breastfeeding mothers to one or more daily breaks or a daily reduction of hours of work.

- ★ These breaks or reduction of hours of work have to be counted as working time and remunerated accordingly.
- ★ Recommendation No. 191 provides that 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.

Health protection

- ★ Every State party to Convention No. 183 must take measures to ensure that pregnant or breastfeeding women are not obliged to perform work which has been determined to be prejudicial to the health of the mother or the child.
- ★ Recommendation No. 191 envisages the adoption of measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. Where a significant risk has been identified, measures should be taken to provide an alternative in the form of:
 - ➔ elimination of the risk;
 - ➔ adaptation of the working conditions of the woman concerned;
 - ➔ transfer to another post, without loss of pay, when such an adaptation is not feasible; or
 - ➔ paid leave when such a transfer is not feasible.
- ★ The Recommendation lists a number of tasks in respect of which such measures should be taken: arduous work, work involving exposure to biological, chemical or physical agents; work requiring special equilibrium or involving physical strain.
- ★ 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.
- ★ Finally, the Recommendation provides that 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.

Non-discrimination

- ★ Every State which ratifies Convention No. 183 has to adopt measures to ensure that maternity does not constitute a source of discrimination in employment or in access to employment.
- ★ It is also prohibited for employers to terminate the employment of a woman during her pregnancy or absence on leave or during a period following her return to work, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. In the latter case, the burden of proving the absence of such a relation rests on the employer.
- ★ Finally, when the woman returns to work, she must be guaranteed the right to return to the same position or an equivalent position paid at the same rate.



1. General provisions



Maritime Labour Convention, 2006

In summary the Convention:

- ★ is presented in a new style for ILO Conventions. It has Articles and Regulations set out in clear “plain language”. It also has a two–part Code made up of Part A (mandatory “Standards”) and Part B (a non-mandatory “Guidelines” (to which “due consideration” must be given)) providing technical details for the implementation of the broadly worded Regulations. It is presented in a “vertically integrated” and numerically linked format with each Regulation followed by the relevant Code provisions on the topic. The Convention provides comprehensive coverage of almost all the subjects dealt with by the existing maritime labour Conventions, including minimum age, hours of work and rest, annual leave, seafarers’ employment agreements, repatriation, medical care, accommodation standards, social protection and establishes an important new compliance and enforcement system involving complementary flag State, port State and labour-supplying State responsibilities;
- ★ allows the technical details in the Code to be changed through a simpler, faster process to keep up with changes in the industry;
- ★ sets out firm obligations on principles and rights, while giving ratifying Members greater discretion than in the past on the way these principles and rights are to be implemented in their national law and practice;
- ★ defines seafarers in a way that will ensure as much as possible that everyone employed on board a ship is protected;
- ★ defines shipowners in a manner that is consistent with well-known definitions in the maritime sector to ensure that a single responsible employer can be identified even in case of subcontracting of responsibilities;
- ★ applies to all ships ordinarily engaged in commercial operations, other than those involved in fishing, or ships of traditional build. It does not apply to warships;
- ★ has some additional national flexibility to address the situation of smaller ships (less than 200 Gross Tonnage) which do not go on

international voyages and where the seafarers are protected by national laws;

- ★ reflects principles of transparency and accountability. Where governments require flexibility in connection with smaller ships, then they must consult with seafarer and shipowner organizations and file a report that will be sent by the ILO to other countries;
- ★ establishes a comprehensive enforcement and compliance system based on flag State certification of the requirements of the Convention on ships (500 Gross Tonnage and over that are engaged in international voyages) that fly its flag, supported by port State inspections and onboard and onshore seafarer complaint mechanisms;
- ★ requires flag States to issue a “Maritime Labour Certificate” to ships found, after inspection, to meet the requirements of the Convention. The Certificate will be complemented by a “Declaration of Maritime Labour Compliance”, issued under the responsibility of the flag State and partly prepared by the shipowner concerned; the Certificate must be issued to, and carried on board, all ships that are 500 Gross Tonnage or over that are engaged in international voyages; the related Declaration, detailing the steps that the shipowner has taken or has put in place on the ship to ensure ongoing compliance with the Convention’s requirements, must also be carried on board those ships;
- ★ allows other ships to request this Certificate;
- ★ requires that a Certificate, complemented by a Declaration, be considered as prima facie evidence that the labour conditions on board meet the requirements of the Convention. This can help the ships concerned to avoid delays resulting from routine inspections in foreign ports;
- ★ adopts the principle of “no more favourable treatment” for ships of countries that do not ratify the Convention. Since these ships will not carry the Certificates provided for in the Convention, they would be subject to an inspection of the labour conditions onboard, when they are in the ports of Members that have ratified the Convention;
- ★ explicitly recognizes private organizations, called “recognized organizations” that often carry out inspection and certification functions in the shipping sector, on behalf of national maritime administrations. The Convention builds upon existing guidelines of the International Maritime Organization (IMO) and sets out mandatory standards with respect to the expertise and independence that these organizations should have before a government can authorize them to carry out labour inspection and certification on its behalf;
- ★ requires Members to carry out quality controls of their systems of inspection and certification and to provide the related information in their reports to the ILO under article 22 of the Constitution.



Merchant Shipping (Minimum Standards) Convention, 1976

- ★ Each State which ratifies the Convention undertakes to have laws or regulations laying down, for ships registered in its territory, and to exercise effective jurisdiction or control over these ships (flag State control) in respect of:
 - ➔ safety standards;
 - ➔ appropriate social security measures;
 - ➔ shipboard conditions of employment; and
 - ➔ shipboard living arrangements.

- ★ It also has to satisfy itself that the provisions of such laws and regulations are substantially equivalent to those of a number of Conventions enumerated in the Appendix to the Convention. The instruments referred to in the Appendix cover matters with regard to:
 - ➔ freedom of association and collective bargaining;
 - ➔ minimum age for admission to employment or work;
 - ➔ social security;
 - ➔ safety, health and welfare of seafarers;
 - ➔ officers' competency certificates;
 - ➔ engagement arrangement;
 - ➔ repatriation of seafarers.

- ★ The rule of substantial equivalence applies in so far as the State concerned is not otherwise bound to give effect to the Conventions in question by reason of their ratification.

- ★ It has to ensure that:
 - ➔ adequate procedures exist for the engagement of seafarers on ships registered in its territory and for the investigation of complaints arising in that connection;
 - ➔ adequate procedures exist for the investigation of any complaint made in connection with the engagement in its territory of seafarers of its own nationality on ships registered in a foreign country;

- such complaint, as well as any complaint made in connection with the engagement in its territory of foreign seafarers on ships registered in a foreign country, is reported promptly to the competent authority of the country in which the ship is registered, with a copy to the ILO;
- seafarers employed on ships registered in its territory are qualified for the duties for which they are engaged.
- ★ It has to verify, by inspection or other appropriate means, that ships registered in its territory comply with:
 - ILO Conventions that it has ratified;
 - the laws and regulations adopted in accordance with the requirements of the Convention; and
 - collective agreements, as appropriate.
- ★ It also undertakes to hold an official inquiry into any serious marine casualty involving ships registered in its territory and to make public the final report of such inquiry.
- ★ It has to advise its nationals on the possible problems of signing on a ship registered in a State which has not ratified Convention No. 147 and does not apply standards equivalent to it.
- ★ The Convention also provides for control by the port State, as a faculty but not an obligation, as is the case of control by the flag State. If a State party to the Convention and in whose port a ship calls receives a complaint or obtains evidence that the ship does not conform to the standards of the Convention, it may:
 - address a report to the Government of the country in which the ship is registered, with a copy to the ILO; and
 - take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health, without unreasonably detaining the ship.

Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

- ★ Each State which ratifies the Protocol undertakes to extend the list of Conventions appearing in the Appendix to Convention No. 147 to include those enumerated in the Protocol. The latter refers to a number of more recent instruments in the fields appearing in the Appendix to Convention No. 147. It also covers two new matters: seafarers' hours of work and seafarers' identity documents

- ★ However, for a group of Conventions appearing in the Appendix to the Protocol, such extension is limited to those that the State accepts in a declaration accompanying the ratification of the Protocol.

RECOMMENDATION No. 155

Merchant Shipping (Improvement of Standards) Recommendation, 1976

- According to the Recommendation, States should ensure that the provisions of the laws and regulations and of collective agreements dealing with shipboard conditions of employment and shipboard living arrangements are at least equivalent to the Conventions referred to in the Appendix to Convention No. 147.
- The Appendix to the Recommendation also contains a list of instruments. In comparison with Convention No. 147, they cover two additional subjects: seafarers' paid vacations and vocational training.
- Steps should be taken, by stages if necessary, with a view to such laws or regulations or collective agreements contain provisions ensuring that at least equivalent to the provisions of the instruments referred to in this Appendix.
- Finally, in the application of Convention No. 147 and Recommendation No. 155, cognizance should be taken, after consultation with the most representative organizations of shipowners and seafarers, of any revision of the instruments referred to in their respective appendices.

Convention No. 185

Seafarers' Identity Documents Convention (Revised), 2003

- ★ Each State which ratifies the Convention is required to issue, upon application, to each of its nationals, who is a seafarer a "seafarers' identity document." Such documents may also be issued to permanent residents under certain conditions.
- ★ The seafarers' identity document is an identity document and not a travel document.

- ★ It must contain specified data and conform to the model provided for in Annex I to the Convention, allowing it to be easily recognized by immigration authorities.
- ★ The identity document must include a biometric, which at present is to be a biometric template of a fingerprint printed as numbers in a bar code and conforming to an international standard. A biometric is an electronic recording of a unique physical identifier allowing immigration authorities to automatically match the document and its bearer.
- ★ In addition to providing for a uniform and standardised document, the Convention contains two important sets of provisions:
 - *requirements* designed to improve the security of seafarers' identification; and
 - *facilities* for seafarers.
- ★ Requirements are included in the Convention concerning the security of the physical document itself and the security of the basic infrastructure for issuance and verification.
- ★ Concerning the security of the infrastructure, the documents' production and issuance processes have to fulfil strict requirements in regards to safety and reliability. These mandatory requirements are contained in Annex III along with guidance on how they can be achieved.
 - States are obliged to audit their production and issuance systems regularly and to submit evaluation reports to the ILO, which is required to publish a list of ratifying States, which fully meet the minimum requirements of the Convention.
 - A national database containing a record of each seafarers' identity document issued, suspended or withdrawn has to be kept by every ratifying State. Information specified in the Convention has to be made accessible at all times to competent authorities either electronically or through a focal point.
- ★ The facilities provided for seafarers relate to admission for shore leave and for transit and transfer in accordance with the Convention.
 - Each State party to the Convention has to permit the entry into its territory of a seafarer holding a seafarers' identity document, if entry is requested for temporary shore leave while the ship is in port. Advance notice of arrival has to be given and admission granted unless there are reasons for denying entry relating to public health, public safety, public order or national security.

- ➔ Entry for transit, transfer or repatriation must also be granted unless there are reasons for denying entry relating to public health, public safety, public order or national security. In this case the seafarers' identity document must be accompanied by a passport.

2. Protection of children and young persons



RECOMMENDATION No. 153

Protection of Young Seafarers Recommendation, 1976

Young seafarer: all young persons under 18 years of age employed in any capacity on board a seagoing ship other than a ship of war or a ship engaged in fishing or in similar pursuits.

- In each country in which ships in which young seafarers are employed are registered, provision should be made for:
 - their effective protection, including the safeguarding of their health, morals and safety, and the promotion of their general welfare; and
 - their vocational guidance, education and training.
- The Recommendation also calls for:
 - the observance of certain rules respecting the hours of permitted duty and rest periods, in accordance with the general obligation of young seafarers to work under the master's direction during any emergency;
 - the right of a young seafarer to be repatriated at no expense to himself, among other reasons, for the purpose of taking leave;
 - the adoption of regulations concerning safety of young seafarers.

3. Access to employment

Convention No. 179



Recruitment and Placement of Seafarers Convention, 1996

Recruitment and placement service: any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of employers or placing seafarers with employers.

- ★ The Convention does not:
 - ➔ prevent a State from maintaining a free public recruitment and placement service for seafarers;
 - ➔ impose the obligation to establish a system for the operation of private recruitment and placement services;
 - ➔ affect the right of a State which ratifies the Convention to apply its laws and regulations to ships flying its flag in relation to the recruitment and placement of seafarers;
 - ➔ in any manner prejudice the ability of a seafarer to exercise basic human rights, including trade union rights.
- ★ Private recruitment and placement services may only be operated within the territory of a State party to the Convention in conformity with a system of licensing or certification or other form of regulation.
- ★ Each State which ratifies the Convention has to:
 - ➔ ensure that no fees for recruitment or for providing employment to seafarers are borne by the latter;
 - ➔ determine the conditions under which recruitment and placement services may place or recruit seafarers abroad;
 - ➔ specify the conditions under which seafarers' personal data may be processed by recruitment and placement services;
 - ➔ determine the conditions under which the license may be suspended or withdrawn in case of violation of relevant laws and regulations.

★ Each State which ratifies the Convention has to ensure that the competent authority:

- ➔ closely supervises all recruitment and placement services;
- ➔ grants or renews the license only after having verified that these services meet the requirements of national laws and regulations;
- ➔ requires that the management and staff of these services are adequately trained and have relevant knowledge of the maritime industry;
- ➔ prohibits these services from using means intended to prevent or deter seafarers from gaining employment;
- ➔ requires them to ensure that the employer has the means to protect seafarers from being stranded in a foreign port;
- ➔ ensures that seafarers can be compensated for monetary loss that they may incur as a result of the failure of the recruitment and placement service to meet its obligations to them.

★ All recruitment and placement services have to ensure that:

- ➔ any seafarer recruited or placed by them is qualified and holds the documents necessary for the job concerned;
- ➔ contracts of employment and articles of agreement are in accordance with applicable laws, regulations and collective agreements;
- ➔ seafarers are informed, at the latest during the process of engagement, of their rights and duties under their contracts and that they can examine them and receive a copy of them.

★ Adequate machinery and procedures must exist for the investigation of complaints concerning the activities of recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers. The recruitment and placement service has to examine and respond to any complaint concerning its activities and advise the competent authority of any unresolved complaint.

Recruitment and Placement of Seafarers Recommendation, 1996

- The competent authority should:
 - promote effective cooperation among recruitment and placement services, whether public or private;
 - maintain an arrangement for the collection and analysis of all relevant information on the maritime labour market;
 - prescribe or approve operational standards and encourage the adoption of codes of conduct and ethical practices for these services.
- International cooperation should be encouraged between member States and relevant organizations and may include:
 - the exchange of information on maritime labour legislation;
 - the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers.

4. General conditions of employment



Convention No. 180

Seafarers' Hours of Work and the Manning of Ships Convention, 1996

Seafarer' hours of work and hours of rest

- ★ A State which ratifies the Convention acknowledges that the normal working hours' standard for seafarers is based on an eight-hour day with one day of rest a week and rest on public holidays. Nothing prevents the State from authorizing more favourable working hours
- ★ The State has to determine:
 - the maximum hours of work in a given period (a maximum of 14 hours in any 24-hour period, and 72 hours in any seven-day period); or
 - the minimum hours of rest to be accorded in a given period (a minimum of ten hours in any 24-hour period, and 77 hours in any seven-day period).
- ★ It may permit exceptions to the limits set out, with the possibility of taking into account the granting of compensatory leave.
- ★ It also has to require the posting of a table with the shipboard working arrangements and the maintenance of records of seafarers' daily hours of work or of rest.
- ★ The master of a ship:
 - must take all necessary steps to ensure that the requirements on seafarers' hours of work and rest are complied with;
 - may require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. However, as soon as practicable after the normal situation has been restored, he has to ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.
- ★ The competent authority must require that measures are taken in the event of infringement, including if necessary the revision of the manning of the ship, so as to avoid future infringements.

- ★ No seafarer under 18 years of age may work at night, except where the effective training of young seafarers between the ages of 16 and 18 would be impaired.

Manning of ships

- ★ No person under 16 years of age may work on a ship.
- ★ Every ship to which this Convention applies must be sufficiently, safely and efficiently manned. The manning levels of ships have to be determined taking into account the need to avoid excessive hours of work, to ensure sufficient rest and to limit fatigue.
- ★ The shipowner has to ensure that the master is provided with the necessary resources for the purpose of compliance with obligations under the Convention, including those relating to the appropriate manning of the ship.

RECOMMENDATION No. 187

Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996

Wages

- The Recommendation calls for compliance with certain rules relating to the remuneration, on the one hand, of seafarers whose remuneration includes separate compensation for overtime worked and, on the other, of those whose wages are consolidated (the term consolidated wage means a wage or salary which includes the basic wage and other pay-related benefits).
- It also provides that the principle of “equal remuneration for work of equal value” should apply to all seafarers employed upon the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin.
- Wages should be paid in legal tender, at regular intervals and directly to the seafarer or to his or her designated bank account.
- Apart from certain deductions from remuneration permitted by the Recommendation, the shipowner should impose no limit on the seafarer’s freedom to dispose of his or her remuneration.
- Adequate penalties or other appropriate remedies should be imposed by the competent authorities where shipowners unduly delay, or fail to make, payment of all remuneration due.

- Seafarers' claims for wages and other sums due in respect of their employment should be protected by a privilege.
- Without prejudice to the principle of free collective bargaining, the Recommendation calls for the establishment of procedures for determining minimum wages for seafarers. In this respect, due regard should be given to international labour standards concerning minimum wage fixing.
- The basic pay or wages for a calendar month for an able seaman should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the ILO.



Convention No. 146

Seafarers' Annual Leave with Pay Convention, 1976

- ★ Seafarers are entitled to annual leave with pay the length of which has to be specified by each State in a declaration appended to its ratification, and which must in no case be less than 30 days for one year of service.
- ★ A seafarer whose length of service is less than one year must be entitled to proportionately reduced annual leave with pay.
- ★ Any agreement to relinquish this right must be considered null and void.
- ★ Absence from work to attend an approved maritime vocational training course or for such reasons beyond the control of the seafarer concerned as illness, injury or maternity have to be counted as part of the period of service, under conditions to be determined at the national level.
- ★ The following must not be counted as part of the minimum annual leave with pay:
 - ➔ public and customary holidays recognized as such in the country of the flag;
 - ➔ periods of incapacity for work resulting from illness, injury or maternity;
 - ➔ temporary shore leave granted to a seafarer;
 - ➔ compensatory leave of any kind.

- ★ Seafarers must receive at least their normal remuneration in respect of the full period of annual leave.
- ★ A seafarer who is discharged from service before he or she has taken annual leave due to him or her must receive the remuneration due in respect of each day of leave due.
- ★ The leave must consist of an uninterrupted period unless:
 - ➔ otherwise provided in an agreement applicable to the employer and the seafarer concerned; or
 - ➔ the division of the annual leave into parts or its accumulation is authorized at the national level.
- ★ In exceptional cases, the annual leave may be replaced by a cash payment at least equivalent to the remuneration due as provided for in the Convention.
- ★ The time at which the leave is to be taken is to be determined by the employer after consultation and, as far as possible, in agreement with the seafarer concerned or his representatives.
- ★ A seafarer taking annual leave may be recalled only in cases of extreme emergency, with due notice.
- ★ No seafarer may be required without his consent to take annual leave due to him at a place other than that where he was engaged or recruited, unless otherwise provided by a collective agreement or national laws or regulations.

Convention No. 166



Repatriation of Seafarers Convention (Revised), 1987

- ★ A seafarer must be entitled to repatriation in the following circumstances:
 - ➔ if an engagement for a specific period or for a specific voyage expires abroad;
 - ➔ upon expiry of the period of notice given in accordance with the provisions of the contract of employment;
 - ➔ in the event of illness or injury or other medical condition which requires his or her repatriation;
 - ➔ in the event of shipwreck;

- in the event of the shipowner not being able to continue to fulfil his or her obligations to the seafarer by reason of bankruptcy, inter alia;
 - in the event of a ship being bound for a war zone to which the seafarer does not consent to go;
 - in the event of termination or interruption of the employment of the seafarer.
- ★ National laws or regulations or collective agreements have to prescribe the maximum duration of service periods on board following which a seafarer is entitled to repatriation, which must be less than twelve months.
- ★ The State also has to prescribe the destinations to which seafarers may be repatriated, which must include:
 - the place at which the seafarer agreed to enter into the engagement;
 - the place stipulated by collective agreement;
 - the seafarer's country of residence; or
 - such other place as may be mutually agreed at the time of engagement.
- ★ The seafarer must have the right to choose from among the prescribed destinations the place to which he or she is to be repatriated.
- ★ The arrangement of repatriation:
 - is the responsibility in the first place of the shipowner;
 - if a shipowner fails to make such arrangements, it is then the responsibility of the competent authority of the State in whose territory the ship is registered (and the cost may be recovered from the shipowner);
 - in the event of failure of the above State to make such arrangements, they may be made by the State from which the seafarer is to be repatriated or of which he or she is a national (and the cost may be recovered from the State in whose territory the ship is registered).
- ★ The cost of repatriation must not in any event be borne by the seafarer, except where the latter has been found to be in serious default of his or her employment obligations.
- ★ Seafarers who are to be repatriated must be able to obtain their passport and other identity documents for this purpose.

- ★ Each State party to the Convention has to facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.
- ★ The competent authority of each State has to ensure by means of adequate supervision that the owners of ships registered in its territory comply with the provisions of the Convention.

RECOMMENDATION No. 174

Repatriation of Seafarers Recommendation, 1987

- In the event of the failure of the shipowner and the State in whose territory the ship is registered to meet their obligations, the State from which the seafarer is to be repatriated or of which he or she is a national should arrange for his or her repatriation, and recover the cost from the State in whose territory the ship is registered.

5. Safety, health and welfare



Convention No. 163

Seafarers' Welfare Convention, 1987

- ★ Each State which ratifies the Convention undertakes to ensure that adequate welfare, cultural, recreational and information facilities and services are provided for seafarers both in port and on board ship.
- ★ These facilities and services have to be:
 - ➔ provided in appropriate ports of the country for all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the State in which the ship on which are employed is registered;
 - ➔ provided for the benefit of all seafarers on board every seagoing ship registered in its territory;
 - ➔ reviewed frequently to ensure that they are appropriate to the needs of seafarers.



RECOMMENDATION No. 173

Seafarers' Welfare Recommendation, 1987

- In addition to the facilities and services envisaged in Convention No. 163, States should take measures to ensure that adequate protection is provided to seafarers in the exercise of their calling.
- In the implementation of these measures, States should take into account the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare time facilities.
- The Recommendation enumerates the welfare and recreational facilities that should be provided in ports.
- It also calls for the provision of information to seafarers entering port, particularly with regard to:
 - ➔ diseases to which they may be exposed and means of avoiding them;

→ laws and customs the contravention of which may jeopardize their freedom.

■ Other provisions relate to:

→ the possibility for seafarers to receive medical treatment;

→ the access to their consuls;

→ the possibility for seafarers to save and transmit their savings to their families.

Convention No. 164



Health Protection and Medical Care (Seafarers) Convention, 1987

- ★ Each State which ratifies the Convention has to:
 - ➔ make shipowners responsible for keeping ships in proper sanitary and hygienic conditions;
 - ➔ ensure the adoption of measures providing for health protection and medical care for seafarers on board ship.
- ★ These measures must include:
 - ➔ the application to seafarers of any general provisions on occupational health protection and medical care, as well as of special provisions peculiar to work on board;
 - ➔ the provision of health protection as comparable as possible to that which is generally available to workers ashore;
 - ➔ the right to visit a doctor without delay in ports of call, where practicable;
 - ➔ medical care provided free of charge;
 - ➔ measures of a preventive character.
- ★ Medical advice by radio or satellite communication must be available free of charge to ships at sea at any hour of the day or night.
- ★ All ships to which the Convention applies must carry:
 - ➔ a medicine chest that is properly maintained and inspected at regular intervals, not exceeding twelve months;
 - ➔ a ship's medical guide adopted by the competent authority.

- ★ They have to provide all possible medical assistance, where practicable, to other vessels which may request it.
- ★ Ships carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days' duration have to carry a medical doctor as a member of the crew.
- ★ In any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration, separate hospital accommodation has to be provided.
- ★ All seafarers must receive instruction on the immediate action that should be taken in the event of an accident or other medical emergency on board.
- ★ The competent authority has to adopt a standard medical report form for seafarers.
- ★ States for which the Convention is in force have to cooperate with one another in promoting protection of the health of seafarers and medical care for them on board ship.

Convention No. 92

Accommodation of Crews Convention (Revised), 1949

- ★ The following must be submitted for approval to the competent authority:
 - ➔ a plan of the ship before the construction is begun;
 - ➔ detailed plans of crew accommodation on board a ship before its construction is begun or before crew accommodation in an existing ship is altered or reconstructed.
- ★ The competent authority must inspect the ship and satisfy itself that the crew accommodation complies with the requirements of the laws and regulations on every occasion when:
 - ➔ a ship is registered or re-registered;
 - ➔ the crew accommodation of a ship has been substantially altered or reconstructed; or
 - ➔ complaint has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel:

- by a recognized bona fide trade union of seafarers representing all or part of the crew; or
 - by a prescribed proportion of the members of the crew.
- ★ Each State for which the Convention is in force undertakes to maintain in force laws or regulations which, among other measures:
 - ➔ require the competent authority to bring the provisions adopted to the notice of all persons concerned;
 - ➔ define the persons responsible for compliance therewith;
 - ➔ prescribe adequate penalties for any violation thereof;
 - ➔ provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
 - ➔ require the competent authority to consult the organizations of shipowners and/or the shipowners and the recognized bona fide trade unions of seafarers in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.
 - ★ The Convention contains detailed provisions on crew accommodation requirements, particularly with regard to the materials used, ventilation, heating, lighting, sleeping rooms, mess rooms, recreation accommodation, sanitary facilities and hospital accommodation.
 - ★ It provides that the crew accommodation has to be maintained in a clean and decently habitable condition and must be kept free of goods and stores not the personal property of the occupants.
 - ★ It contains specific rules relating to its application to existing ships.

Convention No. 133

Accommodation of Crews (Supplementary Provisions) Convention, 1970

- ★ The Convention is intended to supplement Convention No. 92 in the light of the rapidly changing characteristics of the construction and operation of modern ships.
- ★ Each State which ratifies Convention No. 133 undertakes to comply with the provisions of Part II (Planning and control of crew accommodation) and Part III (Crew accommodation requirements) of Convention No. 92.

- ★ Part II of Convention No. 133 contains detailed provisions on the following matters: the floor area per person of sleeping rooms; the floor area and equipment of mess rooms; recreation accommodation; sanitary facilities; headroom in crew accommodation; lighting.
- ★ It allows certain exceptions to take into account the differing religious and social practices of the crew, on condition that such variations do not result on overall facilities less favourable than those which would result from the application of the Convention.

RECOMMENDATION No. 140

Crew Accommodation (Air Conditioning) Recommendation, 1970

- The Recommendation provides for the equipment with air conditioning of crew accommodation in all ships of 1,000 gross register tons or over constructed after its adoption, except those regularly engaged in trade where temperate climatic conditions do not require this.
- It also calls for the possibility to be investigated of installing air conditioning on board other types of ships.

RECOMMENDATION No. 141

Crew Accommodation (Noise Control) Recommendation, 1970

- The competent authority in each maritime country, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organizations, should review research into the problem of noise on board ships with the object of drawing up provisions to protect seafarers from the ill effects of noise.
- It should, in the light of such research, establish provisions for the reduction of, and protection of seafarers from, excessive and harmful noise on board ship.
- The Recommendation also enumerates measures which should be envisaged to reduce noise on board ship.

6. Employment security

Convention No. 145



Continuity of Employment (Seafarers) Convention, 1976

- ★ The Convention applies to persons who are regularly available for work as seafarers and who depend on their work as such for their main annual income.
- ★ In each member State which has a maritime industry it must be national policy to encourage all concerned to provide continuous or regular employment for qualified seafarers in so far as this is practicable and, in so doing, to provide shipowners with a stable and competent workforce.
- ★ Every effort must be made for seafarers to be assured minimum periods of employment, or either a minimum income or a monetary allowance.
- ★ Seafarers included on a register or list must have priority of engagement for seafaring.
- ★ The strength of registers or lists of seafarers must be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.
- ★ When a reduction in the strength of a register becomes necessary, measures must be taken to prevent or minimize detrimental effects on seafarers.
- ★ Each Member State must ensure that appropriate safety, health, welfare and vocational training provisions apply to seafarers.

RECOMMENDATION No. 154



Continuity of Employment (Seafarers) Recommendation, 1976

- In so far as practicable, systems for the allocation of employment should preserve the right of a seafarer to select the vessel on which he or she is to be employed and the right of the shipowner to select the seafarer whom he or she is to engage.

- Registers or lists of qualified seafarers intended to obtain regular employment for them might be established on the basis of the following criteria:
 - residence in the country concerned;
 - age and medical fitness;
 - competence and skill;
 - previous service at sea.
- If reduction in the strength of a register becomes unavoidable, seafarers should be helped to find employment elsewhere through the provision of retraining facilities and the assistance of the public employment services.
- In so far as practicable, any reduction in the strength of a register should be made gradually and without recourse to termination of employment.
- If termination of employment has to be envisaged, it should be based as far as possible on agreed criteria, should be subject to adequate notice and should be accompanied by payments such as unemployment insurance or other forms of social security, severance allowance or other types of separation benefits, or such combination of benefits as may be provided for by national laws or regulations, or collective agreements.
- As far as practicable, the provisions of the Recommendation should also be applied to persons who work as seafarers on a seasonal basis.

7. Social security

Convention No. 165



Social Security (Seafarers) Convention (Revised), 1987

- ★ National legislation must provide for seafarers social protection not less favourable than that enjoyed by shoreworkers.
- ★ Furthermore, any State ratifying the Convention has to adopt measures of coordination between its various social security schemes for the maintenance of rights in course of acquisition by a person who, having ceased to be subject to a special compulsory scheme for seafarers, becomes subject to an equivalent scheme for shoreworkers, or vice versa.
- ★ The Convention applies to all seafarers and, where applicable, their dependants and their survivors.
- ★ States which ratify the Convention undertake to accept the obligations for at least three of the nine branches of social security:
 - a) medical care;
 - b) sickness benefit;
 - c) unemployment benefit;
 - d) old-age benefit;
 - e) employment injury benefit;
 - f) family benefit;
 - g) maternity benefit;
 - h) invalidity benefit;
 - i) survivors' benefit,including at least one of branches (c), (d), (e), (h) and (i).
- ★ For each of the branches that it accepts, the State has to indicate whether it undertakes to apply minimum standards (benefits corresponding to those envisaged in Convention No. 102 for that branch) or superior standards (benefits at least equal to those envisaged by the provisions, as appropriate, of Conventions Nos. 103, 121, 128 or 130).

- ★ The shipowner must be required to provide to seafarers whose condition requires medical care:
 - proper and sufficient medical care until their recovery or repatriation;
 - board and lodging until they are able to obtain suitable employment or are repatriated;
 - repatriation.
- ★ Seafarers who by reason of their condition are repatriated or left behind during the course of the voyage continue to be entitled to their full wages (exclusive of bonuses) until the following events, whichever occurs first:
 - they receive an offer of suitable employment;
 - their recovery;
 - their repatriation; or
 - the expiry of a period of a length prescribed by the national laws or regulations (not less than 12 weeks).
- ★ The shipowner ceases to be liable for the payment of wages from the time seafarers are entitled to cash benefits under the applicable legislation.
- ★ The Convention contains measures for the protection of foreign or migrant seafarers, particularly with regard to:
 - the determination of the applicable legislation, with a view to avoiding conflicts of laws (in principle, the legislation of the State whose flag the ship is flying or the legislation of the State in whose territory the seafarer is resident);
 - equality of treatment as regards coverage and the right to benefits;
 - the maintenance of acquired rights and rights in course of acquisition.
- ★ Every person concerned must have a right of appeal in case of refusal of a benefit or complaint as to its nature, level, amount or quality.
- ★ Each State has to accept general responsibility for:
 - the due provision of the benefits provided in compliance with the Convention; and
 - the proper administration of the institutions and services concerned in the application of the Convention.

- ★ The Convention also provides for the participation of representatives of the seafarers protected and of shipowners (and possibly of the public authorities) where the administration of social security for seafarers is not entrusted to an institution regulated by the public authorities or responsible to a legislature.

8. Labour inspection



Convention No. 178

Labour Inspection (Seafarers) Convention, 1996

- ★ Each State which ratifies the Convention has to maintain a system of inspection of seafarers' working and living conditions.

Central coordinating authority: ministers, government departments or other public authorities having power to issue and supervise the implementation of regulations, orders or other instructions having the force of law in respect of inspection of seafarers' working and living conditions in relation to any ship registered in the territory of the State.

- ★ The central coordinating authority shall coordinate inspections wholly or partly concerned with seafarers' working and living conditions and shall establish principles to be observed.
- ★ It shall, in all cases, be responsible for the inspection of seafarers' working and living conditions.
- ★ It may authorize public institutions, or other organizations it recognizes as competent and independent, to carry out such inspections on its behalf.
- ★ All ships registered in its territory have to be inspected at intervals not exceeding three years and, when practicable, annually, to verify that the seafarers' working and living conditions on board conform to national laws and regulations.
- ★ If a State receives a complaint or obtains evidence that a ship registered in its territory does not conform to national laws and regulations in respect of seafarers' working and living conditions, it must take measures to inspect the ship as soon as practicable.
- ★ In cases of substantial changes in construction or accommodation arrangements, the ship must be inspected within three months of such changes.
- ★ Each State which ratifies the Convention has to appoint inspectors qualified for the performance of their duties and in sufficient number.

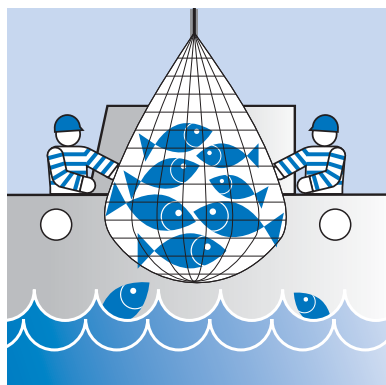
- ★ The status and conditions of service of inspectors have to be such as to ensure that they are independent of changes of government and of improper external influences.
- ★ Inspectors must be empowered:
 - ➔ to board a ship registered in the territory of the State and to enter premises as necessary for inspection;
 - ➔ to carry out any examination, test or inquiry to satisfy themselves that the legal provisions are being strictly observed;
 - ➔ to require that deficiencies are remedied; and
 - ➔ where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health and safety, to prohibit a ship from leaving port until necessary measures are taken.
- ★ The ship must not however be unreasonably detained or delayed. If a ship is so detained or delayed, the shipowner or operator of the ship must be entitled to compensation for any loss or damage suffered.
- ★ The central coordinating authority has to maintain records of inspections of seafarers' working and living conditions and publish an annual report on inspection activities.
- ★ Adequate penalties for violations of the legal provisions enforceable by inspectors and for obstructing inspectors in the performance of their duties have to be provided for by national laws or regulations. These penalties must be effectively enforced.
- ★ Inspectors must have the discretion to give warnings and advice instead of instituting or recommending proceedings.

RECOMMENDATION No. 185

Labour Inspection (Seafarers) Recommendation, 1996

- The central coordinating authority should inter alia:
 - ➔ ensure cooperation between inspectors, shipowners, seafarers and their respective organizations;
 - ➔ establish simple procedures to enable it to receive information in confidence concerning possible infringements of legal provisions presented by seafarers directly or through representatives, and enable inspectors to investigate such matters promptly;

- enable masters, crew members or representatives of the seafarers to call for an inspection when they consider it necessary.
- It should also be notified of any occupational injuries or diseases affecting seafarers, in such cases and in such manner as may be prescribed by national laws or regulations.
- Inspectors should where possible have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions.
- They should be empowered to:
 - question the master, seafarer or any other person, including the shipowner or the shipowner's representative, concerning the application of the legal provisions;
 - require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection;
 - enforce the posting of notices required by the legal provisions; and
 - take or remove, for the purposes of analysis, samples of products, cargo, drinking water, provisions and materials and substances used or handled.
- Inspectors should:
 - be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect;
 - subject to appropriate penalties or disciplinary measures, be bound to respect confidentiality;
 - treat as confidential the source of any complaint and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a complaint; and
 - have discretion, following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master deficiencies which may affect the health and safety of those on board ship.
- Finally, the Recommendation contains indications on the information that should be contained in the annual report published by the central coordinating authority.



Convention No. 188



Work in Fishing Convention, 2007

- ★ The Convention, except as otherwise provided therein, applies to all fishers and fishing vessels engaged in commercial fishing operations.
- ★ Each State which ratifies the Convention is required to adopt laws, regulations or other measures, which may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice, in order to fulfil its commitment under this Convention with respect to all fishers and all fishing vessels engaged in commercial fishing operations under its jurisdiction. Each ratifying Member has to, among other things:
 - ➔ Ensure that the minimum age for work on board a fishing vessel shall be 16 years. Nevertheless, the competent authority may authorise a minimum age of 15 in certain circumstances. Young persons must not be less than 18 years when the activities carried out on board are likely to jeopardise their health, safety or morals, or are performed at night;
 - ➔ Ensure fishing vessels are sufficiently and safely manned, and that fishers are given regular periods of rest of sufficient length to ensure safety and health;
 - ➔ Require that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of the Convention and specifies minimum particulars set out in in Annex II.
 - ➔ Ensure that adequate procedures exist for fishers to review and seek advice on the terms of the fisher's work agreement before it is concluded, and that there is a means of settling disputes concerning such agreements;
 - ➔ Ensure that a fisher on vessel entering a foreign port is entitled to repatriation when their agreement expires or for other justified reasons;
 - ➔ Prohibit private recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work and requiring that no fees or other

- charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher;
- ➔ Provide that fisher who are paid a wage are ensured a monthly or other regular payment and that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost;
 - ➔ Require that accommodation on board fishing vessels shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the lengths of time fishers live on board. Moreover, it must conform to the specific requirements of Annex III. Procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention shall be provided.
 - ➔ Require that the food and water carried and served on board be of sufficient nutritional value, quality and quantity and be provided by the fishing vessel owner at no cost to the fisher.
 - ➔ Require that fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage. Fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness
 - ➔ Address the prevention of occupational accidents, occupational diseases and work-related risk on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers. States shall ensure the setting up of joint committees, or other appropriate bodies, on occupational safety and health.
 - ➔ Ensure that fishers ordinarily resident in their territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in their territory. Moreover, States shall cooperate through bilateral or multilateral agreements, or other arrangements, to achieve comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality and to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.
 - ➔ Provide fishers with protection for work-related sickness, injury or death. In the event of injury due to occupational accident or

disease, the fisher shall have access to appropriate medical care and the corresponding compensation in accordance with national laws and regulations. This protection may be ensured through a system of fishing vessel owners' liability, or compulsory insurance, workers' compensation or other schemes. In the absence of such measures, fishing vessel owners shall be responsible.

- ★ Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.
- ★ Member States which receive a complaint or obtain evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.
- ★ If a Member, in whose port fishing vessel calls in the normal course of its business or for operational reasons, receive a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health. The complaints may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.
- ★ The Convention provides additional requirements for many of the above provisions for vessels of 24 metres in length and over, or vessels remaining at sea for extended periods,
- ★ The Convention provides States with flexibility as concerns its implementation:
 - ➡ It provides for the possibility to, after consultation to exclude from the requirements of the Convention or certain of its provisions: fishing vessels engaged in fishing operations in rivers, lakes or canals; and limited categories of fishers or fishing vessels. In case of such exclusions, the State is to report to the ILO on measures taken to provide equivalent protection.

- ➔ It provides a legal mechanism that allows States to progressively implement certain of its provisions where it is recognised that its full implementation, taking into consideration the insufficient development of domestic infrastructure or institutions, is not immediately possible. When a Member avails itself of this possibility, it is to draw up a plan indicating how such provisions are to be progressively implemented, and report on this to the ILO;
- ➔ It provides for the possibility of having laws, regulations or other measures concerning accommodation that are “substantially equivalent” to the specific requirements in Annex III of the Convention.
- ★ The Convention provides for consultation by the competent authority with the representative organizations of employers and workers concerned and in particular the representative organizations of fishing vessel owners and fishers, where they exist, when utilizing the flexibility provisions noted above.



RECOMMENDATION No. 199

Work in Fishing Recommendation, 2007

- The Recommendation provides further guidance on many of the issues addressed in the Work in Fishing Convention, 2007 (No. 188). Issues addressed include: protection of young persons, medical examination, competency & training, record of service, payment of fishers, accommodation, medical care on board, occupational safety & health, and social security.
- Concerning the protection of young persons, the Recommendation provides that Members should require a pre-sea training of persons between the ages of 16 and 18. The training might be provided through participation in an apprenticeship or approved training programme which should be monitored by a competent authority and should not interfere with the person’s general education. In addition, Members should take measures to ensure the safety, lifesaving, survival equipment and the nature of medical examinations for crew under the age of 18.
- With regards to training, the Recommendation calls for observance of generally accepted international standards concerning training and competencies of skippers, mates, engineers and other persons working on board fishing vessels. Members should also address national

planning and administration of training programmes ensuring that there is no discrimination with regard to access to training.

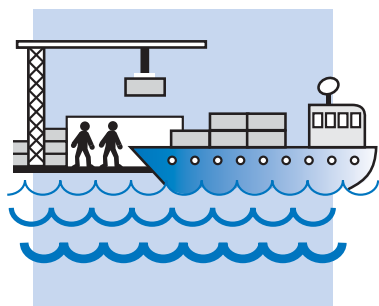
- In the area of on board accommodation for fishers, it the Recommendation supplements Convention No. 188 by providing additional guidance concerning:
 - Design and construction
 - Noise and vibration
 - Heating and lighting
 - Sleeping rooms and recreational facilities
 - Food and sanitary accommodation

In doing so, it makes reference to the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the FAO/ILO/IMO Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels.

- According to the Recommendation, the competent authority, as concerns on board medical care, should adopt measures with a view to:
 - Advance medical care on board through the establishment of an appropriate list of medical supplies and equipment, encouraging training in basic first aid and facilitating the exchange of medical and related information.
 - Develop medical care on board of vessels of 24 metres in length and over reserving particular attention to international recommendations in the field and guaranteeing inspections of medical equipment and supplies at intervals of no more than 12 months.
- In the area of occupational safety and health, it provides that the competent authority should:
 - Adopt national policies and programmes in order to contribute to the continuous improvement of safety and health of fishers. Particularly, the competent authority should ensure regular consultations on safety and health matters, provide suitable guidance, training material or other appropriate information taking into account relevant international standards, codes, guidance and other information.
 - Reinforce the risk evaluation system ensuring the active participation of all fishers, or their representatives, and implementing laws, regulations or other measures that can favour an occupational safety and health policy and provide fishers with a forum to influence safety and health matters.
 - It also makes reference to the ILO's Guidelines on occupational safety and health management systems, ILO-OSH 2001, and to the

FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, Part A.

- With regard to social security, it provides that Members should:
 - ➔ Extend progressively social security protection to all fishers maintaining up to date information on the percentage of fisher covered, the range of contingency and the level of benefits. Moreover, every fisher should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.
- The Recommendation further calls for the strengthening of the mechanism of compliance established by article 43 of Convention No. 188 through the development of inspection policies based on international agreed guidelines.
- An important innovation in the Recommendation is that it provides, inter alia, that a Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with requirements of Convention No. 188.



Convention No. 152

Occupational Safety and Health (Dock Work)
Convention, 1979

- ★ The objective of Convention No. 152 is the protection of dockworkers against any risk of accident or injury to health.

Dock work: the work of loading or unloading any ship as well as any work incidental thereto.

- ★ The definition of such work has to be established and revised by national law or practice, after consultation with the organizations of employers and workers.
- ★ Each State party to the Convention has to prescribe technical measures with a view to:
 - ➔ providing and maintaining safe workplaces, equipment and means of access to the workplace;
 - ➔ the use of methods of work that are safe and without risk of injury to health;
 - ➔ the information, training and supervision necessary to ensure the protection of workers against risks of accident or injury to health arising out of or in the course of their employment;
 - ➔ providing workers with any personal protective equipment and life-saving appliances reasonably required where protection cannot be provided by other means;
 - ➔ providing and maintaining suitable and adequate first-aid and rescue facilities;
 - ➔ developing proper procedures to deal with emergency situations.
- ★ These measures have to cover, among others:
 - ➔ general requirements relating to the construction, equipping and maintenance of dock structures and other places at which dock work is carried out;

- fire and explosion prevention and protection;
- safe means of access to ships, holds, staging, equipment and lifting appliances;
- transport of workers;
- construction, maintenance and use of lifting and other cargo-handling appliances, as well as staging;
- testing, examination, inspection and certification, as appropriate, of lifting appliances, of loose gear;
- handling of cargo;
- medical supervision;
- first-aid and rescue facilities;
- dangerous substances and other hazards in the working environment;
- personal protective equipment and protective clothing;
- safety and health organization;
- training of workers;
- notification and investigation of occupational accidents and diseases.

★ Laws and regulations have to make appropriate persons responsible for compliance with these measures, namely as the case may be:

- employers;
- owners of gears;
- masters; or
- other persons.

★ Each State which ratifies the Convention has to:

- specify the duties in respect of occupational safety and health of persons and bodies concerned with dock work;
- take necessary measures, including the provision of appropriate penalties, to enforce the provisions of the Convention;
- provide inspection services to supervise the application of the measures to be taken in pursuance of the Convention, or satisfy itself that appropriate inspection is carried out.

★ Arrangements have to be made under which workers:

- do not interfere without due cause with the operation of, nor misuse, any safety device or appliance;

- ➔ take reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at work;
- ➔ report forthwith to their immediate supervisor any situation which could present a risk and which they cannot correct themselves.
- ★ Workers have the right to participate in ensuring safe working and to express views on the working procedures adopted as they affect safety.
- ★ The competent national authority must act in consultation with the organizations of employers and workers concerned in giving effect to the Convention. Provision also has to be made for close collaboration between employers and workers in the application of the technical measures envisaged by the Convention.
- ★ Under certain conditions, a State may grant exemptions from the provisions of the Convention in respect of dock work:
 - ➔ at any place where the traffic is irregular and confined to small ships; as well as
 - ➔ in respect of fishing vessels.
- ★ It may also vary certain technical measures required by the Convention if the competent authority is satisfied, after consultation with the organizations of employers and workers concerned, that the overall protection afforded is not inferior to that which would result from the full application of the provisions of the Convention.

RECOMMENDATION No. 160

Occupational Safety and Health (Dock Work) Recommendation, 1979

- With a view to preventing occupational accidents and diseases, workers should be given adequate training in safe working procedures, occupational hygiene and, where necessary, first aid procedures and the safe operation of cargo-handling appliances.
- In giving effect to Convention No. 152, States should take into consideration the latest edition of the Code of Practice on safety and health in dock work published by the ILO, as well as the relevant provisions adopted under the auspices of other competent international organizations. The Recommendation also contains a list of technical measures intended to supplement those set out in the Convention.



Convention No. 97



Migration for Employment Convention (Revised), 1949

Migrant for employment: a person who migrates from one country to another with a view to being employed otherwise than on her or his own account. The term includes any person regularly admitted as a migrant for employment.

The Convention does not apply to:

- frontier workers;
- short-term entry of members of the liberal professions and artistes; and
- seafarers.

- ★ Each State which ratifies the Convention undertakes to make available on request to the ILO and to other States information on:
 - ➔ national policies, laws and regulations relating to emigration and immigration;
 - ➔ special provisions concerning migration for employment and the conditions of work and livelihood of migrants for employment;
 - ➔ agreements concluded in this field.
- ★ It also has to:
 - ➔ satisfy itself that there is maintained a free service to assist migrants for employment and provide them with information;
 - ➔ take appropriate steps against misleading propaganda relating to emigration and immigration;
 - ➔ take measures to facilitate the departure, journey and reception of migrants for employment;
 - ➔ maintain appropriate medical services for the migrants for employment and members of their families;
 - ➔ ensure that the services provided by its public employment service to migrants for employment are rendered free;

➔ permit these workers to transfer part of their earnings and savings, in accordance with national laws and regulations concerning export and import of currency.

★ It has 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:

➔ In so far as such matters are regulated by laws or regulations, or are subject to the control of administrative authorities:

a) remuneration, hours of work, holidays with pay, restrictions on home work, minimum age for employment, training, women's work and the work of young persons;

b) membership of trade unions and enjoyment of the benefits of collective bargaining;

c) accommodation.

➔ Social security, subject to the following limitations:

a) arrangements for the maintenance of acquired rights and rights in course of acquisition;

b) special arrangements (benefits payable wholly out of public funds and allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension).

➔ Employment taxes, dues or contributions.

➔ Legal proceedings relating to the matters referred to in the Convention.

★ 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 free of charge.

★ A migrant for employment who has been admitted on a permanent basis and the members of her or his family authorized to accompany the worker cannot be returned to their territory of origin because the migrant is unable to follow her or 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 State concerned is a party so provides.

★ The authorities in States between which the number of migrants is sufficiently large have to, whenever necessary or desirable, enter

into agreements for the purpose of regulating matters of common concern arising in connection with the application of the Convention.

- ★ The migrant for employment must be granted the right to transfer part of her or his earnings and savings, taking into account the limits allowed by national laws and regulations concerning export and import of currency.
- ★ Finally, the Convention contains three Annexes. Each State which ratifies the Convention may, by a declaration appended to its ratification, exclude from its ratification any or all of the Annexes, which cover:
 - ➔ the regulation of recruitment, placing and conditions of labour of migrants for employment: (a) recruited otherwise than under government-sponsored arrangements for group transfer (Annex I); or (b) recruited under such arrangements (Annex II);
 - ➔ exemption from customs duties for the importation of the personal effects, tools and equipment of migrants for employment (Annex III).

RECOMMENDATION No. 86

Migration for Employment Recommendation (Revised), 1949

- The Recommendation contains guidance on, among other matters, the organization of the free service provided to assist migrants and the types of assistance that it should provide, as well as the information that States should make available to the ILO.
- It provides for the regulation of intermediaries undertaking the recruitment, introduction or placing of migrants for employment.
- It calls for:
 - ➔ the facilitation of migration, among other measures, through vocational training and access to schools;
 - ➔ the adoption of measures to permit family reunification;
 - ➔ the possibility for migrants for employment authorized to reside in a territory and the members of their families authorized to join them to be admitted to employment in the same conditions as nationals, or at least the limitation of restrictions in this respect.
- A State should refrain from removing from its territory a migrant for employment who has been regularly admitted (and, where appropriate, the members of her or his family) on account of her or his lack of means

or the state of the employment market, unless an agreement to this effect has been concluded between the country of emigration and the country of immigration concerned.

- The State of origin of a migrant worker who has retained her or his nationality and returns there should admit such a person to the benefit of measures for relief and for promoting the re-employment of the unemployed, without any condition as to previous residence or employment.
- In appropriate cases, States should conclude bilateral agreements relating to the application of Convention No. 97 and Recommendation No. 86. For this purpose, the Annex to the Recommendation contains a Model Agreement intended to serve as a guide for States.



Convention No. 143

Migrant Workers (Supplementary Provisions) Convention, 1975

- ★ The Convention is intended to:
 - ➔ combat migrations in abusive conditions; and
 - ➔ promote equality of opportunity and treatment for migrant workers.

Migrations in abusive conditions (Part I)

- ★ Each State which ratifies the Convention undertakes to respect the basic human rights of all migrant workers.
- ★ It has to systematically seek to determine, in consultation with the representative organizations of employers and workers:
 - ➔ 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 subjected to conditions contravening relevant international instruments, or national laws or regulations.
- ★ States have to take the necessary measures to prevent and eliminate these abuses, including measures against the organizers of illicit or clandestine movements of migrants for employment and against those who employ workers who have immigrated in illegal conditions. One of the purposes of these measures must be

prosecute the authors of manpower trafficking, whatever the country from the which they exercise their activities.

- ★ They also have to establish the systematic exchange of information on this subject, in consultation with representative organizations of employers and workers.
- ★ Provision has to be made under national laws or regulations for the effective detection of the illegal employment of migrant workers and for sanctions against persons who:
 - ➔ illegally employ migrant workers;
 - ➔ organize movements of migrants for employment involving abuses;
 - ➔ knowingly provide assistance to such movements.
- ★ The representative organizations of employers and workers have to be consulted in regard to the laws and regulations and other measures provided for in the Convention and designed to prevent and eliminate abuses and must have the possibility of taking initiatives for this purpose.
- ★ A migrant worker who resides legally in a country and who has lost her or his employment:
 - ➔ must not be regarded as being in an irregular situation by the mere fact of the loss of employment; and
 - ➔ must enjoy equality of treatment with nationals in respect in particular of guarantees of security of employment, alternative employment and retraining.
- ★ A migrant worker in an irregular situation and whose position cannot be regularized must enjoy equality of treatment for her or himself and her or his family in respect of rights arising out of past employment as regards:
 - ➔ remuneration;
 - ➔ social security; and
 - ➔ other benefits.
- ★ In case of dispute about these rights, he must have the possibility of presenting her or his case to a competent body, either personally or through a representative.
- ★ In case of expulsion of the worker or her or his family, the cost must not be borne by them.

Equality of opportunity and treatment (Part II)

- ★ Each State which ratifies the Convention undertakes to declare and pursue a national policy designed to promote and guarantee equality of opportunity and treatment for migrant workers and members of their family who are lawfully within its territory in respect of:
 - ➔ employment and occupation;
 - ➔ social security;
 - ➔ trade union and cultural rights; and
 - ➔ individual and collective freedoms.

- ★ It has to:
 - ➔ seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
 - ➔ enact such legislation and promote such educational programmes;
 - ➔ take measures aimed at acquainting migrant workers as fully as possible with the policy adopted by the State, 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;
 - ➔ repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
 - ➔ in consultation with representative organisations of employers and workers, formulate and apply a social policy 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), their special needs;
 - ➔ 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;
 - ➔ guarantee equality of treatment, with regard to working conditions, for all migrant workers who perform the same activity.

- ★ A State may:
 - ➔ make the free choice of employment subject to a minimum prescribed period of residence (not exceeding two years);

- ➔ make regulations concerning recognition of occupational qualifications, after consultation with the representative organizations of employers and workers.
- ★ States have to collaborate to facilitate the reunification of the families of migrant workers legally residing in their territory.
- ★ Any Member may, by a declaration appended to its ratification, exclude either Part of the Convention from its acceptance. In such case it may at any time cancel that declaration by a subsequent declaration.

RECOMMENDATION No. 151

Migrant Workers Recommendation, 1975

Equality of opportunity and treatment

- Migrant workers lawfully within the territory of a State or whose position has been regularized should enjoy effective equality of opportunity and treatment with nationals in respect of, among other matters:
 - ➔ access to vocational guidance and placement services;
 - ➔ access to vocational training and employment of their own choice;
 - ➔ advancement;
 - ➔ security of employment and the provision of alternative employment;
 - ➔ remuneration (for work of equal value);
 - ➔ conditions of work;
 - ➔ membership of trade unions.
- Appropriate measures should be taken with a view to:
 - ➔ fostering public understanding of these principles;
 - ➔ examining complaints and securing the correction of any practices regarded as in conflict with these principles;
 - ➔ informing migrant workers and their families, in a language with which they are familiar;
 - ➔ advancing their knowledge of the language or languages of the country of employment;
 - ➔ promoting their adaptation to the society of the country of employment and assisting them to preserve their national and ethnic identity and their cultural ties with their country or origin.

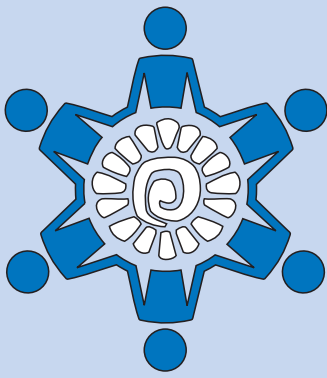
- Equality of treatment for migrant workers whose position cannot be regularized, as envisaged in Convention No. 143, should include trade union membership and the exercise of trade union rights.

Social policy

- Each State should, in consultation with representative organizations of employers and workers, formulate and apply a social policy which enables migrant workers and their families to share in advantages enjoyed by its nationals.
- In this context, it should take account, without adversely affecting the principle of equality of opportunity and treatment, of such special needs as these migrant workers may have until they are adapted to the society of the country of employment.
- This social policy should be periodically reviewed and evaluated and where necessary revised.
- It should include:
 - ➔ measures to facilitate the reunification of families;
 - ➔ measures for the protection of the health of migrant workers; and
 - ➔ social services to which migrant workers and their families should have access.

Employment and residence

- A migrant worker regularly admitted to the territory of a State and who loses her or his employment should:
 - ➔ be allowed an extension of the authorization of residence with a view to seeking alternative employment;
 - ➔ be entitled to reinstatement or compensation in the event of unjustified termination of employment.
- A migrant worker who is the object of an expulsion order should have the right of appeal, which should stay the execution of the order, subject to the requirements of national security or public order.
- A migrant worker who leaves the country of employment should be entitled, irrespective of the legality of her or his stay therein:
 - ➔ to any outstanding remuneration, including severance payments;
 - ➔ to benefits which may be due in respect of any employment injury suffered;
 - ➔ to compensation in lieu of any annual holidays not used; and
 - ➔ to reimbursement of any social security contributions which do not give rise to entitlement to benefits.
- Where any claim to these rights is in dispute, the worker should be able to have her or his interests represented before the competent body.



Convention No. 169



Indigenous and Tribal Peoples Convention, 1989

Scope of application

- ★ The 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 colonization 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.

In this respect, self-identification has to be regarded as a fundamental criterion for determining the groups to which the Convention applies.

Protection of the rights of indigenous and tribal peoples

- ★ States which ratify the Convention have to develop, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.
- ★ Such action has to include measures for:
 - ➔ ensuring that members of these peoples benefit on an equal footing from the rights and opportunities granted to other members of the population;
 - ➔ promoting the full realization 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;

⇒ assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between them and other members of the national community, in a manner compatible with their aspirations and ways of life.

★ Indigenous and tribal peoples must enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination. No form of coercion may be used against them in violation of these rights and freedoms.

★ Special measures have to be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of these peoples. These measures must not prejudice their enjoyment of the general rights of citizenship, without discrimination.

Consultation

★ Governments have to consult the peoples concerned:

⇒ whenever consideration is being given to legislative or administrative measures which may affect them directly;

⇒ before undertaking or permitting any programmes for the exploration or exploitation of the resources pertaining to their lands in cases where the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands;

⇒ where the removal and relocation of these peoples are considered necessary as an exceptional measure;

⇒ whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community;

⇒ on the organization and operation of special training programmes intended for these peoples.

★ These consultations have to be undertaken in good faith and in a form appropriate to the circumstances with the objective of achieving agreement.

Participation and development

★ Governments have to establish means:

⇒ by which indigenous and tribal peoples can freely participate at all levels of decision-making in bodies responsible for policies and programmes which concern them; and

➔ for the full development of their own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose.

★ Indigenous and tribal peoples must have the right to:

➔ decide their own priorities for the process of development as it affects them;

➔ exercise control, to the extent possible, over their own economic, social and cultural development; and

➔ participate in the formulation, implementation and evaluation of programmes for national and regional development which may affect them directly.

Customs and traditions

★ In applying the provisions of the Convention, the State has to:

➔ recognize and protect the values and practices of these peoples, respect their integrity and take due account of the nature of the problems which face them;

➔ adopt policies, with the participation and cooperation of the peoples affected, aimed at mitigating the difficulties that they experience in facing new conditions of life and work.

★ In applying national laws and regulations to the peoples concerned, due regard must be had to their customs or customary laws.

★ The peoples concerned must have the right to retain their own customs and institutions, where these are not incompatible with nationally and internationally recognized human rights. Whenever necessary, procedures have to be established to resolve conflicts which may arise in this respect.

Access to justice

★ The peoples concerned must be safeguarded against the abuse of their rights and be able to take legal proceedings, either individually or through their representative bodies, for the effective protection of these rights.

Land rights

- ★ The Convention sets forth inter alia the obligation to:
 - ➔ respect the special importance for indigenous and tribal peoples of their relationship with the lands or territories which they occupy or otherwise use;
 - ➔ recognize the rights of ownership and possession over the lands which they traditionally occupy and respect their procedures for the transmission of land rights;
 - ➔ establish adequate procedures at the national level to resolve land claims by the peoples concerned;
 - ➔ safeguard the rights of the peoples concerned to the natural resources pertaining to their lands, including their participation in the benefits or the provision of compensation where the exploration or exploitation of such resources is permitted.
- ★ Indigenous peoples must not be removed from their lands, except as an exceptional measure and with certain guarantees.

Recruitment and conditions of employment

- ★ Governments have to adopt special measures to ensure the effective protection of indigenous workers with regard to recruitment and conditions of employment, to the extent that they are not effectively protected by laws applicable to workers in general.
- ★ They also have to do everything possible to prevent any discrimination between indigenous and other workers, in particular as regards:
 - ➔ admission to employment and advancement;
 - ➔ equal remuneration for work of equal value;
 - ➔ medical and social assistance;
 - ➔ occupational safety and health;
 - ➔ social security and other occupational benefits;
 - ➔ housing;
 - ➔ the right of association;
 - ➔ freedom for all lawful trade union activities;
 - ➔ the right to conclude collective agreements with employers or employers' organizations.

- ★ Indigenous workers must not be subjected to working conditions hazardous to their health, nor to coercive recruitment systems, including debt servitude.
- ★ They must enjoy equal opportunities and equal treatment in employment for men and women, and protection from sexual harassment.
- ★ They have to enjoy opportunities at least equal to those of other citizens in respect of vocational training measures.
- ★ Particular attention has to be paid to the establishment of adequate labour inspection services in areas where these workers are employed in order to ensure compliance with the provisions of the Convention respecting recruitment and conditions of employment.

Social security and health

- ★ Social security schemes have to be extended progressively to cover indigenous and tribal peoples and be applied without discrimination against them.
- ★ Adequate health services also have to be made available to them.

Education

- ★ Members of these peoples must have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community. Moreover, education programmes have to be developed and implemented in cooperation with them to address their special needs.

General provisions

- ★ Governments have to take measures to:
 - ➔ make known to indigenous and tribal peoples their rights and duties;
 - ➔ eliminate prejudices that sections of the national community may harbour in their respect;
 - ➔ facilitate contacts and cooperation between these peoples across borders.



RECOMMENDATION No. 104

Indigenous and Tribal Populations Recommendation, 1957

- The Recommendation addresses certain matters not covered by Convention No. 169, such as the de facto conditions (in addition to the de jure conditions) in which the populations concerned use the land.
- It also calls for the adoption of appropriate measures for the elimination of indebtedness among farmers belonging to the populations concerned.
- It calls for the adaptation of modern cooperative methods to the traditional forms of ownership and traditional systems of community service and mutual aid of these peoples.
- Finally, it contains detailed provisions on recruitment and conditions of employment of workers belonging to these populations.



Convention No. 110



Plantations Convention, 1958

Plantation: any agricultural enterprise regularly employing hired workers which is situated in the tropical or subtropical regions and which is mainly concerned with the cultivation or production for commercial purposes of certain produce (coffee, sugar cane, tobacco, etc.). The term ordinarily includes services carrying out the primary processing of the products of the plantation.

The Convention is not applicable to family or small-scale holdings producing for local consumption and not regularly employing hired workers.

- ★ Each State which ratifies the Convention undertakes to apply its provisions equally to all plantation workers without distinction as to race, colour, sex, religion, political opinion, nationality, social origin, tribe or trade union membership.
- ★ With a view to ensuring their application to plantation workers, the Convention reproduces certain substantive provisions from other ILO Conventions covering the following fields:
 - a) the engagement and recruitment of migrant workers;
 - b) the maximum period of service which may be stipulated in contracts of employment and the abolition of penal sanctions;
 - c) minimum wages and the protection of wages;
 - d) annual holidays with pay;
 - e) weekly rest;
 - f) maternity protection;
 - g) the compensation of employment injury;
 - h) the right to organize and collective bargaining;
 - i) freedom of association;
 - j) labour inspection;

- k) housing;
- l) medical care.

- ★ Each State which ratifies the Convention has to apply the general provisions, the Parts corresponding to points (c), (h) and (j) above, and at least two of the other Parts.

Protocol of 1982 to the Plantations Convention, 1958

- ★ The Protocol modifies the scope of application of Convention No. 110 by allowing member States to exclude from its application, after consultation with organizations of employers and workers, enterprises the area of which covers not more than 5 hectares and which employ not more than 10 workers at any time during a calendar year.



RECOMMENDATION No. 110

Plantations Recommendation, 1958

- The Recommendation extends the list of fields covered by Convention No. 110 by including:
 - (a) vocational training;
 - (b) more detailed provisions respecting the protection of wages (the payment of wages and the fixing of minimum rates) and hours of work;
 - (c) equal remuneration for men and women workers for work of equal value;
 - (d) welfare facilities;
 - (e) the prevention and compensation of employment accidents and occupational diseases;
 - (f) social security;
 - (g) the powers of labour inspectors.



Tenants and Share-croppers Recommendation, 1968

Tenants and share-croppers: agricultural workers:

- who pay a fixed rent in cash, in kind or in labour;
- who pay rent in kind consisting of an agreed share of the produce; or
- who are remunerated by a share of the produce, in so far as they are not covered by laws or regulations applicable to wage earners.

The Recommendation does not apply to employment relationships in which work is remunerated by a fixed wage.

- It should be an objective of social and economic policy to:
 - promote a progressive and continuing increase in the well-being of tenants, share-croppers and similar categories of agricultural workers;
 - assure them the greatest possible degree of stability and security of work and livelihood.
- States should take measures so that:
 - tenants and share-croppers (without prejudice to the essential rights of landowners) have the main responsibility for managing their holding;
 - their access to land is facilitated;
 - the establishment and development of organizations representing the interests of tenants and share-croppers, on the one hand, and of landowners, on the other, are encouraged.
- The Recommendation contains detailed provisions on methods of implementation of the Convention, particularly with regard to:
 - the level of rent;
 - contracts governing the relationship between landowners, on the one hand, and tenants and share-croppers, on the other.
- The other measures envisaged by the Recommendation include:
 - the encouragement of the creation of cooperatives;
 - low-cost credit for tenants and share-croppers;
 - access to vocational training;
 - programmes for rural employment promotion;
 - the coverage of tenants and share-croppers by social security schemes;
 - protection against risks of loss of income resulting from natural calamities.



Convention No. 149

Nursing Personnel Convention, 1977

Nursing personnel: all categories of persons providing nursing care and nursing services.

The Convention applies to all nursing personnel, wherever they work.

- ★ Each State which ratifies the Convention has to adopt, in consultation with employers' and workers' organizations, and apply a policy concerning nursing services and nursing personnel designed to provide the nursing care necessary for attaining the highest possible level of health for the population.
- ★ In particular, it has to take measures to provide nursing personnel with:
 - appropriate education and training;
 - employment and working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it.
- ★ Among other measures, it has to:
 - lay down the basic requirements regarding nursing training and the supervision of such training;
 - specify the requirements for the practice of the profession;
 - promote the participation of nursing personnel in the planning of nursing services and consultation with such personnel on decisions concerning them.
- ★ The determination of conditions of employment and work must preferably be made by negotiation between employers' and workers' organizations concerned.
- ★ The settlement of disputes in this field has to be sought through negotiations between the parties or through independent and impartial machinery such as mediation, conciliation and voluntary arbitration.
- ★ Nursing personnel must enjoy conditions at least equivalent to those of other workers in the country in the following fields:
 - hours of work;
 - weekly rest;

- ➔ paid annual holidays;
- ➔ educational leave;
- ➔ maternity leave;
- ➔ sick leave;
- ➔ social security.

★ Each State which ratifies the Convention has to endeavour to improve existing laws and regulations on occupational health and safety by adapting them to the special nature of nursing work and of the environment in which it is carried out.

RECOMMENDATION No. 157

Nursing Personnel Recommendation, 1977

- The Recommendation advocates the establishment of a rational nursing personnel structure, including a limited number of categories determined by reference to education and training and the level of functions.
- It also contains detailed provisions on training, which should include both theory and practice and continuing training.
- Representatives of nursing personnel should be assured of the protection provided for in the Workers' Representatives Convention (No. 135) and Recommendation (No. 143), 1971 (see the chapter "Freedom of association, collective bargaining and industrial relations").
- Measures should be taken to offer nursing personnel reasonable career prospects.
- Their remuneration should be fixed at levels which are commensurate with their socio-economic needs, qualifications, responsibilities, duties and experience, which take account of the constraints and hazards inherent in the profession, and which are likely to attract persons to the profession and retain them in it.
- In countries where the normal working week of workers in general exceeds 40 hours, steps should be taken to bring it down as rapidly as possible to that level for nursing personnel, without any reduction in salary.
- Normal daily hours of work should be continuous and not exceed eight hours. The working day, including overtime, should not exceed twelve hours, except in case of special emergency.

- Decisions concerning the organization of work, working time and rest periods should be taken in agreement or in consultation with freely chosen representatives of the nursing personnel or with organizations representing them.
- With regard to the occupational health protection of nursing personnel, the recommended measures relate in particular to:
 - occupational health services;
 - medical examinations;
 - studies of the special risks to which nursing personnel may be exposed, and the prevention of such risks.
- Finally, the Annex to the Recommendation contains suggestions concerning the practical application of its provisions.



Convention No. 172

Working Conditions (Hotels and Restaurants) Convention, 1991

- ★ The Convention applies to workers, irrespective of the nature and duration of their employment relationship, employed within:
 - ➔ hotels and similar establishments providing lodging;
 - ➔ restaurants and similar establishment providing food, beverages or both.
- ★ A State which ratifies the Convention may extend its application to other establishments providing tourism services.
- ★ It may also, after consulting the employers' and workers' organizations, exclude from its application:
 - ➔ certain particular categories of workers;
 - ➔ certain types of establishments where special problems of a substantial nature arise.
- ★ Each State which ratifies the Convention must, with due respect to the autonomy of the employers' and workers' organizations concerned, adopt and apply a policy designed to improve the working conditions of the workers covered by the Convention.
- ★ The general objective of this policy must be to ensure that the workers concerned are not excluded from the scope of any

minimum standards adopted at the national level for workers in general, including those relating to social security entitlements.

- ★ With regard to working time, workers in hotels and restaurants must be entitled to:
 - ➔ reasonable normal hours of work;
 - ➔ reasonable overtime provisions;
 - ➔ reasonable minimum daily and weekly rest periods;
 - ➔ appropriate compensation in time or remuneration if they are required to work on public holidays;
 - ➔ annual leave with pay.
- ★ Regardless of tips, the workers concerned must receive a basic remuneration that is paid at regular intervals.
- ★ Finally, the sale and purchase of employment in hotels and restaurants must be prohibited.

RECOMMENDATION No. 179

Working Conditions (Hotels and Restaurants) Recommendation, 1991

- States should:
 - ➔ provide for the effective supervision of the application of measures taken in pursuance of the Recommendation through an inspection service or other appropriate means;
 - ➔ encourage the employers' and workers' organizations concerned to play an active part in promoting the application of the provisions of the Recommendation.
- The implementation of measures fixing normal hours of work and regulating overtime should be the subject of consultations between the employer and the workers concerned or their representatives.
- Working hours and overtime should be properly calculated and recorded and workers should have access to their records.
- Wherever practicable, split shifts should be progressively eliminated, preferably through collective bargaining.
- The workers concerned should be entitled to:
 - ➔ a weekly rest of not less than 36 hours which, whenever practicable, should be uninterrupted;
 - ➔ an average daily rest period of ten consecutive hours.

- Where the length of paid annual holiday for the workers concerned is less than four weeks for one year of service, steps should be taken to bring it progressively to that level.
- States should establish training policies and programmes to improve skills, the quality of job performance and the career prospects of the participants.



Convention No. 177

Home Work Convention, 1996

Home work: work carried out by a person:

- in his or her home or in other premises of his or her choice, other than the workplace of the employer;
 - for remuneration;
 - which results in a product or service as specified by the employer;
- unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker.

- ★ The Convention applies to all persons carrying out home work.
- ★ Each State which has ratified the Convention has to adopt, implement and periodically review a national policy 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.
- ★ This policy has to 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.
- ★ Equality of treatment must be promoted in particular in relation to:
 - ➔ the homeworkers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
 - ➔ protection against discrimination in employment and occupation;
 - ➔ protection in the field of occupational safety and health;

- ➔ remuneration;
 - ➔ statutory social security protection;
 - ➔ access to training;
 - ➔ minimum age for admission to employment or work; and
 - ➔ maternity protection.
- ★ National laws and regulations on safety and health at work must, among other measures, establish conditions under which certain types of work and the use of certain substances may be prohibited in home work.
 - ★ Appropriate measures have to be taken so that labour statistics include home work.
 - ★ A system of inspection must ensure compliance with the laws and regulations applicable to home work and penalties have to be provided for and effectively applied in case of violations of these laws and regulations.

RECOMMENDATION No. 184


Home Work Recommendation, 1996

- As far as possible, each State should call on tripartite bodies or organizations of employers and workers in the formulation and implementation of the national policy on home work.
- A homeworker should be kept informed of his or her specific conditions of employment in writing, or in any other manner consistent with national law and practice, in particular the name and address of the employer, the scale or rate of remuneration and the methods of calculation; and the type of work to be performed.
- The Recommendation also contains measures relating to the supervision of home work covering, among other matters:
 - ➔ the registration of the employers and intermediaries concerned;
 - ➔ the keeping of a register by employers of all homeworkers;
 - ➔ the keeping of a record of work assigned to these workers;
 - ➔ the powers of labour inspectors;
 - ➔ sanctions in cases of serious or repeated violations.

- The Recommendation also provides that national laws and regulations concerning minimum age for admission to employment or work should apply to home work.
- It calls for the identification and elimination of obstacles to the right of homeworkers to organize and the encouragement of collective bargaining.
- National laws and regulations concerning the protection of wages should apply to homeworkers. Minimum rates of wages should also be fixed for home work. The rates of remuneration of homeworkers should preferably be fixed by collective bargaining.
- The measures advocated by Recommendation in relation to occupational safety and health relate to:
 - the dissemination of guidelines concerning precautions to be observed;
 - the respective obligations of employers and workers;
 - the rules applicable in case of imminent and serious danger.
- With regard to hours of work, the Recommendation addresses, among other subjects:
 - daily and weekly rest;
 - annual holidays with pay;
 - paid sick leave.
- Homeworkers should benefit from social security protection.
- National laws and regulations in the field of maternity protection should apply to these workers.
- They should benefit from the same protection as other workers with respect to termination of employment.
- There should be mechanisms for the resolution of disputes between a homeworker and an employer or any intermediary used by the employer.
- States should promote and support programmes on home work, in cooperation with organizations of employers and workers, particularly covering information, awareness, training and safety and health.
- Specific programmes should be adopted to eliminate child labour in home work.
- Where practicable, all information should be provided in languages understood by homeworkers.

Section 2

GUIDE TO PROCEDURES FOR INTERNATIONAL LABOUR CONVENTIONS AND RECOMMENDATIONS



The International Labour Organization

The International Labour Organization (ILO) is a United Nations specialized agency that aims to promote social justice and universally recognized human and labour rights. It is the only worldwide organization founded on a tripartite structure with equal representation of governments, employers and workers. Standards-related activities and technical cooperation are the principal means of action for the attainment of the Organization's objectives of economic progress and social justice. However, ILO standards cannot be fully understood without first examining a basic outline of the origin and structure of the Organization.¹⁶

Origin

The ILO was founded in 1919, at the time of the Peace Conference convened at the end of the First World War. The ILO Constitution, incorporated into Part XIII of the Treaty of Versailles, for the first time established a link between peace and social justice, stating that "universal and lasting peace can be established only if it is based upon social justice". The foundation of the Organization also responded to humanitarian and economic concerns: the need to protect the basic rights of all workers so as to build a humane society and the need to avoid negative forms of international competition.

Structure

The International Labour Organization, which has its Headquarters in Geneva, Switzerland, accomplishes its work through three main bodies, all of which encompass the unique feature of the Organization, i.e. its tripartite structure. These bodies are: a general assembly – the International Labour Conference; an executive council – the Governing Body; and a permanent secretariat – the International Labour Office.

¹⁶ The overview provided here is by no means exhaustive. For more details, see the ILO website (www.ilo.org).

a. The International Labour Conference

The International Labour Conference meets annually in June, in Geneva, Switzerland. Each member State is represented by a delegation consisting of two government delegates, an employers' delegate and a workers' delegate, accompanied by technical advisers. Employers' and workers' delegates are nominated in agreement with the most representative national organizations of employers and workers. Every delegate to the Conference has the same rights and total freedom of voting, regardless of the way other members of the national delegation vote.

The Conference has several main tasks: it sets international labour standards and plays a very important role in supervising their application; it acts as a forum in which social and labour questions of importance to the entire world are discussed freely; it passes resolutions that provide guidelines for the ILO's general policy and activities; it adopts the ILO's programme, votes on the budget of the Organization and elects the Governing Body; and it decides on the admission of new member States (except in cases of the automatic admission of United Nations member States who have made an official request).

b. The Governing Body

The Governing Body meets three times a year, in March, June and November, in Geneva, Switzerland. It has 56 titular members: 28 represent governments, 14 represent employers and 14 represent workers. Ten of the government seats are permanently held by States of major industrial importance.¹⁷ The other government members are elected by the government delegates at the Conference (other than those of major industrial importance) every three years, taking geographical distribution into account. The employers' and workers' representatives are elected by the employers' and workers' delegates at the Conference, and are chosen in their individual capacity to represent the employers and workers of the organization as a whole.

The Governing Body takes decisions on ILO policy, sets the agenda of the International Labour Conference, establishes the programme and budget of the Organization (which are then submitted to the

¹⁷ They are: Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States.

Conference for adoption), elects the Director-General of the International Labour Office and directs the activities of the Office. The Governing Body also plays a role in supervising the application of international labour standards.

c. The International Labour Office

The International Labour Office in Geneva, Switzerland, is the permanent secretariat of the Organization. It is the focal point for the overall activities that it prepares under the scrutiny of the Governing Body and under the leadership of a Director-General, elected by the Governing Body for a five-year renewable term. The Office prepares the documents and reports which form the essential background material for the conferences and meetings of the Organization and runs technical cooperation programmes throughout the world, especially to support the standards-related activities of the Organization. It has a research and documentation centre that issues a broad range of specialist publications and periodicals dealing with labour and social matters.

The structure of the Office also involves a number of field offices located in various parts of the world. Through these offices, the ILO maintains direct contact with governments, workers and employers.

The International Training Centre of the ILO, based in Turin, Italy, is the training arm of the Organization. It provides training in subjects that further the ILO's pursuit of decent work for all.¹⁸

¹⁸ For more details concerning ITC training activities on standards, see the International Labour Standards Programme website (<http://training.itcilo.org/ils>).

Adoption of standards

The establishment of international labour standards is one of the ILO's principal means of action. The two main forms of standards developed by the ILO are Conventions and Recommendations. Conventions are instruments which create legal obligations upon ratification and entry into force. Recommendations are not open to ratification, but contain guidance on policy, legislation and practice. Standards are adopted by the International Labour Conference. Unless the Governing Body decides otherwise, an item on the agenda is deemed submitted to the Conference for a double discussion. In special circumstances, the Governing Body may decide to submit a matter to the Conference for a single discussion.

Relevant provisions of the Constitution

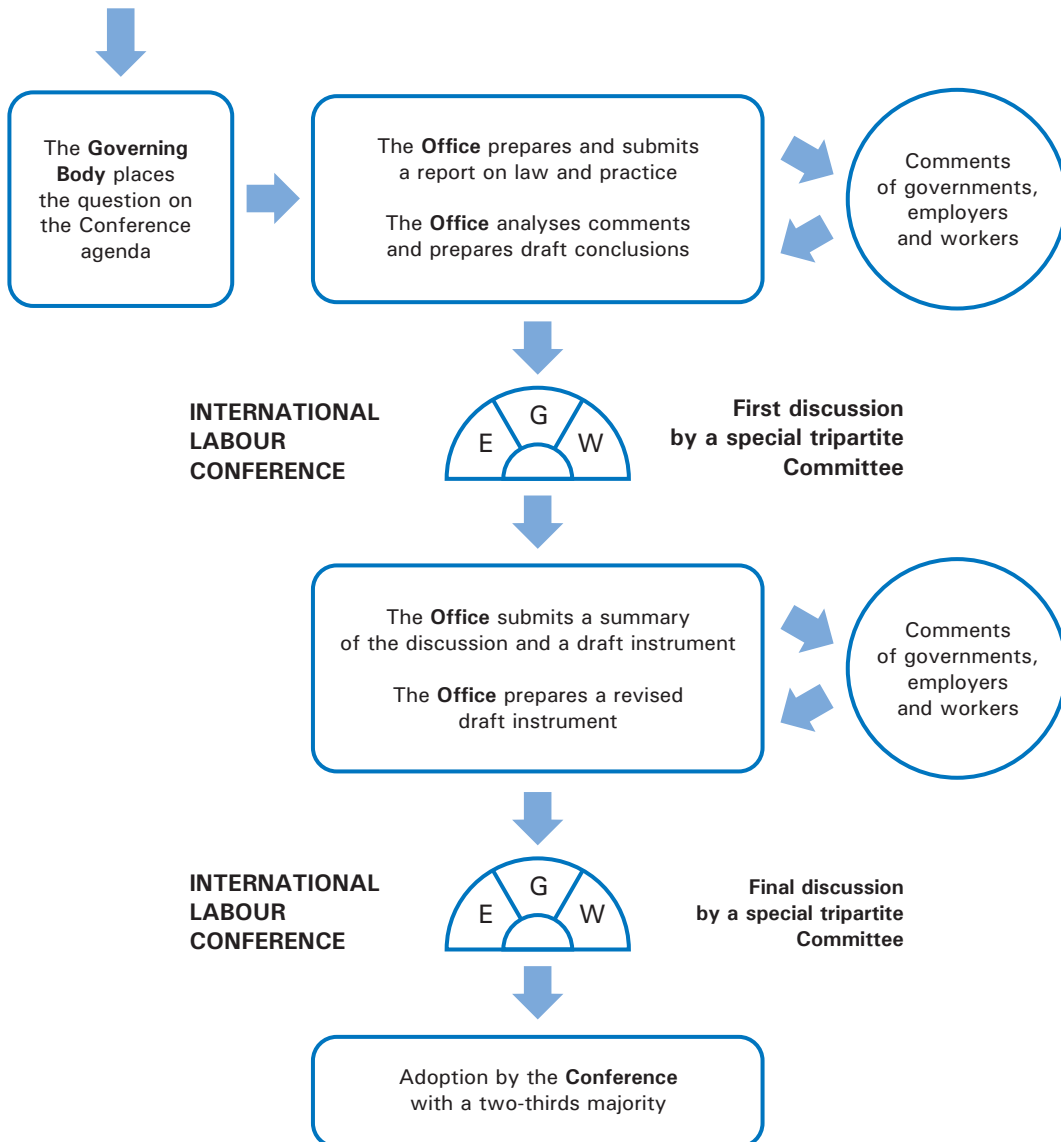
★ Article 19 of the ILO Constitution

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of an international Convention, or (b) of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.
2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

In practice, the aim of most Recommendations is to supplement and clarify Conventions that they accompany. So far, the Conference has adopted few stand-alone Recommendations.

Adoption of Conventions and Recommendations

A PROBLEM CALLING FOR THE ADOPTION OF A STANDARD IS IDENTIFIED
AT NATIONAL AND INTERNATIONAL LEVEL
(DOUBLE DISCUSSION PROCEDURE)



Submission of standards to the competent authorities

All ILO member States commit themselves to submitting the Conventions, protocols and Recommendations adopted by the International Labour Conference to the Parliament. The aim of this obligation is to ensure that competent authorities give the instruments a proper examination, with a view to their enactment or other action. Member States are also obliged to send the Director-General of the ILO, and the national representative employers' and workers' organizations, information on the matter.

Relevant provisions of the Constitution

For Conventions:

★ Article 19 (5) of the ILO Constitution

- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them.

For Recommendations:

★ Article 19 (6) of the ILO Constitution

- (b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;

- (c) the Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Recommendation before the said competent authority or authorities with particulars of the authority or authorities regarded as competent, and of the action taken by them.

For both Conventions and Recommendations:

★ **Article 23 of the ILO Constitution**

1. The Director-General shall lay before the next meeting of the Conference a summary of the information and reports communicated to him by Members in pursuance of articles 19 and 22.
2. Each Member shall communicate to the representative organizations recognized for the purpose of article 3 copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

The submission obligation

- 1) Submit the adopted instrument to the legislative body (legislative assembly).
- 2) Inform the ILO Director-General of the measures taken concerning the submission.
- 3) Supply the representative organizations of workers and of employers with copies of the information given to the ILO Director-General.

Ratification of Conventions

Only by ratifying Conventions do member States commit themselves to putting their provisions into both law and practice. As indicated above, Recommendations are not ratified. Ratification places a State under an obligation to ensure that the provisions of the Conventions are implemented in law and practice, and to follow ILO procedures designed to verify the application of Conventions (see the section on monitoring the application of standards). A Convention must come into force before it becomes binding on a ratifying State. Every ILO Convention includes provisions concerning its entry into force. Normal practice is to provide for a Convention's entry into force 12 months after registration of the second ratification. For States ratifying a Convention after it has come into force, the usual period is 12 months after the ratification has been registered.

Relevant provisions of the Constitution

★ Article 19 (5) of the ILO Constitution

- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention.

Ratification

- 1) The competent national body ratifies the Convention.
- 2) The Director-General of the ILO is informed of the instrument of ratification.
- 3) Entry into force in accordance with the final provisions of the relevant Convention.
- 4) Obligation to ensure application of the provisions of the Convention in law and practice and submit to ILO procedures designed to verify application of Conventions (see the section entitled "Supervising the application of standards").

Denunciation of Conventions

Every Convention contains an article which sets out the conditions under which a State that has ratified it may denounce it, i.e. end its obligations. It is worth looking at the precise conditions laid down for each case, but in general:

- a) Conventions Nos. 1 to 25
Denunciation is authorized at any time five years or ten years (depending on the provisions) after the Convention comes into force.
- b) Convention No. 26 onwards
Denunciation is authorized five years (usually) or ten years (depending on the provisions) after the Convention comes into force, but then has a one-year deadline. Similarly, denunciation is again authorized after each new period of five years or ten years, depending on the provisions.

In 1971, the Governing Body adopted a general principle that whenever the denunciation of a ratified Convention was envisaged, the government concerned should consult representative employer and worker organizations fully about the problems encountered and the measures to take to solve them, before taking a decision.

Article 5 1. (e) of Convention No. 144 obliges all member States who ratify it to consult representatives of employer and worker organizations on all proposals to denounce ratified Conventions. Such consultation is also stipulated in paragraph 5 (f) of Recommendation No. 152 on Tripartite Consultation (activities of the ILO), 1976.

Denunciation

- ★ Denunciation of a Convention is permitted within a specific period. (See the conditions laid down in each Convention.)
- ★ Convention No. 144 concerning tripartite consultations on international labour standards obliges member States that have ratified it to consult national organizations of employers and of workers. Recommendation 152, which accompanies it, also provides for such consultation. Furthermore, as a general principle, the Governing Body deemed, in 1971, that such consultation was desirable whenever a government envisaged a denunciation.

Revision of standards

The revision of Conventions and Recommendations is an important means of updating them. It is a permanent process within the ILO's standards-related activities, a necessary response to social and economic changes. In practice, except for specific cases, the process for revision is substantially the same as for the adoption of Conventions and Recommendations (see the section on adoption). The effects of the entry into force or the ratification of a revised Convention on previous Conventions vary. A Recommendation that revises or replaces (the two terms have been used interchangeably) one or more Recommendations takes their place.

Revision of a Convention

In most cases, the revision of a Convention, sometimes of several, has led to the adoption of a new Convention. The Conference may also use protocols to revise Conventions in part. Certain Conventions, moreover, stipulate specific procedures for amending annexes.

A Convention is not deemed to revise a previous instrument unless the intention of revising it is explicitly or implicitly declared in the title, the preamble or the body of the new Convention.

a) Conventions Nos. 1 to 26

These instruments have no provisions on the consequences of adopting or ratifying a revised Convention. The adoption of a revised Convention by the Conference, therefore, does not in itself exclude the possibility of ratifying the earlier Convention and does not automatically entail the denunciation of the latter.

b) Convention No. 27 onwards

These instruments contain a final article which specifies that unless the new Convention provides otherwise, the consequences of the ratification and coming into force of a later, revised Convention are as follows:

- 1) the ratification of a revised Convention by a Member automatically entails the denunciation of the earlier Convention as soon as the revised Convention comes into force;
- 2) as soon as the new, revised Convention comes into force, the earlier Convention is no longer open to new ratifications;

- 3) once the earlier Convention has come into force, it remains so for the Members who have ratified it but have not ratified the revised Convention.

Revision of a Recommendation

In most cases, the revision or replacement of a Recommendation, sometimes of several, has led to the adoption of a new Recommendation. Certain Recommendations stipulate specific procedures for amending annexes. Because Recommendations do not have the obligatory nature of Conventions, their revision or replacement has less important consequences. When the Conference declares that the new Recommendation revises or replaces one or more earlier Recommendations, only the new Recommendation should henceforth be referred to.

Abrogation and withdrawal of obsolete standards

A Convention or Recommendation is considered obsolete if it appears to have lost its purpose or if it no longer makes a useful contribution to the accomplishment of the Organization's objectives. The abrogation procedure applies to Conventions in force. Withdrawal applies to Conventions that are not in force and to Recommendations. The Conference can withdraw Conventions that have not come into force and which are obsolete, as well as Recommendations that are obsolete under article 45 bis of the Standing Orders of the Conference. It may abrogate obsolete Conventions that are in force once the 1997 constitutional amendment instrument, adopted for that purpose, itself comes into force.

Supervising the application of standards

The ILO has developed various means of supervising the application of Conventions and Recommendations in law and practice following their adoption by the International Labour Conference and their ratification by States.

There are two kinds of supervisory mechanism:

- ★ the regular system;
- ★ special procedures (representation, complaint, special procedure regarding freedom of association).

ILO Systems of Control

regular system of supervision

- ✓ examination of periodic reports submitted by Member States on the measures they have taken to implement the provisions of the ratified Conventions

special procedures

- ✓ a representations procedure and a complaints procedure of general application, together with a special procedure for freedom of association

The regular system for supervising the application of standards

The regular system of supervision is based on the examination by two ILO bodies of reports on the application in law and practice sent by member States and on observations in this regard sent by workers' organizations and employers' organizations.

1) The Committee of Experts on the Application of Conventions and Recommendations

The Committee of Experts is composed of 20 high-level jurists appointed by the Governing Body on the proposal of the Director-General. Appointments are made in a personal capacity from among impartial persons of technical competence and independent standing. Members are drawn from all parts of the world, so that the Committee contains experience of different legal, economic and social systems. The mandate of the Committee includes examining reports on the measures taken by member States to implement the provisions of Conventions which they have ratified. In doing so, it also examines comments by employers' organizations and workers' organizations and reports by other ILO and UN bodies.

The Committee of Experts makes two types of comment: observations and direct requests. Observations are made in cases of serious and persistent failure to comply with obligations under a ratified Convention. They are published each year in the report of the Committee of Experts, which is sent to the International Labour Conference. The observations provide the starting point for the examination of individual cases by the Conference Committee on the Application of Standards (see below). They are also made in cases of progress. Direct requests deal with matters of secondary importance or technical issues. They provide a means of requesting clarification so that a better assessment can be made of the application of the provisions of a Convention.

2) The International Labour Conference's Tripartite Committee on the Application of Conventions and Recommendations

The Conference Committee is composed of well over 150 members from the three groups of delegates and advisers. The mandate of the Committee includes considering the measures taken by member States to implement the provisions of Conventions which they have ratified. It does so through a general discussion in which it reviews a number of broad issues relating to the ratification and application of standards and the compliance by member States with their obligations under the ILO Constitution regarding those standards. The Committee then examines

individual cases. Governments which have been mentioned in the Committee of Experts' report as not complying with their obligations under the ILO Constitution, or not fully applying a ratified Convention, may be invited to make a statement to the Committee.

The Committee will start a paper dialogue with the relevant Governments, on the basis of which it may then decide whether or not it wishes to receive supplementary oral information and invite representatives of the governments concerned to discuss the observations in question. The discussion of each case ends with a conclusion by the Committee, read out to the plenary session. The discussions on individual cases are summarized in the annexes to the report which the Committee submits to the Conference. In addition, the Committee's general report specifically draws the attention of the Conference to the most serious cases in which governments have encountered difficulties in discharging their obligations under the ILO Constitution or under ratified Conventions. The Committee's report is subsequently discussed by the Conference in plenary session. Once adopted by the Conference, the report is published and sent to governments, drawing their attention to points which they should take into account in the preparation of their next reports to the ILO.

Relevant constitutional provisions

Obligation to report on ratified Conventions

★ **Article 22 of the ILO Constitution**

Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.

Obligation to report on unratified Conventions

★ **Article 19 (5e) of the ILO Constitution**

If the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

Obligation to report on Recommendations

★ **Article 19 (6d) of the ILO Constitution**

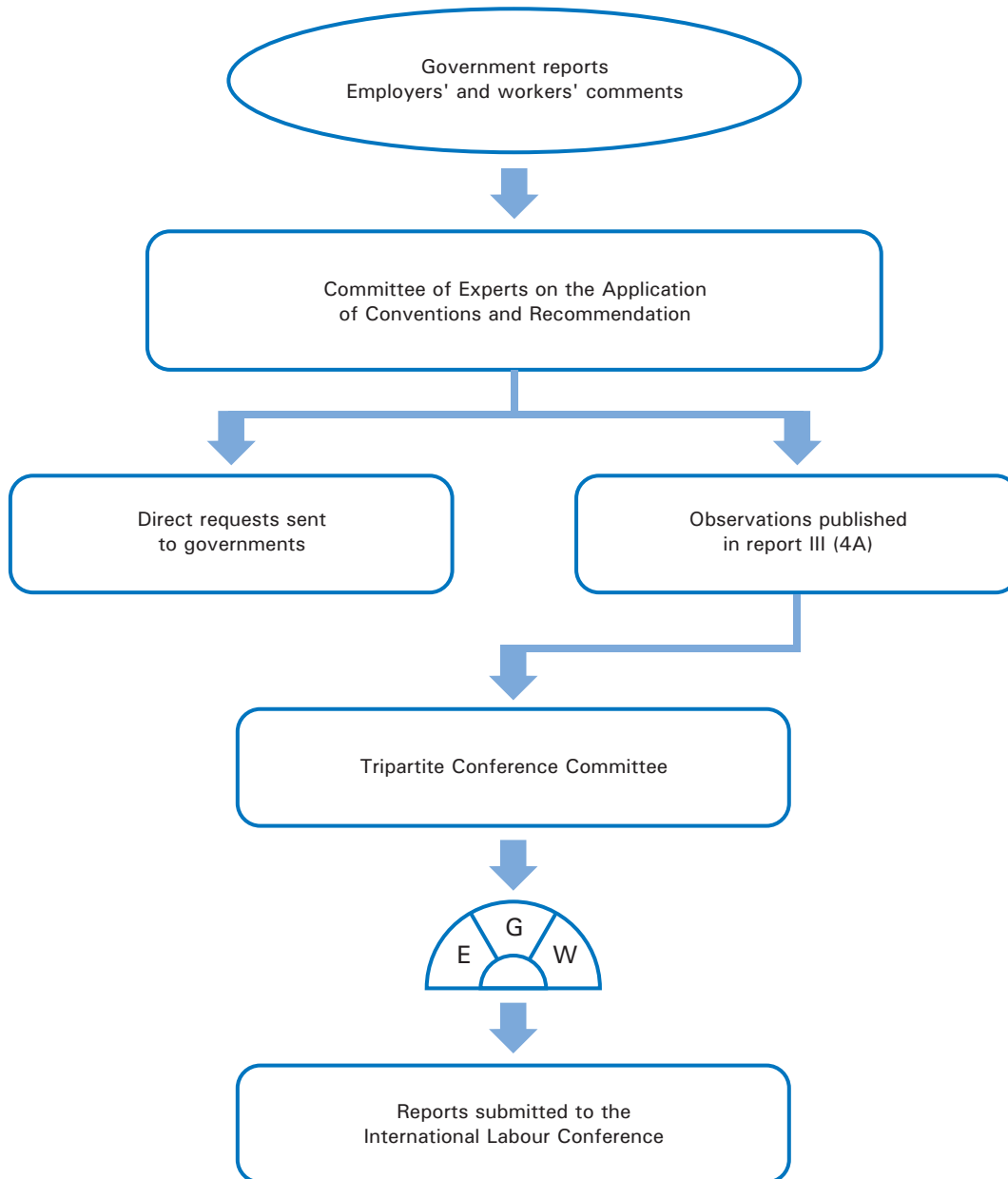
Apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

Ratified Conventions, unratified Conventions and Recommendations

★ **Article 23 of the ILO Constitution**

1. The Director-General shall lay before the next meeting of the Conference a summary of the information and reports communicated to him by Members in pursuance of articles 19 and 22.
2. Each Member shall communicate to the representative organizations [...] copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22.

Supervisory machinery



Special procedures

Unlike the regular system of supervision, the three procedures listed below are based on the submission of a representation or a complaint.

- 1) Procedure for representations on the application of ratified Conventions.
- 2) Procedure for complaints over the application of ratified Conventions.
- 3) Special procedure for complaints regarding freedom of association (Freedom of Association Committee).

1) Representations

Any organization of employers or workers, be it national or international, may make a representation to the ILO if it deems that a member State has not properly applied a Convention which it has ratified.

If it decides that the representation is receivable, the Governing Body usually sets up a tripartite committee of three of its members to examine it. However, the Governing Body may refer it to the Committee on Freedom of Association if the matter relates to a Convention dealing with trade union rights (see the section on the procedure for complaints over the violation of freedom of association). The tripartite ad hoc committee may request further information or an appearance from either the government or the organization which made the representation. Its meetings are held in private and all steps in the procedure are confidential. It provides its conclusions and recommendations on the issues raised in the representation to the Governing Body for a decision. If the Governing Body decides that the representation is substantiated, it may publish the representation and any government reply. It may also, at any time, initiate the complaints procedure provided for under article 26 of the ILO Constitution (see the section on the complaints procedure). In any event, the Office notifies the organization and government concerned of the Governing Body's decision. The Governing Body may decide to refer issues concerning any follow-up to the recommendations it adopted to the Committee of Experts on the Application of Conventions and Recommendations (see the section on the regular system of supervision). If it does, a link is established between a special system and the regular system of supervision of the application of standards.

Relevant constitutional provisions

★ Article 24 of the ILO Constitution

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

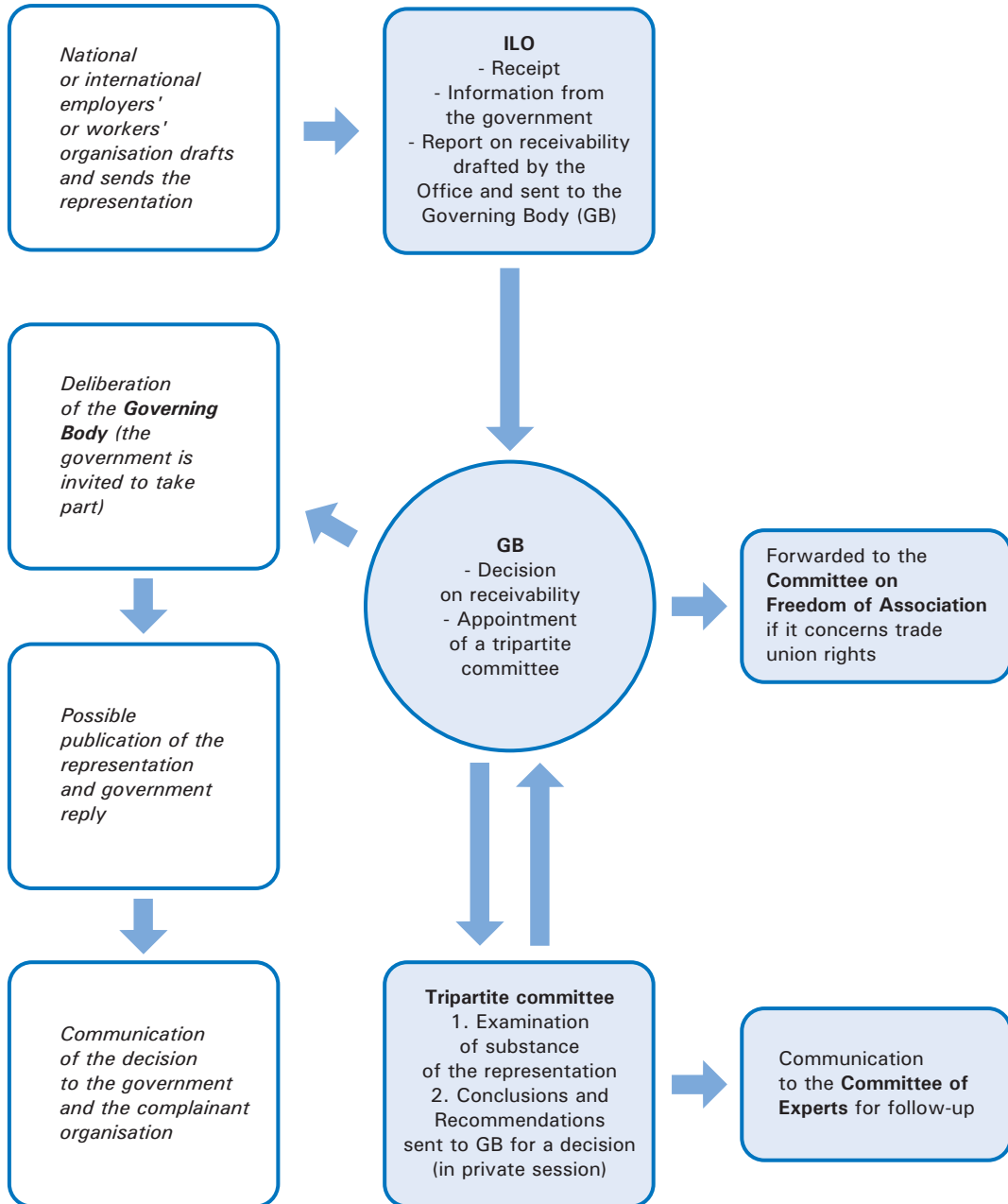
★ Article 25 of the ILO Constitution

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

★ Article 26 (5) of the ILO Constitution

When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.

The representations procedure



2) Complaints

Any member State may lodge a complaint with the ILO against another member State which, in its opinion, has not satisfactorily implemented a Convention they have both ratified. The Governing Body may also follow an analogous procedure, either on its own initiative or in response to a (government, employer or worker) delegate to the International Labour Conference.

When a complaint has been received, the Governing Body may invite the government against which the complaint is lodged to make statements on the subject. If the Governing Body does not think this necessary, or if the government does not reply within a reasonable time, the Governing Body may appoint a Commission of Inquiry to examine the case. A Commission of Inquiry is composed of neutral prominent persons - usually three - appointed in a personal capacity and proposed by the DG. The Commission undertakes a thorough examination of all issues of fact and law, based on statements, documentary evidence, witness hearings and sometimes on-the-spot investigations. Subsequently, the Commission prepares a report containing its findings and time-bound recommendations on steps to be taken. The report is communicated to the Governing Body, as well as to the government concerned. The government concerned has three months to inform the DG whether or not it accepts the recommendations of the Commission. If the government accepts the recommendations, the case ends and the Committee of Experts will follow up on the implementation of the recommendations. If the government does not accept the recommendations, it can refer the complaint to the International Court of Justice (ICJ). The Court can affirm, vary or reserve any of the findings or recommendations of the Commission. Its decision is final.

If a member State fails to carry out the recommendations of the Commission of Inquiry or of the ICJ, the Governing Body may recommend to the Conference action to secure compliance. At any time, the defaulting government may inform the Governing Body of measures taken to comply with the recommendations and request the constitution of another Commission of Inquiry to verify its contention. The Governing Body will recommend the discontinuance of any action taken if the contentions are found to be true. As for the follow-up to its recommendations, the Commission of Inquiry requests the government concerned to provide indications in its regular reports to the ILO on the steps it has taken to give effect to these recommendations, establishing a link between the special complaint procedure and the normal supervisory procedures.

Relevant constitutional provisions

★ Article 26 of the ILO Constitution

1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.
2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.
3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.
4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.
5. When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.

★ Article 27 of the ILO Constitution

The Members agree that, in the event of the reference of a complaint to a Commission of Inquiry under article 26, they will each, whether directly concerned in the complaint or not, place at the disposal of the Commission all the information in their possession which bears upon the subject-matter of the complaint.

★ Article 28 of the ILO Constitution

When the Commission of Inquiry has fully considered the complaint it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

★ **Article 29 of the ILO Constitution**

1. The Director-General of the International Labour Office shall communicate the report of the Commission of Inquiry to the Governing Body and to each of the governments concerned in the complaint, and shall cause it to be published.
2. Each of these governments shall within three months inform the Director-General of the International Labour Office whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the International Court of Justice.

★ **Article 31 of the ILO Constitution**

The decision of the International Court of Justice in regard to a complaint or matter which has been referred to it in pursuance of article 29 shall be final.

★ **Article 32 of the ILO Constitution**

The International Court of Justice may affirm, vary or reverse any of the findings or recommendations of the Commission of Inquiry, if any.

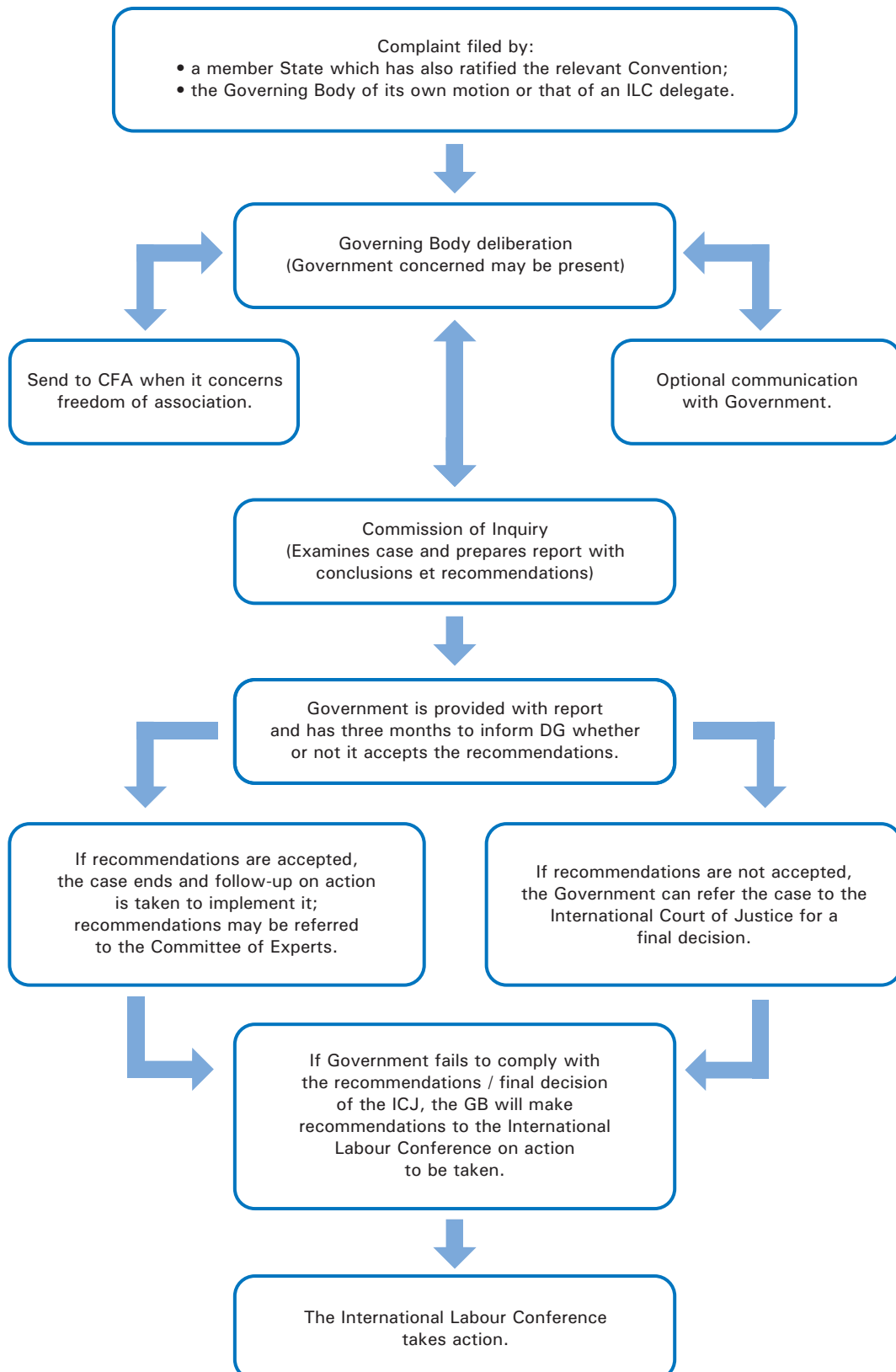
★ **Article 33 of the ILO Constitution**

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

★ **Article 34 of the ILO Constitution**

The defaulting government may at any time inform the Governing Body that it has taken the steps necessary to comply with the recommendations of the Commission of Inquiry or with those in the decision of the International Court of Justice, as the case may be and may request it to constitute a Commission of Inquiry to verify its contention. In this case the provisions of articles 27, 28, 29, 31 and 32 shall apply, and if the report of the Commission of Inquiry or the decision of the International Court of Justice is in favour of the defaulting government, the Governing Body shall forthwith recommend the discontinuance of any action taken in pursuance of article 33.

The complaints procedure



3) Procedure for examining complaints against violations of freedom of association

The procedures on freedom of association were established in 1950, following an agreement between the ILO and the United Nations Economic and Social Council. The main characteristic of these procedures is that complaints may be made against member States even if they have not ratified the Conventions on freedom of association, by reason of their membership of the Organization, which entails their formal acceptance of the principles contained in the Constitution. Two special bodies were set up under the above-mentioned agreement between the ILO and the United Nations:

a. The Governing Body Committee on Freedom of Association

The Committee is appointed by the Governing Body from among its members and is composed of nine members representing equally the government, employers' and workers' groups of the Governing Body. It is chaired by an independent person, i.e. a person who is not a member of the Governing Body. It meets three times a year in Geneva, Switzerland: in March, May and November. Its function is to secure and promote the right of association of workers and employers. Complaints may be brought against member States by governments, workers' organizations or employers' organizations, whether or not the ILO Conventions pertaining to freedom of association have been ratified. After its receipt, a complaint is passed on to the government concerned for its comments.

If the government delays in forwarding its comments, the Committee may send it a more pressing request. Subsequently, the reasons for the delay in forwarding the comments may be examined by the chair of the Committee together with the government's representatives at the International Labour Conference. If the government does not respond following the more pressing request, the Committee may proceed to examine the case by default. The Committee submits a report on the substance of the case to the Governing Body, and wider publicity is given to the complaint, the decisions of the Governing Body and the obstructive attitude of the government. Although the procedure is essentially a paper one, it is possible to investigate on the spot or take oral evidence from the parties. However, in particularly urgent or serious cases, after receiving the prior approval of the Committee, the Director-General may send a representative to the country concerned to carry out an on-the-spot inquiry with a view to drawing up a report on which the Committee can subsequently base its conclusions and

recommendations. Direct contact, however, may be made only at the invitation, or with the consent, of the government concerned.

After examining the complaint and the government's response, the Committee drafts a report containing its conclusions and recommendations for approval by the Governing Body. Upon approval, the report is communicated to the government concerned for it to take appropriate measures, and it is published. In cases relating to countries which have ratified one or more Conventions pertaining to freedom of association, the examination of the action taken on the recommendations of the Governing Body concerning legislative aspects may be referred to the Committee of Experts on the Application of Conventions and Recommendations (see the section on the regular system of supervision). In cases where the country concerned has not ratified the Conventions, if there has been no reply or if the reply is totally or partly unsatisfactory, the Committee may bring the matter to the attention of the government concerned at appropriate intervals, and request information on the follow-up to the recommendations.

b. The Fact-Finding and Conciliation Commission on Freedom of Association

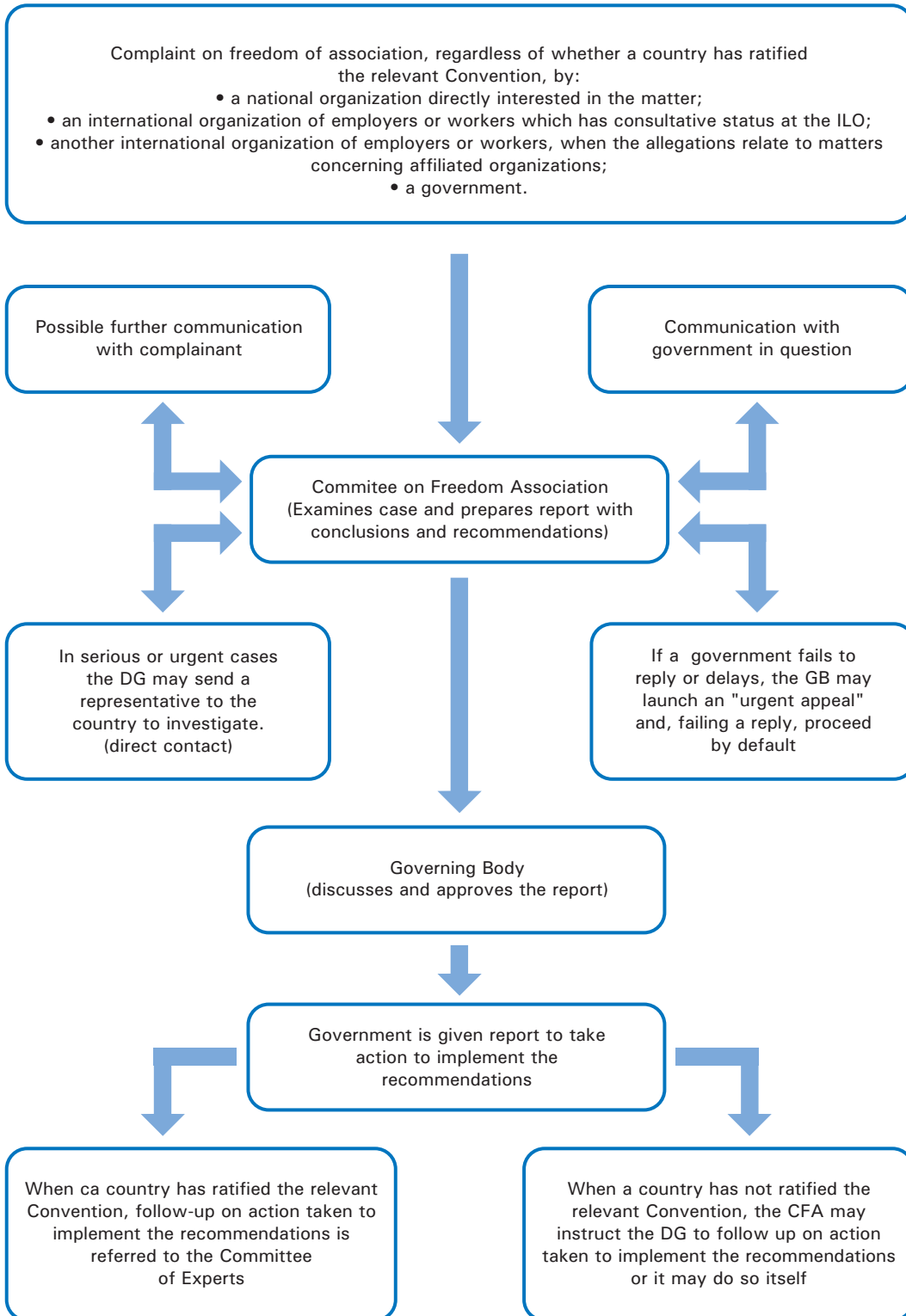
The Commission is composed of nine independent persons appointed by the Governing Body working in panels of three. Its mandate is to examine complaints of infringements of trade union rights referred to it by the Governing Body in respect both of countries that have ratified the freedom of association Conventions and of countries that have not. In this last case, the prior consent of the government concerned is required. Although its role primarily consists of investigating situations referred to it for examination, it may also look into settling the issues by conciliation, together with the government concerned.

A case may be submitted to the Commission by governments, employers' organizations or workers' organizations. The Commission can also examine complaints of violation of freedom of association against States which are not Members of the ILO, but which are Members of the United Nations. In such cases, the United Nations Economic and Social Council is responsible for deciding to refer the matter to the Commission.

The procedure followed by the Fact-Finding and Conciliation Commission is similar to that followed by a Commission of Inquiry. First of all, it requests information from the parties concerned, as well as from national and international workers' organizations and employers' organizations. Representatives

appointed by the parties and witnesses called by the parties or by the Commission itself are then heard in Geneva, and subsequently a visit by the Commission to the country in question may be made. The Commission may, at the end of its visit, make some preliminary suggestions to the parties or to the government. Once the visit has finished, the Commission drafts a final report on the case containing conclusions and recommendations for solving the problem raised. The Governing Body may ask the government to put them into effect and to inform it of the measures taken as a result.

CFA



Fact-Finding and Conciliation Commission on Freedom of Association

- Complaint filed by:
- a Member state, workers' organization or employers' organization;
 - a UN member which is not a member of the ILO (via ECOSOC), but the consent of a government is required when it has not ratified the relevant Convention.

Governing Body

Communication with
(inter)national employers'
and workers' organizations

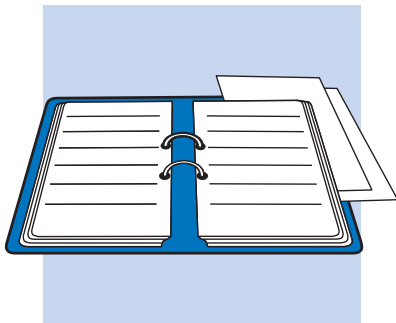
Communication with
parties involved

Fact-Finding and Conciliation
Commission on Freedom of Association
(Examines case and prepares report with
conclusions and recommendations)

Commission may undertake
conciliation efforts.

Commission may undertake
hearings and country visit

GB will consider report and may ask
government to implement
recommendations and inform it
of progress



1. Priority instruments²⁰

	Conventions and protocols	Related Recommendations	Chapters
	Weekly Rest (Industry) Convention, 1921 (No. 14)		11
F	Forced Labour Convention, 1930 (No. 29)	Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35)	2
	Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)	Medical Examination of Young Persons Recommendation, 1946 (No. 79)	4
	Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)		
P	Labour Inspection Convention, 1947 (No. 81)	Labour Inspection Recommendation, 1947 (No. 81)	5
	Protocol of 1995 to the Labour Inspection Convention, 1947	Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)	
F	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)		1
	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)	Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84)	10
	Protection of Wages Convention, 1949 (No. 95)	Protection of Wages Recommendation, 1949 (No. 85)	10
	Migration for Employment Convention (Revised), 1949 (No. 97)	Migration for Employment Recommendation (Revised), 1949 (No. 86)	18

¹⁹ Concerning the choice of the instruments, see the introduction to the guide.

²⁰ The fundamental Conventions are preceded by the letter "F" and the priority Conventions by the letter "P". The 1990 Protocol to Convention No. 89 was considered as being up-to-date by the Governing Body. However, it is mentioned in the section on "other instruments" based on the fact that it is related to a Convention that is not deemed a priority for promotion.

Conventions and protocols		Related Recommendations	Chapters
F	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)		1
F	Equal Remuneration Convention, 1951 (No. 100)	Equal Remuneration Recommendation, 1951 (No. 90)	3
	Social Security (Minimum Standards) Convention, 1952 (No. 102)		13
F	Abolition of Forced Labour Convention, 1957 (No. 105)		2
	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)	Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103)	11
	Plantations Convention, 1958 (No. 110) Protocol of 1982 to the Plantations Convention, 1958	Plantations Recommendation, 1958 (No. 110)	20
F	Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111)	3
	Radiation Protection Convention, 1960 (No. 115)	Radiation Protection Recommendation, 1960 (No. 114)	12
	Equality of Treatment (Social Security) Convention, 1962 (No. 118)		13
	Hygiene (Commerce and Offices) Convention, 1964 (No. 120)	Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)	12
	Employment Injury Benefits Convention, 1964 (No. 121)	Employment Injury Benefits Recommendation, 1964 (No. 121)	13
		List of Occupational Diseases Recommendation, 2002 (No. 194)	12 ²¹

²¹ Recommendation No. 194 is mentioned in Chapter 12 as it addresses not only the question of compensation, but also other subjects related to prevention and, more generally, occupational safety and health.

Conventions and protocols		Related Recommendations	Chapters
P	Employment Policy Convention, 1964 (No. 122)	Employment Policy Recommendation, 1964 (No. 122)	7
		Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)	
	Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)	Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125)	4
	Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)	Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131)	13
P	Labour Inspection (Agriculture) Convention, 1969 (No. 129)	Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)	5
	Medical Care and Sickness Benefits Convention, 1969 (No. 130)	Medical Care and Sickness Benefits Recommendation, 1969 (No. 134)	13
	Minimum Wage Fixing Convention, 1970 (No. 131)	Minimum Wage Fixing Recommendation, 1970 (No. 135)	10
	Workers' Representatives Convention, 1971 (No. 135)	Workers' Representatives Recommendation, 1971 (No. 143)	1
F	Minimum Age Convention, 1973 (No. 138)	Minimum Age Recommendation, 1973 (No. 146)	4
	Occupational Cancer Convention, 1974 (No. 139)	Occupational Cancer Recommendation, 1974 (No. 147)	12
	Paid Educational Leave Convention, 1974 (No. 140)		8
	Rural Workers' Organisations Convention, 1975 (No. 141)	Rural Workers' Organisations Recommendation, 1975 (No. 149)	1
	Human Resources Development Convention, 1975 (No. 142)	Human Resources Development Recommendation, 2004 (No. 195)	8

	Conventions and protocols	Related Recommendations	Chapters
	Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	Migrant Workers Recommendation, 1975 (No. 151)	18
P	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)	6
	Continuity of Employment (Seafarers) Convention, 1976 (No. 145)	Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)	15
	Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)		15
	Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976	Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)	15
	Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)	Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)	12
	Nursing Personnel Convention, 1977 (No. 149)	Nursing Personnel Recommendation, 1977 (No. 157)	20
	Labour Administration Convention, 1978 (No. 150)	Labour Administration Recommendation, 1978 (No. 158)	5
	Labour Relations (Public Service) Convention, 1978 (No. 151)	Labour Relations (Public Service) Recommendation, 1978 (No. 159)	1
	Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)	Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)	12
	Collective Bargaining Convention, 1981 (No. 154)	Collective Bargaining Recommendation, 1981 (No. 163)	1

Conventions and protocols	Related Recommendations	Chapters
Occupational Safety and Health Convention, 1981 (No. 155) Protocol of 2002 to the Occupational Safety and Health Convention, 1981	Occupational Safety and Health Recommendation, 1981 (No. 164)	12
Workers with Family Responsibilities Convention, 1981 (No. 156)	Workers with Family Responsibilities Recommendation, 1981 (No. 165)	3
Maintenance of Social Security Rights Convention, 1982 (No. 157)	Maintenance of Social Security Rights Recommendation, 1983 (No. 167)	13
Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)	Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168)	7
Labour Statistics Convention, 1985 (No. 160)	Labour Statistics Recommendation, 1985 (No. 170)	5
Occupational Health Services Convention, 1985 (No. 161)	Occupational Health Services Recommendation, 1985 (No. 171)	12
Asbestos Convention, 1986 (No. 162)	Asbestos Recommendation, 1986 (No. 172)	12
Seafarers' Welfare Convention, 1987 (No. 163)	Seafarers' Welfare Recommendation, 1987 (No. 173)	15
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)		15
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)		15
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)	Repatriation of Seafarers Recommendation, 1987 (No. 174)	15
Safety and Health in Construction Convention, 1988 (No. 167)	Safety and Health in Construction Recommendation, 1988 (No. 175)	12
Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)	Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176)	13

	Conventions and protocols	Related Recommendations	Chapters
	Indigenous and Tribal Peoples Convention, 1989 (No. 169)		19
	Chemicals Convention, 1990 (No. 170)	Chemicals Recommendation, 1990 (No. 177)	12
	Night Work Convention, 1990 (No. 171)	Night Work Recommendation, 1990 (No. 178)	11
	Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)	Working Conditions (Hotels and Restaurants) Recommendation, 1991 (No. 179)	20
	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)	Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180)	10
	Prevention of Major Industrial Accidents Convention, 1993 (No. 174)	Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)	12
	Part-Time Work Convention, 1994 (No. 175)	Part-Time Work Recommendation, 1994 (No. 182)	11
	Safety and Health in Mines Convention, 1995 (No. 176)	Safety and Health in Mines Recommendation, 1995 (No. 183)	12
	Home Work Convention, 1996 (No. 177)	Home Work Recommendation, 1996 (No. 184)	20
	Labour Inspection (Seafarers) Convention, 1996 (No. 178)	Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)	15
	Recruitment and Placement of Seafarers Convention, 1996 (No. 179)	Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)	15
	Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)	Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)	15
	Private Employment Agencies Convention, 1997 (No. 181)	Private Employment Agencies Recommendation, 1997 (No. 188)	7
F	Worst Forms of Child Labour Convention, 1999 (No. 182)	Worst Forms of Child Labour Recommendation, 1999 (No. 190)	4

Conventions and protocols	Related Recommendations	Chapters
Maternity Protection Convention, 2000 (No. 183)	Maternity Protection Recommendation, 2000 (No. 191)	14
Safety and Health in Agriculture Convention, 2001 (No. 184)	Safety and Health in Agriculture Recommendation, 2001 (No. 192)	12
Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)		15
Maritime Labour Convention, 2006		15
Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)	Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)	12
Work in Fishing Convention, 2007 (No. 188)	Work in Fishing Recommendation, 2007 (No. 199)	16

Priority autonomous Recommendations	Chapters
Income Security Recommendation, 1944 (No. 67)	13
Collective Agreements Recommendation, 1951 (No. 91)	1
Protection of Workers' Health Recommendation, 1953 (No. 97)	12
Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99)	7
Welfare Facilities Recommendation, 1956 (No. 102)	12
Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)	1
Workers' Housing Recommendation, 1961 (No. 115)	9
Reduction of Hours of Work Recommendation, 1962 (No. 116)	11
Tenants and Share-croppers Recommendation, 1968 (No. 132)	19
Protection of Young Seafarers Recommendation, 1976 (No. 153)	15
Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)	7
Promotion of Cooperatives Recommendation, 2002 (No. 193)	7
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²² The States party to Conventions Nos. 4 and 41 have been invited to contemplate ratifying Convention No. 171 or else Convention No. 89 and its Protocol of 1990.

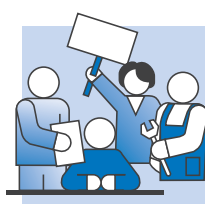
²³ The States party to Conventions Nos. 50, 64 and 186 have been invited to contemplate ratifying Convention No. 169 and/or Conventions Nos. 117, 97 and 143.

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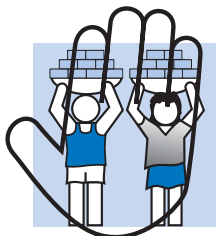
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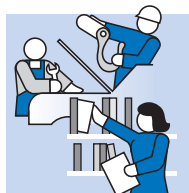


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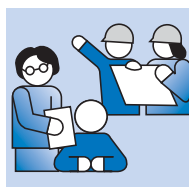
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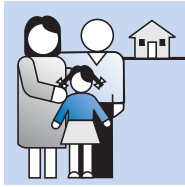
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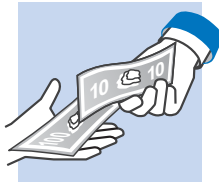
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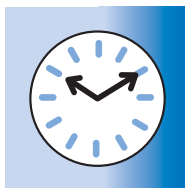
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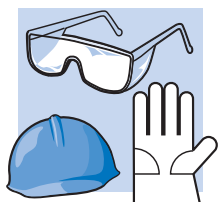


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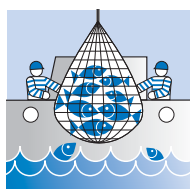
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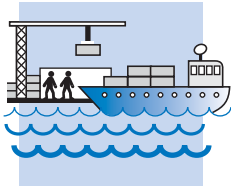
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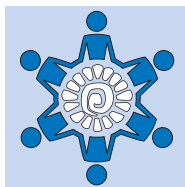
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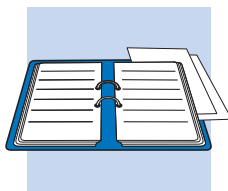
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